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Porcupine Diplomacy Produces Summit (Ave.) Accord

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Porcupine Diplomacy Produces Summit (Ave.) Accord

Abstract

While William Mitchell College of Law was officially formed in 1956 through the merger of two local evening law schools, there had been discussion of a merger for years before 1956. Even after the merger, the two parts of the new institution continued to operate mostly separately. The acquisition of a building at 2100 Summit Avenue, in St. Paul, in 1958 finally allowed the two schools to become one and to enter the modern era of legal education.

Keywords

St. Paul College of Law, Minneapolis-Minnesota College of Law, William Mitchell College of Law, legal education, Minnesota

Disciplines

Legal Education | Legal History

Minneapolis and St. Paul colleges
united in 1956 to form
William Mitchell

'Porcupine' Diplomacy Produces Summit (Ave.)

By Douglas R. Heidenreich

THE ST. PAUL COLLEGE OF LAW and the Minneapolis-Minnesota College of Law had grown in different directions. In 1938 the St. Paul school had obtained provisional American Bar Association (ABA) approval, and in 1943 it gained full approval. That meant that from 1938 forward, St. Paul College of Law (SPCL) graduates could take the bar exam in any state. To qualify for and retain approval, the college had to maintain a

staff of at least three full-time faculty members and meet what seem today to be modest library requirements. Furthermore, as part of the approval

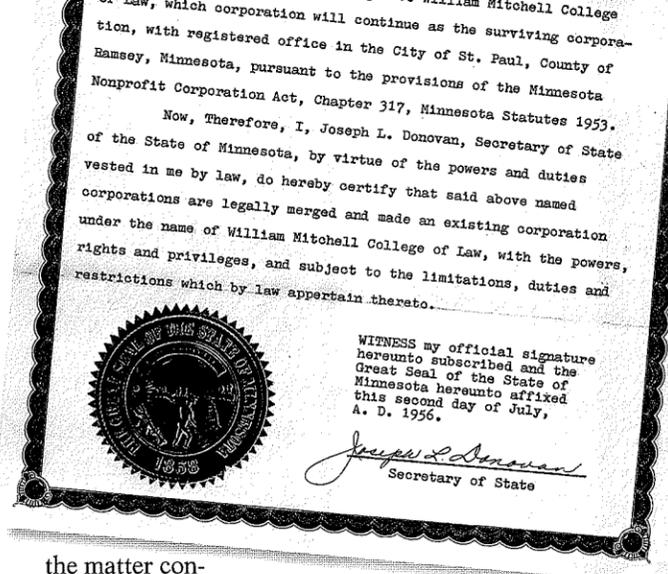
process, the "adviser" to the ABA's Section of Legal Education and Admissions to the Bar periodically visited the school and reviewed matters such as the size and nature of the library collection, the school's educational policies, the grading standards and retention policies, and the school's financial health.

The Minneapolis-Minnesota College of Law (MMCL), on the other hand, had not sought ABA approval. It was content to operate with a strictly part-time faculty, and it made no attempt to meet other specific ABA standards. Nevertheless, because the Minnesota Supreme Court had approved the school, its graduates were entitled to take the Minnesota bar exam and to practice law in the state. Many MMCL graduates achieved great success in the worlds of law, business, and politics. Yet, the lack

of ABA approval posed difficulties. Although returning World War II veterans had received GI benefits when they attended the Minneapolis school in the late 1940s, returning veterans of the Korean conflict were denied those benefits in the mid-1950s. That troubled the college's administration, but efforts to get the law changed were unsuccessful. For that reason alone, a merger with the St. Paul College of Law should have seemed attractive to the Minneapolis school. Still, there seemed to be little enthusiasm on the part of either law school to consolidate.

REPRESENTATIVES of the two schools had held discussions in desultory fashion for a number of years. As early as 1942, R.G. Patton, an MMCL faculty member, though not a trustee, and Oscar Hallam, SPCL's dean, exchanged letters on the subject. The respective boards of trustees discussed the matter at their meetings in November 1942. The SPCL minutes merely say that Hallam reported on the letter from Patton, but reflect no support for the idea of a merger. The MMCL minutes mention that Hallam's letter "concerning the possible merger" was read. The short paragraph dealing with

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the matter concludes, "It was the sense of the meeting that no action would be taken on the matter at this time."

