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In Pursuit of Excellence—A History of the University of Minnesota Law School
Part I: The Pattee Years—A Time of Accommodation†

Robert A. Stein*

In September 1888, William S. Pattee, the newly elected dean of the University of Minnesota's infant law department, began, with the help of lecturers from the practicing bars of Minneapolis and St. Paul, to educate some 67 "young gentlemen of zeal and promise" in the law. Ninety years later, the University of Minnesota Law School continues this mission, with 62 full-or part-time faculty members, for the benefit of about 750 students. During this period, the school has been shaped by the administrations of six deans, has conferred over 7,500 J.D. or LL.B. degrees, has affected the lives of many nondegree earning students, and has achieved varying heights of national stature. A new milestone in its history was reached in April 1978, with the dedication of a new law school building. To commemorate this long-awaited event, the author has prepared a series of articles tracing the school's history through the administrations of each of its deans. This history of the people and programs of the law school will trace its development as a significant institution for the study and teaching of law, a development constantly guided by an uncompromising pursuit of excellence.

A. The Origin of the Law Department

Minnesota's endeavors in the field of higher education had a very rocky beginning. From 1851, when the University was chartered, until 1863, when it began to enjoy the interest and resources of John Sargent Pillsbury, the University was a heavily indebted and rapidly

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1. The founding of the University of Minnesota Law School may be considered to have occurred in January 1888, when the Board of Regents elected William S. Pattee to be the first dean of the law department. See Minutes of the University of Minnesota Board of Regents (Jan. 19, 1888) (on file at University of Minnesota Archives, Minneapolis, Minnesota).

2. Pattee, Law School of the University of Minnesota, 2 Green Bag 203, 205 (1890).

3. See Survey on Enrollment, Number of Faculty and Graduates in the [Minnesota] Law School from 1940 to date (1975) & added note (May 25, 1976) (on file at Dean's Office, University of Minnesota Law School, Minneapolis, Minnesota).

4. Pillsbury has been recognized as "the father of the University." See J. Gray, The University of Minnesota, 1851-1951, at 25 (1951).
sinking institution that seemed likely to die in infancy. Only when Pillsbury and a rejuvenated Board of Regents elected William Watts Folwell as the University's first president in 1869 did the state's educational experiment finally get under way in earnest.

One of Folwell's first acts as president was to solicit the advice of the nation's top educators on how best to organize and operate a quality university. The advice he received goes far to explain why a law school was not established during his fifteen-year administration. Dean Theodore W. Dwight of Columbia Law School urged caution in the creation of the school:

I hope that Minnesota will make no mistake in this matter. Let the state lay a strong foundation for professional schools in a well organized and thorough system of collegiate training. The professional schools will then as in proper time be sure to follow and succeed. Otherwise they will lead, according to all experience, a miserable dwarfish stunted existence.

The advice of Professor Theophilus Parsons of Harvard Law School was to the same effect. "[B]e very careful," he wrote, "to avoid a premature organization or plan; & for the plain reason that it is easy to make mistakes & very difficult to correct them after the plan has gone into operation." In short, the opinion of the experts was that haste would make waste. Folwell heeded their warning and concentrated on the establishment of quality academic departments, content to let the professional schools wait.

Others, however, advocated more energetic policies. As early as 1878, an editorial in the University's student newspaper, the Ariel, endorsed the immediate creation of a law department. Responding to the argument that the University was not yet able to sustain a good law school, the Ariel countered that "no good law school in this country ever sprung full panoplied from any institution." It pointed out that the demand for a law school in Minnesota was demonstrated by both the good attendance at free law lectures given in St. Paul in 1877 and the loss of students interested in law to other schools or law apprenticeships. It also asserted that the monetary costs of creating such a school would be minimal since lectures, at least, could be given "with no other expenses than lighting and warming the hall."

5. See id. at 13-24.
7. Letter from Theophilus Parsons to William W. Folwell (Apr. 5, 1870) [hereinafter cited as Parsons Letter] (emphasis deleted) (on file in Folwell Papers, University of Minnesota Archives, Minneapolis, Minnesota).
8. 1 ARIEL (University of Minnesota) 40 (1878).
9. Id. Four years later, the Ariel reiterated its plea:
Nevertheless, the goal of establishing a University of Minnesota Law School was to remain unrealized during Folwell's administration, and even with the inauguration in 1884 of a new president, Cyrus Northrop, action was not immediate. In March 1887, the *Ariel* was prompted once again to make its editorial case for a law school, again citing the large number of interested students and the relative economy of establishing the program.\(^6\) Apparently the *Ariel*, the tenor of the times, or both, finally persuaded the Board of Regents and the President that the time was right. Within a year of this last editorial, William S. Pattee was appointed Dean of the Law Department.\(^11\)

B. THE DEAN

The choice of a dean has a significant impact on a law school. His interests, aptitudes, and personal traits affect the institution in subtle ways too numerous to catalogue. A dean's role in a modern, established school, however important, is often so removed from the everyday process of education that it may go unrecognized by students and many others. But such clearly was not the case for Dean Pattee, the only full-time faculty member of the law school in the late 1800's. In many respects, Dean Pattee was the law school for over twenty years. His thoughts, ambitions, and philosophy directly influenced every person connected with the fledgling institution.

Perhaps more than anything else, Dean Pattee was a man of great administrative and political skill. A born educator, he was already principal of the Brunswick High School in his home state of Maine when, at age 25, he received his bachelor's degree from Bowdoin College. He subsequently taught Greek for two years at Lake Forest University in Illinois before becoming superintendent of schools in Northfield, Minnesota, in 1874. Though he later received an LL.D. degree from Iowa College,\(^12\) it was presumably honorary;

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\(^6\) *Ariel* (University of Minnesota) 4 (1882).

\(^10\) See 10 *Ariel* (University of Minnesota) 91 (1887).

\(^11\) See Minutes of the University of Minnesota Board of Regents (Jan. 19, 1888) (on file at University of Minnesota Archives, Minneapolis, Minnesota).

\(^12\) See *Biographical Sketches of Deans of American Law Schools*, 2 Am. L. Sch. Rev. 161 (1908) [hereinafter cited as *Sketches*].
Minnesota’s first law school dean had no formal legal education. Like most legal aspirants of his generation, Dean Pattee “had occupied every spare hour studying law, with no other teacher than his own discriminating judgment.” His judgment proved sound enough to earn him admission to the Minnesota bar in 1878, and he then practiced law in Northfield for eight years. Toward the end of his stay in Northfield, he was elected to a two-year term in the state legislature and was subsequently mentioned as a possible nominee for attorney general or governor. Apparently his stay in St. Paul pleased him, for in 1886 he started a practice in the capital and began a twelve-year tenure as President of the State Normal School Board. It was, however, the deanship that he assumed at age 42 that was to consume the major portion of his energies for the remaining 23 years of his life.

Photographs from the era indicate that, physically, Pattee possessed some of the qualities of the law itself, a discipline not known for informality. He was a large man, with physical weight that might have reinforced his legal arguments, giving them a forensic weight beyond their logical merits. His most prominent facial feature was a great, bushy, and dignifying moustache, which also, perhaps, enhanced the import of the words flowing from under it. There was an element of calm stability in his demeanor, akin to the stability of the natural law he espoused. In general, Dean Pattee had the appearance of an established man to whom one might profitably listen and from whom one could learn much. He exuded a sense of judicious solemnity and paternal wisdom.

