Past

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Present

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The Law School in 1900 occupied a portion of the Inner Quad as shown here and in the top cover picture. A bicycle is still a major mode of transportation though the horse and buggy have been replaced by automobile parking problems. The future Law School, construction of which is shown on the back covers, will combine the traditional Stanford architecture with a modern facility. Elmer Sandy, building coordinator, points out the auditorium on the site plan, with the gallery directly below it, the library/office building to the left and classroom building to the right.
Nathan Abbott

A Man No Different From Today's Law Professor... In Some Ways

by Robert Fourr

It was during Dean Abbott's trip to the West Coast that a Stanford law professor was first recognized as a fighter. A newsman came aboard the train, as Abbott's daughter, Mrs. Dorothy Kimball, recounts, to interview some of the passengers, including Abbott and a prizefighter. In the resulting stories, the captions to Abbott's and the prizefighter's pictures were interchanged, and history was made. Dean Abbott's tall, thin build must have made the story seem even more extraordinary.

When Abbott arrived at Stanford he found virtually no furniture for students or faculty. His solution was to build the furniture himself. Walter Bingham, professor emeritus, recalls that Abbott made chairs and other furniture as well, and Bingham claims they were very sturdy. In a letter written four decades later, Abbott described some of the other tasks he undertook at the outset of his deanship.

I advised the buying of the American Decisions because of the extensive notes which the students could refer to in the absence of text books which President Jordan did not feel the University could afford to buy. I believe I am correct in saying that before the Decisions were received the Bancroft Whitney Company gave us a set of books called 'The Pony Law Series.' I remember making a little book case about fifteen inches long and seven or eight inches high and five inches deep to hold these books. At this time the students had no place in the quadrangle to study and we were given the first room on the left hand (ground floor) of the entrance to Encina Hall. I remember hanging this book shelf, like a picture, on the wall of the little room and it was the beginning of your Law Library.

Abbott lived in San Francisco his first year at Stanford because there was no housing available on campus. The second year he moved into what was later to be known as "The Owen's House," one of the large wood homes with turrets on Salvatierra. When the 1906 earthquake came, Abbott was asleep in the house, but he was awakened and ran out of the house with everyone else. Everyone, that is, except philosopher William James who was visiting Abbott at the time. Abbott ran back in to get James and found him sitting on the edge of his bed amidst falling chimney bricks, writing about the experience. "I've been waiting for this opportunity for years," was James' greeting.

Nathan Abbott had two academic loves: property law and the history of property law. It is said that he had a penchant for tracing the legal propositions and institutions of American law back to their sources in the common law of England. While at Michigan, Abbott taught a course on "Testate and Intestate Succession" in which he pursued the subject of wills through the Hebraic and the civil laws of Europe, and "from Bracton and Coke upon Littleton down to the law as it exists in England and America to-day." One of Abbott's later colleagues, Harlan Fiske Stone, noted that, "Exploration of the mysteries of rights of reverter, of vested and contingent remainders, and springing and shifting uses, never failed to be for [Nathan] an exciting adventure."
Although Abbott edited at least one book and several small pamphlet reprints, he never published anything. He began, but never completed, an article on “The Rule in Dumper’s Case in New York.” Nathan Abbott was a perfectionist and an idealist and, according to a friend, he could never quite bring himself to take the irrevocable step of launching into an exposition in which some “lurking flaw in form or substance might later be discovered.” The absence of publications bearing his name should not be taken, though, to indicate a distaste for research. In preparing lectures and in satisfying his own intellectual curiosity, he spent untold hours delving through books on the history of American and English law, re-scattering much collected dust.