Accord

In 1950, Hennepin County District Court Judge Theodore B. Knudson, an MMCL trustee, and Ramsey County District Court Judge Arthur Stewart, an SPCL trustee, informally discussed the possibility of a merger at a bar association meeting. In February 1953, committees from each school met to discuss a possible merger. The St. Paul representatives were Dean John Burns, Assistant Dean and faculty member Phillip Klein, and Judge John B. Sanborn of the U.S. Court of Appeals for the Eighth Circuit. The Minneapolis committee consisted of Dean Andrew N. Johnson, Registrar C. William Sykora, and Knudson. Although the MMCL minutes reflect that "the members attending said conference had agreed to submit the question [of a consolidation] to their Board of Directors and members of the school," the matter seems to have died at that point. In March 1953, the MMCL minutes note that there were "no new developments with respect to the negotiations for a consolidation."

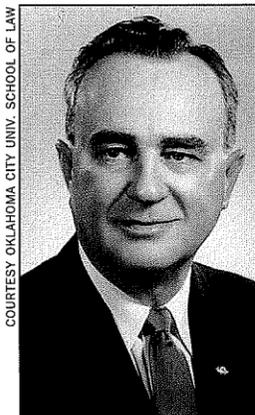
Although the merger question apparently continued to hover over the colleges, they went on their respective ways and seem not to have considered the matter very seriously. The April 1954 MMCL board minutes note that Charles Root, chairman of the law school's planning committee, had mentioned in a report to the school's trustees that "the proposed consolidation... was a remote possibility and that the same should not be of immediate concern to the Board of Trustees." The school did, however, soon decide to seek ABA approval.

The manner in which that came about is subject to conjecture. Andrew N. Johnson wrote some years

later that John G. Hervey, then adviser to the ABA's legal-education section, approached Johnson with the suggestion early in 1955. Johnson, as he later recalled, responded that in light of the school's financial situation, he did not feel justified in recommending that the school apply for approval. C. William Sykora, who was registrar at the time, remembered it differently. He recalled that the application was triggered when an alumnus of the school who had been admitted in Minnesota was denied admission in a Western state because of the school's unapproved status. "I brought the problem to the attention of the trustees, who decided it was time to seek approval."

In any event, the Minneapolis college submitted an application for approval in 1955. The school had moved its quarters from a location on Seventh Street, where it had held classes for nearly 20 years, to the once grand but now shabby Metropolitan Building, at Third Street and Second Avenue South. To meet ABA requirements, the college hired two full-time teachers, John Dulebohn and Paul Clements. They joined such part-time teachers as Cyrus Rachie, the real estate wizard who had taught for 20 years; James P. Rorris, the area's premier family law specialist; and C. Paul Jones, a young assistant Hennepin County attorney. Dulebohn, a tall man with wispy white hair and a sepulchral voice, had had a long career as a trial lawyer for the Minneapolis Street Railway Company. He knew tort law inside and out. Clements was a talented teacher who had gone to law school late in his career and who

Top: On July 2, 1956, longtime Minnesota Secretary of State Joseph L. Donovan certified that the two law schools "are legally merged and made an existing corporation under the name of William Mitchell College of Law." Left: John G. Hervey, "adviser" to the ABA's legal-education section, used the carrot-and-stick approach to make the merger happen.



COURTESY OKLAHOMA CITY UNIV. SCHOOL OF LAW

practiced in Minneapolis before his appointment to the full-time faculty.

While this was going on, the colleges were finally undertaking serious negotiations. Hervey, the ABA adviser, played a significant role. Following his meeting with Andrew Johnson in the winter of 1955, he met with SPCL officials. On his way out of town he stopped at Johnson's office a second time to tell him, as Johnson remembered, "that before long I might hear from someone at the St. Paul College of Law."