This image closely resembled that of the University’s President, Cyrus Northrop. University historian James Gray offers this comparison of the two men:

Their temperaments were blended of Olympian grandeur and paternal geniality. The habitual wear of each was the black frock coat, the stiff shirt, the-formal-white-tie, the splendor of the ensemble accented by the glitter of jeweled stud. Each liked to have his photograph taken in profile. Under the well-cut nose, the bushy white mustache conceals the mouth, its ragged line emphasizing the chin’s assertion of power. Northrop regarded Pattee as his alter ego, and when he could not keep an engagement to speak it was the dean of the College of Law whom he sent in his place as a trustworthy exponent of his philosophy . . . . Both men regarded the “boys” under their charge as sons.

13. Forty Years at the University of Minnesota 391 (E.B. Johnson ed. 1910).
14. Id.
16. See, e.g., Forty Years at the University of Minnesota, supra note 13, at 141.
17. See text accompanying notes 20-24 infra.
18. J. Gray, supra note 4, at 89. And “sons” most of them were. The first women
Perhaps the most significant difference between the men was Pattee's solemnity. President Northrop once noted that, while "[s]ome of Dean Pattee's addresses . . . were productions of a very high character, . . . [h]is unvarying seriousness of manner detracted somewhat from the effect produced . . . . A touch of humor would have added wonderfully to the profound thoughts he was accustomed to present."19

But appearance and personality only partly make the man. Knowledge of an educator's philosophy is essential to understanding his approach to his task. Dean Pattee believed that the proper starting point of the "Science of Law" was an analysis of man and his situation. For him, this meant that the starting point, in fact, was a religious world view: "There is in human affairs one order, which is best. That order is not always the one which exists, but it is the order which should exist, for the greatest good of humanity. God knows it and wills it. Man's duty is to discover and establish it.'"

According to Pattee, one of the first features of nature that had been discovered by man was the "principle of justice," described as a "natural impulse 'to treat every interest according to its value.'" An effort to encourage the development of justice was what compelled men to form governments and establish laws. But the Dean advocated a limited use of the tools of government and human law and urged humility in the young science of the law. "[B]ut a small part of man's life falls under the regulation of human law," he said, quoting Oliver Goldsmith:

In every government though terrors reign,
Though tyrant-Kings or tyrant laws restrain,
How small, of all that human hearts endure,
That part, which laws or Kings can cause or cure.22

to enter the law school was Flora E. Matteson in 1890. While the Law Notes column in the Ariel "hoped not only that she would profit by her choice, but that many other young ladies will follow her excellent example," 13 Ariel (University of Minnesota) 127 (1890), in fact, few did. Throughout the Pattee years there were no more than three women in any class. If, however, the following statement accurately reflects President Northrop's views on women in professional schools, this lack of women in the school was not a concern to the administration:

"I do not prepare any women for a career at the University of Minnesota . . . . Careers cannot make a happy home nor a good mother. Let the girls study higher mathematics and history or English or what they will, for this means mental enlargement, but let them study them for that reason and not with hopes of carving out a career for themselves."

Pres. Northrop Speaks of Careers for Women, Minnesota Daily, Nov. 9, 1910, at 1, col. 2.

20. Opening Address of Prof. Pattee, 12 Ariel (University of Minnesota) 7, 11 (1888) [hereinafter cited as Opening Address] (quoting unknown source).  
21. Id. at 9 (quoting unknown source).  
22. Id. (emphasis in original) (quoting Goldsmith, The Traveller, ll. 427-30).
Thus, human law, though derived from the natural order, concerned only that small part of life that "laws or kings can cause or cure." The end of lawmaking and the job of lawyers was to "reenact those [natural] laws in human form, so far as they are capable of human enforcement, and within the warrant of state action."22 The end of a law school was even more limited:

While it is well for the student to comprehend the breadth and the importance of the science he studies, it must ever be remembered that in a course of legal training for the practice of law, the chief object is to learn the law as it is, not as it might be, or perhaps should be . . . Speculation and theory may have their place, but a definite, certain knowledge of legal rights and obligations is the object of prime importance of the student.24

With this object in mind, Dean Pattee began lectures at the University's new law school and presided over its first 23 years. Although the school bore out the statement that "no good law school in this country ever sprung full panoplied from any institution,"25 under Pattee's leadership it was able to carve out a niche and establish itself as an institution ripe for future academic gains. For the first 23 years, the Pattee years, the mere establishment and academic upgrading of the school held challenges enough.

C. ACCOMMODATIONS

Although, as the Ariel editorials had suggested, in many ways the times were right for a new law school, it was clear that in other ways the new law school would have to make itself right for the times. There were many challenges and opportunities for the fledgling school, but adjustments and accommodations had to be made.

1. The Struggle for Enrollment

Perhaps the most important challenge was the Regents' requirement that the new school be self-sufficient.24 During the school's first year, there was "[not] a single item of expense incurred by the regents for the new department,"27 and, as for most of Pattee's tenure, student fees—initially ten dollars for matriculation, thirty dollars for annual tuition, and ten dollars for a diploma28—provided the new

23. Id. at 11.
24. Id. at 12.
25. 1 ARIEL (University of Minnesota) 40 (1878).
26. See J. GRAY, supra note 4, at 90.
28. Tuition fees were gradually increased until 1901 when they reached sixty dollars annually, where they stayed until after Pattee's death. Throughout this period,
school's only source of income. Given this financial constraint, the Dean, whose $2,500 salary comprised the greatest burden on the school's budget, had ample incentive to make his school attractive. The more students and the more fees, the better.

A major obstacle to the recruitment of law students was the prevailing tradition of informal legal education in solitary study or as a clerk in the office of an attorney. In Minnesota, any person at least 21 years old and of good moral character could be admitted to the bar simply by demonstrating the requisite learning and ability on an examination by state judges. For most lawyers of the era, including Dean Pattee, the "requisite learning" was acquired without benefit of a degree. The Dean's initial challenge, therefore, was to convince the public that a degree really was of benefit and that the organized and systematic approach offered by a school devoted to the study and teaching of the law was necessary or at least highly advantageous to those wishing to become good lawyers.

To this end, the school's first six catalogues began with the following statement from an American Bar Association report on legal education:

There is little, if any, dispute now as to the relative merit of education by means of law schools, and that to be got by mere practical training or apprenticeship as an attorney's clerk. Without disparagement of mere practical advantage, the verdict of the best informed is in favor of the schools.

The Dean propounded a more direct attack on legal education through apprenticeships in an article published in Green Bag, an early, eastern legal magazine:

The one thing needful the student does not possess, and can never thoroughly acquire in the average office—discipline of mind. And a systematic knowledge of the law does not come by chance nor by easy and unregulated efforts. The distractions of a busy office are

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the law school catalogues noted that good board could be obtained for four dollars per week or less. See, e.g., UNIVERSITY OF MINNESOTA BULLETIN: COLLEGE OF LAW, 1909-1910, at 20-21, 24 (1909); UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1889-1890, at 5, 11.

The small pamphlets in which information was given to prospective students about the college of law were, during the Pattee years, alternatively called "Circulars of Information," "Announcements," or "Catalogues." In the school year 1898-1899, these "Announcements" or "Catalogues" began to be published, along with a general informational bulletin and the informational pamphlets of other colleges within the University, in a regular series called The University of Minnesota Bulletin.

29. See MINN. TERR. REV. STAT., ch. 93, §§ 1, 3 (1851) (amended 1877) (repealed 1891).

30. E.g., UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1889-1890, at 3-4 (quoting Committee on Legal Education and Admission to the Bar, Report, 2 A.B.A. Rep. 209, 216 (1879)).
utterly incompatible with the quiet required for study and contemplation on the part of the student; and the quiet of an empty office is equally incompatible with the legal enthusiasm on the part of the practitioner. The busy office distracts the pupil; the empty office distracts the teacher.