Johnson did hear from an SPCL representative, Judge Arthur A. Stewart, who asked whether the Minneapolis college would be interested in discussing a possible merger. Johnson replied that the Minneapolis trustees "would be quite interested in such a meeting." As a result of the contact, the schools each appointed representatives to meet as a joint committee to consider a merger.

The committee, consisting of Johnson, Rachie, and Judge Knudson from Minneapolis, and Judge Stewart, Ramsey County District Court Judge Albin

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S. Pearson, and Wilfrid E. Rumble from St. Paul, held its first meeting in the fall of 1955—a September night, as Johnson recalled. The group, under Johnson's chairmanship, met nearly once a month for the next 10 months.

At some point, the question of the name for a merged institution came up. The group agreed that a name with geographic connotations would not be desirable.

Johnson remembered that he had put forward at the committee's

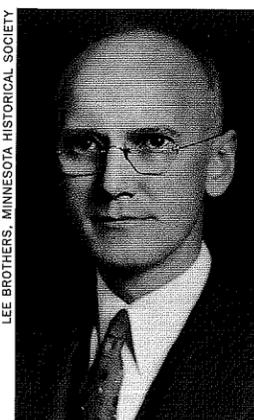
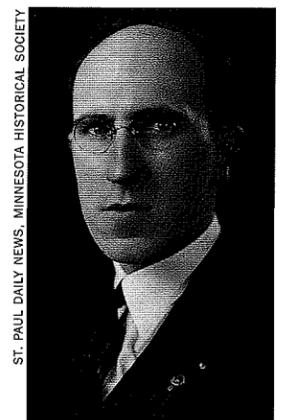
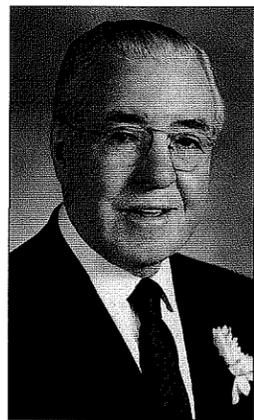
first meeting the

suggestion that the merged institution be named after William Mitchell, the great late-19th-century Minnesota Supreme Court associate justice whose judicial opinions were nationally respected and admired. Mitchell, Johnson believed, was a person "that the youth of the future could look up to, revere, and hope to emulate." Rachie remembered that later in the negotiations he, at Sykora's suggestion, had proposed the name. However it happened, the idea seemed to strike a chord with everyone.

The group had more important matters to deal with than the name. Johnson recalled that at the second meeting the group compared information about the respective financial situations of the two schools. "It was surprising," Johnson remembered, "how nearly they matched in value." The St. Paul school had a building; the Minneapolis school had some cash. "No doubt the greatest asset in each school," Johnson observed, "was the number of students registered and attending classes every evening." As the merger discussions moved forward, the Minneapolis school finally received ABA approval.

WHAT DID ABA approval of the Minneapolis school and the merger discussions have to do with one another? Probably everything. There is a hint of the relationship in Sykora's recollection that Hervey had told officers of both schools that "the ABA would not approve two evening schools in the Twin Cities." According to Stephen R. Curtis, who became dean of William Mitchell College of Law in 1958, Hervey believed both schools were weak and that by merging they could improve the quality of legal education in the area. He used the carrot-and-stick approach. He supposedly said he would approve the Minneapolis school to facilitate the merger, but that he would recommend that the

In 1955, the Minneapolis–Minnesota College of Law began renting space in the Metropolitan Building, at Third Street and Second Avenue. The Towle Building and Kieran's Pub now occupy the site.



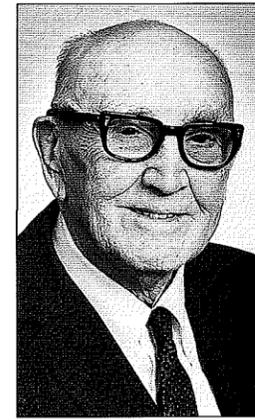
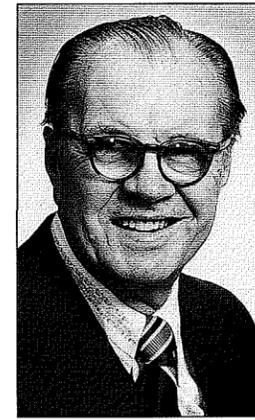
Representing the St. Paul College of Law in the negotiations were (from left) St. Paul attorney Wilfrid Rumble, and Ramsey County District Court judges Arthur A. Stewart and Albin Pearson. The talks started in the fall of 1955. The six-member committee met almost monthly until both corporate bodies approved the agreement.

SPCL's approval be removed if the merger did not take place. Although Hervey was fond of saying that he merely reported the facts to the council of the ABA's legal-education section and didn't make recommendations unless asked, it was popularly believed that he had substantial influence and that his word was, for all practical purposes, law.

On February 29, 1956, Andrew Johnson announced at an MMCL board meeting that the ABA had approved the school and that, while no substantial progress had been made on the merger, "the foundation and groundwork had been laid for



SWEET, MINNESOTA HISTORICAL SOCIETY



From left: Cyrus Rachie, Judge Theodore B. Knudson, and Andrew N. Johnson represented the Minneapolis–Minnesota College of Law in the merger negotiations. Rachie was counsel for Lutheran Brotherhood, the Minneapolis-based fraternal insurance association, and taught real estate law at the Minneapolis law school. Knudson was a Hennepin County District Judge. Johnson was dean of the Minneapolis law school.

future meetings." Either Johnson was purposely being vague or the committee made remarkable progress during the succeeding weeks. It took less than two months for the committee to reach a basic understanding. On April 25, the MMCL board reviewed a proposed merger agreement "paragraph by paragraph" and voted to recommend its adoption to the members of the corporation. In mid-May, the corporate bodies of both schools approved the merger agreement. Both groups were advised that "representatives of the American Bar Association" had "recommended and urged" the merger.

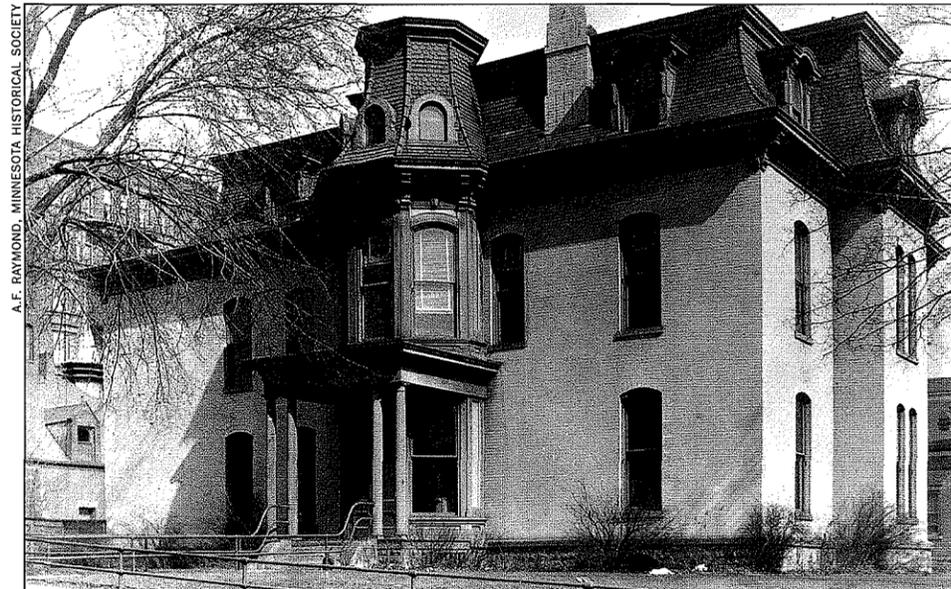
THE LAST GRADUATES of the two separate, independent law schools received their diplomas in June 1956. As of July 2, the schools became one institution—William Mitchell College of Law. The merger agreement reflected negotiations that had at times taken on the aura of the proverbial porcupine mating ritual. The new corporation consisted of 30 members, all of whom currently were or had been part-time teachers at the two schools. All were required to be lawyers or judges. Fifteen of the members were designated Minneapolis members, and 15 were St. Paul members. Each group was to fill vacancies in its own ranks so that the balance would remain. The eight-member board of trustees would reflect the same balance. Each group of corporate members would choose four trustees from among its own membership. The first dean was to be John Burns, the SPCL dean until the merger. The first president of the board of trustees would be former MMCL Dean Andrew Johnson. Judge John B. Sanborn, former president of the St. Paul college, was named vice-president. The other officers were Judge Theodore B. Knudson of the Minneapolis school and Judge Arthur A. Stewart of the St. Paul college.