The most that a pupil can acquire under such conditions is a fragmentary, disjointed, and confused collection of legal conceptions, unless he is one of those rare and exceptional persons whose mind conquers all difficulties by the sheer strength of its endowments.31

A more specific inducement was quickly added to these arguments for a law school education when the state legislature, twice revising its statute on admissions to the bar, offered graduates of the Minnesota Department of Law an exemption from the examination required of other applicants. An 1889 amendment beefed up the old provisions by requiring that an applicant have “read law in the office of a regularly admitted attorney and counselor [for] at least two years” and also provided that “any person having received a diploma from the law department of the University of Minnesota, shall . . . be admitted . . . to practice in this state without further examination as to his learning, ability and time of reading.”32 An 1891 act established a state board of examiners in law, formalized the examination process, and continued the exemption for University graduates.33 Periodically during the next twenty years, bills were introduced to terminate the University's exemption, but in each instance they fell to “the vigorous protests of the university law faculty and the graduates and students of the school.”34

Self-sufficiency and the tradition of informal education were not the only reefs around which the new school had to be navigated. Another significant obstacle was the University's own recent political history. President Northrop, who came to the University four years before Pattee, began his job in the wake of great turmoil among the Regents, faculty, students, and then-President William Watts Folwell. The controversy concerned Folwell's concept of higher education, and the radical, visionary, and short-lived program arising out of that concept articulated for the Regents as the “Minnesota Plan.”35 The Minnesota Plan called for a threefold scheme of education consisting of common schools, colleges or secondary schools, and, at the

31. Pattee, supra note 2, at 211.
33. See Act of Apr. 21, 1891, ch. 36, §§ 1-7, 1891 Minn. Gen. Laws 117 (current version at Minn. Stat. §§ 481.01-02 (1976)).
34. Minnesota Daily, Jan. 18, 1907, at 1, col. 1; see id., Mar. 31, 1909, at 1, col. 2; id., Feb. 28, 1903, at 1, col. 3.
35. J. Gray, supra note 4, at 44-47.
peak, a "federation of professional schools"—the University of Minnesota.\textsuperscript{38} Since the University, like most other universities around the country, was concentrating not only on providing college-level education but also high school and even more basic skills, the Plan's implementation would have required significant changes and dislocations not only at the University but also in the development of feeder systems of high schools and colleges. The Plan's many critics believed that its requirement that the professional schools admit only those with two years of college work—a standard higher than those of established eastern schools\textsuperscript{37}—seemed ridiculously selective, even snobbish.\textsuperscript{38} The Regents repealed the Minnesota Plan after Folwell's resignation,\textsuperscript{39} and it thereupon became clear that the University and its community would not be receptive to any more grandiose or idealistic schemes. The University of Minnesota was to be a prairie school, serving prairie needs.

The new President and his Dean were aware of this message and of the economic necessity of a large student population in the law department. The admissions requirements that had been submitted to the Regents in April 1888 were modest, to say the least.\textsuperscript{40} In fact, anyone—at least anyone of good moral character—could get into the law school. Nevertheless, if the applicant intended to earn a degree, "he must not be less than eighteen years old and must pass such examination in respect to general education as shall satisfy the faculty..."

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\textsuperscript{36} Id. at 44-45.
\textsuperscript{37} In 1870, a professor of the Harvard Law School wrote, "I do not remember ever rejecting an applicant at Cambridge for his want of preparation." Parsons Letter, supra note 7.
\textsuperscript{38} See J. Gray, supra note 4, at 89.
\textsuperscript{39} Only a part of Folwell's troubles derived from his educational theories. The immediate circumstances of his resignation involved a student demonstration in part against his discipline system and in part against his attempts to get the University out of the business of high school education. Gray describes the final event as follows:

The climax of this restlessness was reached in May 1882. Revealing their strong taste for the fraudulent in drama, a group of poor students lately disciplined by the president blackened their faces, put on Ku Klux Klan costumes, and set out to redress the wrong of having received more demerits than they really cared for. Professor Moore and Professor Pike, hearing that there was to be a demonstration, went to be at the president's side. Mrs. Pike, who had her own sense of drama, persuaded her husband to carry a pistol with him on this errand. Outside the president's house there were excursions and alarums in the dark and the miserable outcome of the episode was that Professor Pike inadvertently shot a student in the leg. The president had the boy carried into his house tending him solicitously until his trifling wound could be treated by a doctor.

Id. at 72. In the resulting public outcry, Folwell resigned.
\textsuperscript{40} Dean Pattee claimed that these standards were "[i]n harmony with the requirements for entrance adopted by the leading law schools of the land at the time." Pattee, supra note 27, at 147.
\end{flushright}
that his educational attainments are such as will justify his entering upon the practice of law when his studies are complete." For the first four years, those who could show that they were "graduates of high schools, academies or colleges" could be exempted "from examination, in whole or in part, as may be decided by the faculty." Nongraduates were requested to take "an examination in as many of the subjects for admission to the Freshman class in the College of Science, Literature and Arts [SLA], as they feel themselves prepared for." On the basis of these exams, the faculty chose successful candidates. But even nongraduates who did poorly on the SLA exams could be conditionally admitted, subject to remedying any deficiency. In 1892-1893, admission standards were relaxed further, providing for the entrance, without examination, of any college, university, state normal, or high school graduate. Only nongraduates were required to take the entrance exams. This was to be the most egalitarian admissions policy ever administered at the school.

In the spirit of its almost nonexistent entrance requirements and the legislature's bar exam exemption, the law school adopted other policies that made it clear that it was looking for students and was anxious to accommodate them. The best example of administrative sensitivity to student desires was the establishment of a night school. When the day school opened, only 32 students applied. If that were all the students that enrolled, total receipts for the year would total only $1,280, or a little over half of the Dean's $2,500 salary. By quickly organizing a night school, however, Pattee was able to attract the working population and increase enrollment to 67 students, more than doubling receipts. The night school continued throughout Pattee's administration, reaching a peak enrollment of 194 students.

41. Minutes of the University of Minnesota Board of Regents (Apr. 26, 1888) (on file at University of Minnesota Archives, Minneapolis, Minnesota).
42. E.g., UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1891-1892, at 5.
43. Id.
44. The conditional admissions policy was not announced formally in the law school catalogue until 1893-1894. In the same catalogue, the test requirements for nongraduates were made more specific to include mandatory exams in "English composition, including English grammar and orthography, English and American history, also Geography, Arithmetic and Physiology." UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1893-1894, at 6-7.
45. See UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1892-1893, at 139.
46. J. GRAY, supra note 4, at 90.
47. Id.
48. See UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1889-1890, at 11, 12.
in the 1901-1902 school year.  

Another accommodation was made for practicing attorneys who wanted to formalize their education. The bulletin of 1892-1893 contained the first formal announcement of what may have been an already ongoing policy of admitting attorneys without examination and awarding them diplomas upon successful completion of the work of only the senior year.  

Special students not seeking degrees were also allowed to enter without examination, provided they possessed "such knowledge and ability as [would] in the opinion of the faculty, enable them to pursue the subject of law with profit to themselves." In the fall of 1895, these students were additionally accommodated by the development of a special course, described as follows:

For the benefit of those who do not care to pursue an extended course of legal instruction leading to the degree of LL.B., but desire such a knowledge of law as is of inestimable value to them in a business career, there is offered a special course.

This course extends over one year, and for the accommodation of business men the lectures are delivered in the evening.

The course embraces the following subjects: contracts, including statute of frauds; agency; commercial paper; partnership; Minnesota insolvency law; liens; bailments; master and servant; insurance; sales.

This, too, was a successful program; in the first decade of the 1900's, on the average, between ninety and one hundred special students were annually enrolled.

2. The Birth of a School

The influence of these incentives, combined with societal forces that encouraged the study of law, had a pronounced effect on the growth of the young law school. In its second year, student enrollment exactly doubled to a total of 134. Ten years later, that number

50. See University of Minnesota Dep't of Law Circular of Information, 1892-1893, at 140.
51. Id.
52. University of Minnesota College of Law Circular of Information, 1895-1896, at 12.
54. See University of Minnesota Dep't of Law Circular of Information, 1890-1891, at 32.
had nearly quadrupled to 528.\textsuperscript{55} A shortage of students was no longer the problem; the new problem was what to do with them. The fledgling school was confronted by three fundamental and pressing needs: a building, a library, and a course of study.

The first need was acute but quickly satisfied. During the law school’s first year, its facilities were, according to the \texttextit{Ariel}, very primitive, consisting of “only one small, poorly ventilated” basement room in the University’s main building that served both as a library and a classroom.\textsuperscript{56} But Dean Pattee soon succeeded in convincing the Regents, the legislature, and John Sargent Pillsbury\textsuperscript{57} that a separate building was needed. The Regents approved his plan (for a cost not to exceed $20,000)\textsuperscript{58} in June 1889, and the building was completed (at a cost of $25,000)\textsuperscript{59} in time for the incoming class in 1889. As Pattee boasted in his \texttextit{Green Bag} article,

\begin{quote}
[i]t was constructed for the sole use of the Law School. It was designed, completed, and furnished with sole reference to the needs of such an institution. . . .

Upon the first floor is a large lecture room, constructed upon the plan of an amphitheater, copiously lighted, thoroughly ventilated, and furnished with comfortable chairs arranged with special reference to taking notes with ease and convenience.

Upon the same floor there is a society-room, devoted to the Literary Association of the department, and also a recitation room for text-book work.

Upon the second floor there is a large and well-arranged library-room, a court-room, a lecture-room, and the offices of the Dean.\textsuperscript{60}
\end{quote}

But the new building, however adequate for the class of 1890, soon proved much too small to accommodate the tremendous growth that the school was experiencing. By 1902, the school had over three times the number of students as it did in the building’s first year,\textsuperscript{61} and recitation for the middle class was, of necessity, being held in a noisy dancing hall over the University bookstore. This situation was

\begin{footnotes}
\item[55.] See \texttextit{University of Minnesota Bulletin: College of Law}, 1900-1901, at 21-26. It is unclear whether special students were included in the number, and thus the true figure may have been even higher.
\item[56.] 12 \texttextit{Ariel} (University of Minnesota) 175 (1889).
\item[57.] That Mr. Pillsbury had a hand in the new building is suggested by the \texttextit{Ariel}. See id.
\item[58.] See Minutes of the University of Minnesota Board of Regents (June 1889) (on file at University of Minnesota Archives, Minneapolis, Minnesota).
\item[59.] See Pattee, \texttextit{supra} note 27, at 144.
\item[60.] Pattee, \texttextit{supra} note 2, at 206.
\item[61.] According to the catalogues there were 134 students in the school in the building’s first year, \texttextit{see University of Minnesota Dep’t of Law Circular of Information}, 1890-1891, at 31, and 476 students in 1902, \texttextit{see University of Minnesota Bulletin: College of Law}, 1903-1904, at 25-29 (1903).
\end{footnotes}
intolerable to the students in a department that exacted the largest per capita fees of the University and was not only self-supporting, but by 1902 contributed its surplus to the University's general fund. A student petition secured a new lecture room for the class elsewhere on campus, but the real solution did not come until 1905, with legislative authorization of a $30,000 addition to the law school, "providing superior lecture room and library facilities, besides making ample provision for court rooms and offices." The enlarged building, now known as Pattee Hall, still stands on the campus and is used by the College of Education.

The school's library problem was less readily solved. For the first four years, the law school's own library took third billing in its bulletins to the libraries of the Minneapolis Bar Association and the state capitol in St. Paul, both of which were described as easily accessible and open to student work. The school's library initially was nothing more than the Dean's personal library gone public. Offering only the reports of Minnesota, New York, and Massachusetts, the session laws of Minnesota, and a line of textbooks "such as are generally found in a practitioner's office," the Dean's collection was insufficient to forestall heavy usage of the other available libraries. But the new school began immediately to acquire books and, slowly, its library grew. Within two years the Ariel reported,

The Law Library has been growing rapidly. The Ohio State, Wisconsin, Iowa, and Vermont Reports, together with the entire National Reporter system have just been added. The Michigan, Illinois, California, and Pennsylvania State Reports will arrive in a few days. Furthermore, the room has been furnished with two large polished oak tables, and with smaller ones, and now as many students can be accommodated as desire to read. . . . The Law Library is now the most convenient place of study in the University, particularly when gas light is taken into consideration.

Within twenty years, the library reportedly had increased to "17,000 volumes, containing two sets of the English Reports, the Canadian Reports, all of the state reports, the United States reports, two sets of the Reporter System, . . . besides a full line of text books, digests, encyclopedias and legal periodicals." Though complaints in the

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63. Pattee, supra note 27, at 150.
64. "For these books a rough book-case was constructed by a carpenter and fastened to the walls with nails and a coat of dark colored stain was put upon it by the dean himself. Later he placed the books upon these shelves and the department was ready for business." Id. at 142.
65. Id.
66. 13 Ariel (University of Minnesota) 58 (1890).
67. Pattee, supra note 27, at 151.
Ariel and Daily about the size of the library continued intermittently throughout Pattee's tenure, the library became at least minimally adequate for the school's needs after four or five years.

Armed with a building and the beginnings of a library, the school set out to structure an academic program. This was perhaps its most difficult task, for it seemed in these early years that a program was no sooner established than change was required. Nevertheless, this process of change and improvement soon began to make Dean Pattee's law school resemble more and more closely the image of a professional school that President Folwell had proposed years before.68

At the school's opening, it offered a two-year course of study of subjects not too different from those currently offered in law schools. The first year program included

Contracts
Torts
Criminal Law and Procedure
Real Property
Equity Jurisprudence and Procedure
Domestic Relations
Suretyship and Mortgage
Partnership
Common Law and Code Pleading
Evidence 69

The second year program was

Contracts
Corporations
Fire and Life Insurance
Wills and Administration
Law of Taxation
International Law
Conflict of Laws
Admiralty Law
Medical Jurisprudence
Jurisdiction and Practice of United States Courts70

Clearly, it was impossible for one man to teach all of these subjects competently. Pattee needed help. He obtained it by securing as lecturers practicing members of the Minneapolis and St. Paul bars. By and large, these were men of considerable reputation. All were practitioners; some had formal legal educations. Among them were a former state attorney general (Gordon E. Cole), a former circuit court

68. See text accompanying notes 35-39 supra.
69. UNIVERSITY OF MINNESOTA DEP'T OF LAW CIRCULAR OF INFORMATION, 1889-1890, at 6.
70. Id.
judge (James O. Pierce), former Associate Justices of the Minnesota Supreme Court (George B. Young and William Mitchell), and former University President William W. Folwell,\textsuperscript{71} who lectured for several years before devoting himself full time to a four-volume history of the state. Other lecturers were on the threshold of distinguished careers. Most notable among these was equity lecturer Frank B. Kellogg, a self-taught lawyer who went on to be a trustbuster, United States Senator from Minnesota, Ambassador to Great Britain, Secretary of State under President Coolidge, author of the Kellogg-Briand Pact, and recipient of the Nobel Peace Prize in 1929.\textsuperscript{72}

These distinguished men, and others, lectured on a particular subject for a few weeks, when and if their private practices permitted, and then left. The educational gaps were filled by the permanent, full-time faculty—Dean Pattee. In the early years of the school, the Dean and his annual complement of ten to fifteen lecturers not only covered the courses but managed to expand their offerings and begin a pattern of academic upgrading that was characteristic of the remainder of Pattee’s administration.