The two institutions had become a single law school—in theory. Yet in the fall of 1956 they opened classes in separate locations, with separate student bodies and separate faculties, much as they

had done in previous years. Minneapolis students attended at the Metropolitan Building. St. Paul students took classes at the old Berkey mansion at Sixth Street and College Avenue. The paper merger wouldn't mean much to the students and faculties of the two schools until they blended physically at one location. Thus, the only remaining problem was to acquire a facility that could house the combined student bodies and that would be relatively convenient for everyone.

That was a big problem. Where should the new school

be located? The merger agreement included a provision that seemed to require that the new institution acquire a building "in the so-called Midway Dis-



A.F. RAYMOND, MINNESOTA HISTORICAL SOCIETY

trict... if possible, in the vicinity of University Avenue and the east boundary line of the City of Minneapolis and the west boundary line of the City of St. Paul." Cy Rachie, long-time MMCL faculty member and trustee, was assigned the task of finding a place to buy or rent, where William Mitchell College of Law could hold classes and maintain its administrative offices. It was a thankless and frustrating assignment. "I'd find a place in Minneapolis, and St. Paul didn't like it. I'd find a place in St. Paul, and Minneapolis didn't like it," recalled Rachie. In near despair of satisfying the disparate interests, Rachie sought inspiration in a radio and television station building that straddled the boundary line. "Then I thought, KSTP; that would be like Solomon—I'd find something on the line." In the

The old Berkey Mansion at Sixth Street and College Avenue in St. Paul—near today's Minnesota History Center—was home to the St. Paul College of Law from 1921 to 1956. The students and faculties of the new William Mitchell remained in their separate locations until 1958, when they moved to their new building at 2100 Summit Avenue.

same vein, Andrew Johnson remembered half-jokingly suggesting a building on the city line with an entrance for each city. Some property near the boundary line was available, but it seemed unsuited for law school purposes.

Rachie started to look at the problem in a different way. He began to look for places that were equally convenient to both cities—places that provided relatively easy access for students, many of whom would be coming directly to classes after having worked a full day in the heart of one city or the other. Why not locate the law school near the College (now University) of St. Thomas, thought Rachie. That would place the college equidistant from the downtown business districts of the two cities.

It was easier to say than do. No existing building in the area would accommodate the law school, and land was at a premium. Rachie, wondering how to solve the problem, one day told his tale of woe to his fellow trustee, John B. Burke. Burke, an SPCL alumnus, had taught a course in his specialty,