The policy of the law department was to “enlarge the curriculum, increase the years of study and to exact higher entrance requirements as rapidly as conditions and circumstances . . . would . . . warrant or permit.”\textsuperscript{73} Thus, only two years after the school opened, an optional third year of study, leading to a degree of Master of Laws, was added to the curriculum. The course was designed to enable students to pursue in further detail the subjects of “Equity, Real Property, Civil and Criminal Procedure, and such other branches of law, as they may desire to make a specialty in practice. . . . The Faculty urge all who can, to continue their course through the third year.”\textsuperscript{74} Evening students could still graduate in two years, as long as they could complete the course work and pass the exams within that time.\textsuperscript{75}

Despite ambitious academic initiatives, the suspicion remains that a one-man faculty, even though assisted by knowledgeable but busy law practitioners, might not have provided the most rigorous legal education. One of the school’s greatest needs was more full-time faculty. A first step toward the fulfillment of this need came in 1890 when, upon graduation from the University Law School, James Paige

\textsuperscript{71.} See UNIVERSITY OF MINNESOTA BULLETIN: COLLEGE OF LAW, 1900-1901, at 9; UNIVERSITY OF MINNESOTA DEP’T OF LAW CIRCULAR OF INFORMATION, 1889-1890, at 3.
\textsuperscript{73.} Pattee, supra note 27, at 144.
\textsuperscript{74.} UNIVERSITY OF MINNESOTA DEP’T OF LAW CIRCULAR OF INFORMATION, 1891-1892, at 7.
\textsuperscript{75.} See id. at 10.
was hired to return as a second full-time faculty member. Mr. Paige (known more familiarly to almost fifty years of students as "Jimmie" Paige) graduated Phi Beta Kappa from Princeton and was studying in his brother's Minneapolis law office when the new school opened in 1888. He was among its first applicants and graduated with its first class, the next fall returning to the school to act as quiz master and, soon thereafter, as lecturer. Thus began a long teaching association with the school. At his death 49 years later, Paige was still a professor of law at the school.

The addition of Paige to the law school's full-time faculty was a significant event in the school's early, desperate years. But however diligent and energetic he was, his addition did not, by a long measure, solve the school's faculty problem. This conclusion is graphically underscored by a series of newspaper articles that incited controversy in the law school in 1894. The first, printed in the Minneapolis Sunday Tribune in March, was a richly laudatory description of the school and its success. Its first paragraph read,

The college of law at the State University stands today as one of the leading schools of its kind in the country—a drawing card of Minnesota's chief educational institution. Its facilities for instruction are unsurpassed, the enrollment is large and the class of students in attendance of the best. Having been in existence scarcely six years, its record of growth and development is remarkable, perhaps unparalleled in the history of similar schools.

The very next day this bubble was burst by a front page article in the Minneapolis Penny Press in which the following appeared:

SORE

. . . .

It Is Alleged That Catalogue Promises Are Unfulfilled.

The Brilliant Array of Lecturers Conspicuous by Their Absence.

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77. The comments of his later students suggest that Paige was ultimately more interesting as a personality than as a professor. See, e.g., Letter from Henry W. Haverstock to Dean Robert Grabb (Mar. 11, 1976); Letter from Helen Henton to Dean Robert Grabb (Apr. 20, 1976), in Reminiscences of Alumni Who Graduated 50 Years or More Ago from the University of Minnesota Law School (1976) (on file at University of Minnesota Law School Library, Minneapolis, Minnesota).

78. Sunday Tribune (Minneapolis), Mar. 11, 1894, at 5, col. 3.
THE PATTEE YEARS

Prof. Paige Attempts to Cover Too Much Ground.

Students Want a Change.

That—"all things are not what they seem"—is amply illustrated in the law school at the State University.

On the surface all seems to be running along swimmingly, but one has only to delve below the surface to discover a condition of affairs almost amounting to mutiny among the students.

The storm has been brooding for several months, and is liable to burst forth any time. It received a decided impetus yesterday, when a morning paper published a feature laudatory of the law school. The discontented student, with reason, inquires: "Why don't they publish the truth while they're about it."

The cause of the trouble is this: The students are disappointed in the school. It is not as excellent as they expected.

The catalogue informed them before they entered that the following list of eminent instructors would lay down the law...

This list contains able and prominent men, and if the students knew half of them by sight there would be no kicking. But as a matter of fact, Dean Pattee and James Paige do nearly all the work.

Probably no student now at the "U" ever saw Frank B. Kellogg, H.F. Stevens, C.W. Bunn, C.D. O'Brien or John B. Young in the hall of the college.

It remains, therefore, for the dean and Mr. Paige to divide up about 15 or 20 subjects between them, and Mr. Paige gets the major portion.

In an age like the present, when all branches of business and learning run into specialties, it is hardly to be expected that any one man, however able, can cover as many branches of the law as Mr. Paige does, and do it properly. The students say it is not done properly. . . .

There is a lot of talk about getting up a petition among the juniors to remove the cause of their complaint. The seniors feel the same way, but are so near the end of their course that they would not bother to raise a row at this late date. Fear of being "flunked" in their work is the only thing that would prevent the juniors from backing the petition to a man.79

Reaction to this article seemed to encourage the Penny Press, for the next evening another front page article appeared expanding upon the complaint of the first and adding a new attack. The article, in part, asserted, "Although the students almost unanimously indorse the statements made in these columns last evening, yet they are sorry for Mr. Paige, who is personally a great favorite among them. How-

79. Penny Press (Minneapolis), Mar. 12, 1894, at 1, col. 7.
ever, they acknowledge the truth of the statement that too much work is piled upon him.”

The paper then commenced a new attack, this time upon the school’s alleged insistence on memorization of cases—right down to the volume and page number:

The system [of case memorization] is being worked so hard and to such an extent that the principle of law is sometimes entirely overlooked. As the following question will illustrate: “Name 15 memory cases.” This question was asked during the examination on commercial paper, of the junior class. No principle which the case held was asked for . . . .

By the end of the same week, however, the controversy, by then described as a simple misunderstanding, seemed to be resolved. Dean Pattee, quoted in a final article in the *Penny Press*, criticized the early articles as perpetrating a great injustice upon the school. He explained that

[t]he exigencies of business, have rendered it impossible for some [lecturers] to meet their engagements to lecture, while sickness and other unavoidable causes have prevented others from doing so, and this was especially so last year. When a lecturer is announced we expect he will lecture, and only by some unforeseen [sic] exigency has the program been interrupted.

Pattee also denied the widespread use of the memory system and promised that another full-time faculty member would be secured for the next year.

Although one might easily conclude that the law school’s problems were unfairly exaggerated by the *Penny Press*, which an angry Law Note in the *Ariel* denounced as a “sensational sheet without morals, motive or aim,” the school nevertheless had acquired the image of being inadequately staffed. Unfortunately, as Dean Pattee recognized, the image was accurate. In 1896, just two years after the *Penny Press* incident, he confided with striking candor to the Regents that “[w]e do not find among the eighteen different [faculty] members who teach regularly or lecture periodically a single man really eminent for his legal ability, his legal learning, or his professional success at the bar.”

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80. *Id.*, Mar. 10, 1894, at 1, col. 7.
81. *Id.*
82. *Id.*, Mar. 15, 1894, at 1, col. 1.
83. *See id.*
84. 17 *Ariel* (University of Minnesota) 257 (1894).
Solution of the faculty problem required money—more even than the $6,000 average yearly surplus that the school was beginning to show. And securing that money—getting the Board of Regents to subsidize the operating expenses of the school—required both a dean committed to the ideal of an academically superior school and a Board of Regents willing to share that commitment. Both elements were lacking in 1896.

Despite his obvious ability and his success in guiding the law department through its earliest trials, it ultimately became clear that Dean Pattee was not imbued with a desire to propel his school to the heights of academic supremacy. For example, in his 1896 report to the Regents, Pattee addressed the faculty problem and presented the option of hiring nationally prominent law teachers to add the academic status found lacking by the school's critics. He noted that the chief obstacle to this option was its expense, but made no attempt to hurdle that obstacle. After describing such a hiring policy as "aggressive, bold and [one that] would undoubtedly silence all complaints that our work is not up to the ideal standard," Pattee conceded that, "[t]here being little likelihood that the limitation of self-support can be removed at present, we must do the best we can under its restriction."

If the Dean's advocacy of an "aggressive" hiring policy was less than passionate, the Board of Regents was not heard to complain. It was, after all, beginning to enjoy the surpluses in tuition over expenses that the law school was contributing to the University's general benefit. Thus, the result of Pattee's report was minimal, and no new faculty policy was initiated. By 1896, however, an enlarged faculty had become absolutely necessary given the new three-year course, and late in that year the school took a clear if cautious step in the right direction with the addition of the Honorable A.C. Hickman as a third full-time faculty member.

D. IMPROVEMENTS

Although it became apparent that the law school would not leap to national prominence overnight, a series of lesser accomplishments in the Pattee era undoubtedly helped to set the stage for later, major advances. One helpful and inexpensive change was the 1894 reorgani-

87. Pattee, supra note 85, at 6.
88. Id. at 7.
89. See Pattee, supra note 27, at 150.
zation of the school into six departments, each headed by a full-or part-time faculty member whose job was to oversee the lecturers in his area.\textsuperscript{90} Theoretically, this change allowed Dean Pattee to delegate some of his authority and spread out the administrative workload. The division of subjects into departments reflected more the specialty of the individual department head than the logical coherency of the subjects. Thus, for example, Pattee himself headed the Department of Contracts and Equity Jurisprudence, while Charles B. Elliott was head of the Department of Corporations and International Law, and James Paige headed the Department of Domestic Relations and Partnership and Agency.\textsuperscript{91} Whatever the merits of the placement of these divisional lines, the act of division itself apparently allowed for the establishment of a more ambitious academic program.

Many other initiatives and directives for the academic operation and improvement of the school came from the faculty, acting together as a governing body. Minutes from faculty meetings over the period report a wide variety of issues, from policy recommendations to the Board of Regents to student petitions for credits or permission to take exams.\textsuperscript{92} Because faculty duties involved the review of students prior to advancement, the minutes contain such entries as the following:

\begin{quote}
June 11, 1900

The rolls for the Middle Day Class were reviewed and letters were directed to be written to certain gentlemen, informing them that under existing circumstances it would not be advisable for them to enter the Senior Class.\textsuperscript{93}
\end{quote}

\begin{quote}
June 6, 1910

It was unanimously voted that the following special students be requested not to return to the college for future work, on the ground

\begin{enumerate}
\item \textsuperscript{90} See \textit{University of Minnesota Dep't of Law Circular of Information}, 1894-1895, at 183.
\item \textsuperscript{91} See id. at 183-84.
\item \textsuperscript{92} Typical of the faculty's actions on petitions are the following entries:

A petition was received from Arthur W. Fowler, asking that time spent in a law office from July 1, 1901 to January 1, 1902 be accepted in lieu of time lost in entering the department in January 1902. The petition was granted inasmuch as the time spent before he entered the College of Law and the petition was supported by affidavits showing that the subjects of Contracts, Domestic Relations, Blackstone's Commentaries and Code Pleading had been studied.

Petition was received from John H. Harry to the effect that his entrance conditions be removed. This was granted in view of the grades submitted and as he had taught six years under a first grade teacher's certificate.

University of Minnesota Faculty Minutes (Sept. 10, 1902) (on file in Law School Papers, University of Minnesota Archives, Minneapolis, Minnesota).
\item \textsuperscript{93} Id. (June 11, 1900).
\end{enumerate}
that their work has been so imperfectly done during the year that their influence in the department was baneful.\textsuperscript{94}

The faculty acted in many capacities other than that of hangman, however, and many of the changes in academic policy that occurred during the Pattee years were passed upon first by this body. Among these changes was the replacement, beginning with the school year 1895-1896, of the two-year program with a mandatory, and more rigorous, three-year program.\textsuperscript{95} Two years later, a second graduate degree, Doctor of Civil Laws (D.C.L.) was offered.\textsuperscript{96} Although for a time the night school remained a three-year course, it too soon felt the effects of escalated academic standards and was changed to a four-year program in 1908-1909.

Another area of change and improvement at the law school concerned its technique of instruction. Originally, "the method of instruction adopted was that generally used in other law schools at that time—a good text book supplemented by lectures with the reading of such reports as the instructor considered desirable."\textsuperscript{97} The reading of cases was only supplemental. But as legal education matured, a trend grew toward more systematic use of cases and casebooks. In keeping with this trend, Dean Pattee concluded "that the text books prepared for the practitioner were wholly unsuitable for the work of a law school; that the opinion of the text author was not what the student needed so much as he did the opinion and arguments of the learned judges."\textsuperscript{98} Thus, the Dean began to write and edit a large number of casebooks under the title, \textit{Pattee's Series of Illustrative Cases}.\textsuperscript{99} Many of the faculty would later author parts of this series, with Professor Paige the most prolific and acclaimed contributor.\textsuperscript{100}

\begin{footnotes}
\item[94.] Id. (June 6, 1910).
\item[95.] See \textit{University of Minnesota College of Law Circular of Information}, 1895-1896, at 11.
\item[96.] For this degree, an LL.B. and an LL.M. were required as was a knowledge of Latin and French or German. The bulletin described the course as follows:
There is no prescribed time within which students are required to do their work in this course, but they must make themselves proficient in the subjects of Roman Law, Political Science, Comparative Constitutional Law and the Philosophy of Jurisprudence before any thesis will be accepted from them. [The thesis] must be one of original investigation and of special excellence. \textit{University of Minnesota Bulletin: College of Law}, 1898-1899, at 16 (1898).
\item[97.] Pattee, supra note 27, at 143.
\item[98.] Id. at 144.
\item[99.] In addition, Pattee, in 1909, authored a treatise entitled \textit{The Essential Nature of Law or The Ethical Basis of Jurisprudence}, which Dr. Folwell considered the most valuable of all of the University's faculty publications. See Letter written by William W. Folwell (n.d.) [hereinafter cited as Folwell Letter] (on file in Folwell Papers, University of Minnesota Archives, Minneapolis, Minnesota; folder entitled Higher Ends of a University).
\item[100.] The \textit{Ariel} reported that after the publication of particular \textit{Illustrative Cases}
The series met with such considerable success that in 1896 the
Dean could report to the Regents that the "books published by our
Faculty have been adopted as text-books in over 30 of the other Law
Schools of our country."101 The casebooks on contracts and personal
property were among the earliest outside casebooks used at the Har-
vard Law School.102

Notwithstanding the apparent shift to casebook instruction, the
books themselves, with a statement of the law in boldface type imme-
diately preceding each illustrative case, indicate that the case
method as we know it was not being used. According to a promotional
pamphlet, Pattee's books were intended to make a clear and accurate
statement of that part of jurisprudence with which the several vol-
umes respectively deal and "to accompany each statement with a
case illustrating its application."103 There is, of course, a substantial
difference between Pattee's use of cases as illustrations of given pre-
cepts and the modern use of cases as unlabeled illustrations of un-
known law that must be inferred by the student. Thus, Pattee's Illus-
trative Cases perhaps may be viewed as a stage in the development
of the techniques of legal education—a transition point between the
use of treatises and the use of cases, with supplemental reference to
treatises, as the basic tool of instruction.