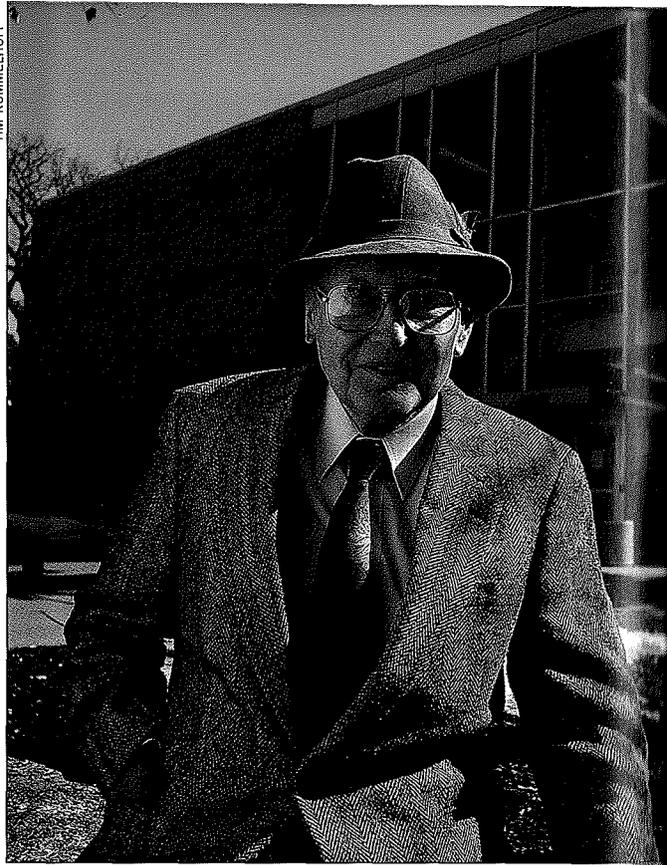
mortgage law, at the college for a number of years. He was one of St. Paul's finer real estate lawyers and was regarded by all who knew him as a true gentleman, personally and professionally.

"I have an idea," Burke told Rachie. "St. Thomas is getting crowded over there. Let's go over and see Father Shannon." And so it came to pass. James P. Shannon, then president of the College of St. Thomas, quickly agreed with Burke and Rachie that the two

institutions could work out an agreement that would benefit both. At the time, St. Thomas badly needed more daytime classroom space to accommodate its growing student body. William Mitchell College of Law needed a facility in which its students could attend evening classes, and it needed parking space.

A proposal was worked out. St. Thomas would give William Mitchell land on Summit Avenue on which a new law school building could be built. If the law school ceased to use the property for law school purposes, St. Thomas would have the right to buy the property at market value less the value of the land. Meanwhile, St. Thomas students could attend classes in the William Mitchell building during the day, while the Mitchell students could park

TIM RUMMELHOFF



Cyrus Rachie, '34, the only living member of the six-member committee that negotiated the 1956 merger, led the search to find a location for the new William Mitchell. Rachie, 90, returned recently to the 2100 Summit Avenue building that was the law schools home from 1958 to 1976.

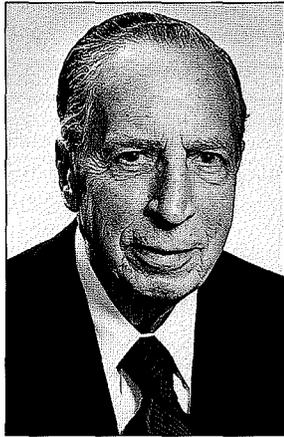
in the St. Thomas parking lot at night. The two institutions would work out a fair allocation of the costs of heating, electricity, and maintenance.

One glitch emerged. St. Thomas owned some of the land on which the William Mitchell building would stand, but another needed piece of property was in private hands. Father Shannon persuaded the owners to sell to St. Thomas so that the package could be put together.

Following St. Thomas's acquisition of the additional property, the two institutions agreed to proceed. William Mitchell College of Law became the owner of the Summit Avenue property and undertook the task of building and financing the new building. John Burke arranged mortgage financing through Minnesota Federal Savings and Loan Association. Ellerbe and Company was hired as the architect. A contractor was engaged.

IN THE FALL OF 1958, two years after the merger had been achieved on paper, the two student bodies met as one in the three-story modern building (now the University of St. Thomas's McNeely Hall) at 2100 Summit Avenue. John Burns, the former SPCL dean who had been dean of the merged school during the difficult two-year transition period, resigned the deanship. Stephen R. Curtis, who had been dean at the small Ohio Northern University College of Law, was appointed dean and assumed control of the day-to-day operation of the law school. With a brand-new facility, four full-time faculty members, and four hundred students, William Mitchell College of Law entered the modern era of legal education. ■

STORIES FROM CENTURY



St. Paul real estate attorney John B. Burke, '22, proposed that William Mitchell and the College of St. Thomas could reach a land and building agreement that would benefit both.