Whatever the substantive merits of the books of Pattee's Illustra-
tive Cases, they were certainly not overpriced. In fact, they were
furnished to students free of charge. The administration adopted this
policy in keeping with the school's spirit of accommodation, in re-
sponse to student complaints about the price of these books, and to
protect the college, bar association, and state libraries from continual

101. Pattee, supra note 85.
102. See The Centennial History of the Harvard Law School, 1817-1917, at
83 (1917).
103. The Pattee Series (n.d.) (advertising pamphlet) (on file in Law School File,
Comptroller Papers 1888-1912, University of Minnesota Archives, Minneapolis, Min-
nesota). It is interesting to note that the pamphlet included a statement by a member
of the Section of Legal Education of the American Bar Association that seemed to
condemn precisely the use of cases that the Pattee series envisioned:

The usual form of citing cases in a . . . textbook leads the student to look
upon the case merely as corroboration of what the lecturer or writer has
already said. In this way the entire inductive value of the case, and its
disciplinary value as well, is lost. The case becomes not a source of informa-
tion, but a mere illustration.

Id. (quoting McClain, The Best Method of Using Cases in Teaching Law, 16 A.B.A.
Rep. 401, 406 (1893)).
Another pedagogical device used by the Minnesota Law School was its requirement that students brief their cases. In explaining the rationale underlying this requirement, Dean Pattee often cited the Bacon maxim, "Writing makes an accurate man." "Only," continued Pattee, "as he writes [down] carefully such an analysis of the cases can the student acquire [the] ability to state clearly to the court the essence of the case cited." Pattee claimed that this teaching device was used first at Minnesota and only subsequently adopted by the rest of the legal education community.

The law school's efforts toward academic improvement were felt not only in the structure of course work and method of study, but also in the examination procedures and entrance requirements. In both areas, significant changes occurred late in the Pattee years. Until 1904, examinations were given at the close of each series of lectures, and those who failed could conditionally advance provided that they either retook the course or, during the next semester's registration week, retook and passed the exam. In 1904, however, this "second-try" procedure was abandoned. At the same time, nine years after initiation of the three-year course, an additional comprehensive examination encompassing all subjects taught in the first two years was made requisite at the end of the middle year. Two years later, in 1906, the second-year test became discretionary, inflicted only upon "such students as the Faculty may select because of their low grades, or because their work was ... taken in another school." Apparently, discretion was the vogue that year, since the bulletin also announced the following under the heading "Examination for Graduation":

While the grades secured by students upon examination at the end of each subject will, as a general rule stand as a final grade, yet, if a student has taken any part of his work in an office or in another law school, or for any other reason the faculty consider a review of any student's work desirable, he shall take such examination upon such subjects as the faculty may select, and only upon passing such examination satisfactorily to the faculty, shall he be entitled to his diploma.

104. See University of Minnesota Bulletin: College of Law, 1898-1899, at 16.
106. See id. at 149.
110. Id. at 21-22 (emphasis added).
The gradual move away from the low academic standards and the spirit of accommodation that had marked the earlier years was perhaps most dramatically felt in the area of entrance requirements. The school's stated policy of "enact[ing] higher entrance requirements as rapidly as conditions and circumstances . . . would . . . warrant or permit" resulted in a headlong rush toward the kind of requirements once thought too snobbish for a prairie school.

Nevertheless, the Dean seemed personally ambivalent about the escalating entrance requirements. Torn, perhaps, between the conflicting ideals of a prairie school and a legal eduction second to none, he stated,

> With the urgent demands for legal education, the aptitude of many high school graduates to study law with as great success as many college men, and in view of the growing demand for legal education on the part of young business men, it is not an easy question to decide just who may and who may not enjoy the advantages of legal education offered by the State University.

Of course, Dean Pattee also may have been torn between the conflicting demands of self-support and a restrictive admissions policy that would ensure a loss of some revenue-generating students to less demanding schools.

In any event, admission requirements rose steadily and the school began actively to recruit University-trained students. One of

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111. Pattee, *supra* note 27, at 144.
112. The requirements enacted from 1900 to 1910 were in harmony with the recommendations of the two law school experts who wrote to Folwell in 1870. See text accompanying notes 6-7 *supra*. Dean Dwight wrote,

> While the public sentiment of this country does not yet demand a college education as an indispensable prerequisite to professional training, yet every experienced person must feel that high success in an institution, like a law school, cannot be achieved without the presence of a considerable number of well educated young men.

> Take our own institution [Columbia University Law School] as an example. We have say 230 law students from all parts of the United States. About 120 have been trained in our best colleges. Many of them are thorough scholars and I observe continually the influence of their example on the students who came directly from the farm or workshop. I could not get along without those trained young men in a way to satisfy myself and without them I . . . fear for our success.

Dwight Letter, *supra* note 6 (emphasis omitted).

Professor Parsons expressed the need for trained students this way:

> You do not wish to flood the community with half-taught lawyers. You do not wish to lower the standards of fitness for the profession, for this is quite low enough, to say no more. You remember that the science of law is both large and difficult; that it is impossible to be too well prepared for the study; and that with no special preparation whatever, it must be very difficult to get a firm grasp even of its elementary principles.


its first moves in this direction was to offer students of the College of Science, Literature, and the Arts (SLA) advanced placement if they would study the Commentaries of Blackstone, elements of contracts and torts, and the principles of criminal law during their senior year.1

Before another rise in standards was approved, however, an additional incentive to action arose in the form of a scathing Ariel editorial denouncing the then applicable law school entrance requirements. Noting that the Board of Regents had recently stiffened requirements for the medical school but postponed similar action in reference to the law school, the Ariel claimed that

if there is need of progressive action anywhere in the University it is in the College of Law. The standard of admission is altogether too low, as is evidenced very plainly, we think, by the men who enter there. The men get through their three years' work, it is true, and the training given them by the Faculty is not to be complained of, but nevertheless a large number are not fit to practice law and will never make of themselves more than country barristers or city shysters.

The State of Minnesota is not doing right by her citizens in allowing such men to take law in the first place and the only way to prevent their entering the Law School is to raise the bar so that they cannot enter until they have had a first rate preparatory education. . . . The time is coming when every law school that pretends to rank among the best will demand such a standard and the University of Minnesota cannot afford to procrastinate in this important matter.15

The Ariel editors were at least partly satisfied in 1901, when requirements for the admission of non-high-school graduates were stiffened to match those of SLA.16 A related change of admissions policy required practicing attorneys seeking LL.B. degrees to have high school degrees or the equivalent before admission to the advanced study program.17


115. 23 ARIEL (University of Minnesota) 342 (1900).

116. In order to gain admission to the College of Law or SLA, applicants without a high school diploma were required to have successfully completed courses, or have passed an equivalent examination, in the English classics, English composition, algebra, and geometry. In addition, these applicants were to have completed the equivalent of eight year-credits from the following subjects: Latin, Greek, German, French, English, history, civics, political economy, physics, chemistry, botany, zoology, astronomy, geology, or physiography. *See* UNIVERSITY OF MINNESOTA BULLETIN: COLLEGE OF LAW, 1901-1902, at 12-13.

These tightening admissions policies did not have any substantial effects on the size of the incoming classes (and thus on the revenue of the school) until late in the Pattee years. Indeed, the Dean, with his ambivalence toward both strict admissions requirements and expensive faculty hiring policies, always had his cautious eye upon the school's finances. Though the school lost money in three out of its first four years, thereafter it earned such large sums that, by the end of its first nineteen years, it had contributed over $60,000 to the University's purse. In 1906, $60,000 was an enormous contribution, and this fact was not lost upon the man appointed to the Board of Regents in the same year, Pierce Butler.

Born in Waterford, Minnesota, Butler earned an A.B. degree from Carleton, studied law in a St. Paul law office, and was admitted to the Minnesota bar in 1888, the same year the University's College of Law opened. By the time he became a Regent, he already had demonstrated an excellence in the law that would eventually see him, in 1922, appointed Associate Justice of the Supreme Court of the United States. Also by 1906, he had developed an interest in legal education. Although difficult to document, his influence on the administration of the law school was significant from the start. This influence was perhaps most apparent in the school's balance sheets. In 1907-1908, Butler's first year as a Regent, after fifteen straight years of surplus, the law school spent more than its tuition receipts—and has continued to do so every year thereafter. The cause of these deficits was a new approach to law school policy decisions that looked first to their effect on the academic program of the school and only secondarily to their effect on finances. The limitations of self-support were at an end.

Freedom from the strictures of self-sufficiency allowed the school, among other things, to hire more faculty. By 1909, there were seven full-time teachers and a complement of part-time lecturers. More important, freedom from self-sufficiency permitted a real tightening of admissions standards. Thus it was announced that in the fall of 1909 all degree-seeking applicants would be required to have completed one year of academic work at either the University or some other school of similar rank. This requirement was promulgated at
a time when the school’s degree-seeking population of 482 contained only 66 college degree holders and the other 416 students had amassed an aggregate of only eighty years of college education. The announcement and implementation of the policy had a predictable effect on the size of the first-year class. From a high of 203 in 1908-1909, the first-year student enrollment fell to 69 when the requirement came into effect in the fall of 1909. Apparently, the administration was undaunted. No sooner was this policy implemented than the school escalated standards again by announcing that, in the fall of 1911, all new degree candidates must have completed two years of undergraduate work. By this time it was clear that the days of accommodation had given way to the days of academic superiority. It was perhaps fitting that this change coincided so closely with the end of Dean Pattee’s tenure.

E. THE RESULT

What were the effects of these changes on the law school? Despite its many and sometimes radical attempts at academic improvement, University historian James Gray concluded that the law school of Dean Pattee was not a place of intellectual rigor: “Under the great-hearted administration of William Sullivan Pattee... the College of Law... [earned] the reputation of being a comfortable refuge for members of the football team from the more severe disciplines of other colleges.” This assessment seems to overstate the case—but not by much. There were indeed a substantial number of law students who played football, although there is no evidence that being on a football team at the turn of the century indicated a lack of intellectual prowess or academic inclination. But the fact nevertheless remains that, at least in the eyes of the rest of the campus, the law school was not an institution of the highest academic quality. The Daily summed up this feeling in an editorial about the selection of a dean to replace Pattee, stating, “It has always been the general opin-

127. J. Gray, supra note 4, at 89.
128. During the Pattee years, 49 out of 136 football players for whom a college of study was designated were law students. Many of these played while undergraduates but quit upon transferring to the law school. See Minn. Alumni Weekly, November 9, 1914, at 147-88 (special football issue).
ion that the law school is one of the weak spots of the university as a whole."

While there may have been a softness in academic standards under Pattee, there were other factors that cast him in a more favorable light. Despite (or perhaps because of) its academic reputation, students entered the school in great numbers—and students are one measure of strength. The great influx of students made Minnesota at one point the fourth largest American law school and the largest of its age. The stricter entrance requirements enacted late in the Pattee years (but still early in comparison to other western law schools) nudged the school back a bit in the size rankings, but it always retained a student population of healthy size.

One of the school's greatest strengths, of course, was financial. Undoubtedly, Dean Pattee's fee-generating policies helped to ensure that the law school would retain its place in the University and sustain the academic improvements it achieved. Although Pattee was timid about supporting policies directed at great scholastic achievement, it was with good reason that he sought to nurse, rather than drive, the school forward. An overly ambitious program, with a resulting loss of students to schools with lower standards, could have caused a financial disaster capable of destroying all that he had built. With his accommodating policies, Pattee ensured that the school would survive its infancy.

Another measure of the success of the school is the success of its alumni. By 1910, Dean Pattee could look back with some pride at a school that had graduated 1,683 students with LL.B. degrees since its inception 21 years earlier. Only about half of those graduates ever intended to, or did in fact, practice law; but those who did, according to Pattee, did well:

During the last four years [1906-1909] of the eighty-five county attorneys in Minnesota, over one-half were graduates of the University law college. A large proportion of the state's attorneys in both North and South Dakota are also graduates of this institution... From ten to fifteen of the graduates in law have been members of either the house or senate in the Minnesota legislature during the last three sessions.

These achievements—the attraction of students to the school, its financial stability, the success of its alumni, and some gradual scho-

130. See id., Feb. 9, 1911, at 1, col. 2.
131. See id.
132. See text accompanying note 118 supra.
133. See Pattee, supra note 27, at 150-51.
134. Id. at 151.
lastic improvement—may all be attributed to Dean Pattee. He was, after all, the school's nursemad. But by the start of the twentieth century's second decade, the school was out of infancy and was ready for further growth.

On April 4, 1911, after a year of failing health, Dean Pattee died of a chronic kidney ailment. The faculty minutes of the day read as follows: "Moved and seconded that the law building be draped as follows: front door, the Dean's office door, his chair and portrait. . . . Voted that the entire student body will be invited to act as a bodyguard on the day of the funeral . . . ." Dean Pattee's close friend and workmate throughout his deanship, President Emeritus Northrop, eulogized, "He was not only an earnest and helpful teacher, but he had high ideals of character as well as learning and he strove to inspire his students with ambition to be true and honorable men quite as earnestly as to be learned lawyers." Fifteen years later, Folwell was to say of Pattee that his "daily life and conversations were a perpetual school of courtesy and devotion to service and duty." But perhaps the best and most insightful eulogy to Dean Pattee was offered nineteen years after his death. Speaking at the dedication of Fraser Hall, Pierce Butler, then Associate Justice of the United States Supreme Court, said,

While lacking in professional training and experience, his capacity for study, great industry, high character, and sense of duty combined to make him as good a man as could then be found for leadership in the new Law School. His task was a difficult one. Some of the best lawyers tried to help, but a large part of the bar had little interest in the undertaking. There was little enthusiasm for it on the part of the legislature or the regents. At first provision for building, books, equipment, and teaching was pitifully small. The dean was the school.

135. Minnesota Daily, Apr. 5, 1911, at 1, col. 2.
136. University of Minnesota Faculty Minutes (Apr. 4, 1911) (on file in Law School Papers, University of Minnesota Archives, Minneapolis, Minnesota).
137. Minnesota Daily, Apr. 6, 1911, at 1, col. 2.
139. Butler, The Law School and the State, MINN. CHATS, May 1929, at 6, 8.

At the University's Charter Day exercises on February 16, 1933, Dean Pattee was designated as one of the five "Builders of the Name" in the history of the University. Dean Pattee's grandson, Pattee E. Evenson, has described this occasion as follows:

The occasion was widely publicized in the Minneapolis press. I was present at these exercises when also there was unveiled in the foyer of Northrop Auditorium engraved in marble on the wall visible today and for all time Dean Pattee's name with four others. And this twenty-two years after his death! Only five persons in the first century of the University's history were so honored up to that time. Only two names have been added since.

Letter from Pattee E. Evenson to author (May 9, 1978).
For 23 years, Dean Pattee paternally guided both students and school. Starting with only his personal energy, he shepherded the school out of a basement lecture room and into a new building of its own; he expanded enrollments from 67 in his first year to an average of more than 500 during his last ten years; and he laid the organizational foundation, both in course of study and faculty, that would allow for the school's ascendance to academic excellence in succeeding years. It was only when Dean Pattee's work of accommodation and stabilization were finished that the time for that ascendancy had come.