If the picture of Nathan Abbott is so far one of a man devoted to a subject more archaic than practical, it is also a very incomplete picture. Professor Abbott was an able and entertaining teacher. He taught using both the case method, and the more traditional methods of lecture and recitation. Abbott did not hesitate to use simple language or “homely illustrations” to achieve what was most important to him: making himself clear and understandable. He made the study of law at Stanford popular at a time when the great majority of students in the law department were undergraduates. During Abbott’s tenure at Stanford the enrollment in the law department grew considerably, to nearly 100. This growth took place even though by 1900 freshmen were excluded from law courses and sophomores could take only an introductory lecture course titled Elementary Law. Two first-year law courses could be taken by juniors, and three by seniors. Two years of additional graduate work would then fulfill the requirements of the LL.B. It is interesting to compare this program to undergraduate courses given today by the Law faculty: e.g., Professor Franklin’s Courts and the Legal Process, Professor Kaplan’s The Criminal Law and the Criminal System, Professor Rabin’s Administrative Process and Professor Rogat’s Seminar on the Constitutional Scope and Limits of Free Speech. These current courses do not, of course, count towards a later law degree that a student might receive from Stanford. (Has legal education progressed?)

Nathan Abbott was a man with great practical sense. He greeted the students of the Class of 1905, according to the late Philip Swing ’05, with the warning that “. . . unless you are willing to work like a horse [as a lawyer], get out of here now while there is time.”

He was successful as an administrator as well as a teacher, and had the respect and cooperation of his colleagues. His attitude towards the faculty was summed up in the September 4, 1900 faculty-meeting minutes: “Mr. Abbott stated that . . . while for convenience he might act as chairman, there would be no rank among the members of the faculty except so far as was determined by the merit of the work of each; that it was his feeling that the department should be administered by the united work—or better by the ‘team work’—of the faculty. All questions of policy should be decided by vote. Three [a majority] should be in favor of any measure before it was considered as adopted by the Faculty.” The faculty included Abbott, James P. Hall, Charles R. Lewers, Jackson E. Reynolds, and Clarke B. Whittier. Judge Lindley and San Francisco lawyer Joseph Hutchinson also taught part time. Most faculty meetings were spent discussing student petitions; Dean Abbott attempted to make these meetings somewhat more pleasant by providing peanut brittle and fresh coffee. By the time Abbott left Stanford in 1907, some alumni said that the Law School had reached a level of quality that could be compared favorably “with any of the leading law schools of the East.”

Even apart from his professional work, Professor Abbott was a person rich in interests and qualities. “Professor Abbott,” said the 1897 Quad, “by his devotion to his profession, his eminent scholarship, his high ideals and his kind, genial ways has endeared himself to all who know him.” His personality was in many ways the product of his New England ancestry. But he was also very much an individual, tutored through a wide range of experience. He paid particular attention to his appearance—the neatness of his Harris-Tweed suits—yet he was not aware that his friends were sometimes less than willing listeners to his cello playing.

The following anecdote may help to characterize Professor Abbott’s personality: James Hall had left Stanford to develop a law school at the University of Chicago. Hall was very pleased when he succeeded in luring Clarke Whittier, a recognized scholar, from Stanford to his new faculty. But sudden illness made it essential for Whittier to leave Chicago soon after arriving and move to a milder climate. Abbott recognized that Whittier’s condition would permit his being recalled to the Stanford faculty. At the same time President Jordan suggested that the Law School also rehire Hall, and Mrs. Stanford offered to fund both salaries since University funds already were strained and several faculty members underpaid. Abbott decided not to invite either man to Stanford, although Whittier later returned in 1915 and taught until 1937. Abbott indicated his reasons to Hall, a close friend, in this manner:

“I appreciate her [Mrs. Stanford’s] generosity and desire to have the faculty of the Law Department a strong one but I think this is not the time to add to it and I am glad you could not come although under other circumstances I should have felt entirely different.

With regard to Whittier . . . in spite of my great desire to have him back—and I wanted to invite him here instead of yourself at the time you were telegraphed for—I cannot persuade myself that it is right, taking into account the feelings of other men in the University, to invite him to come back, although his salary would have been paid for out of Mrs. Stanford’s private funds. For however that might be, those who were suffering would feel it all the same and not make any nice distinction as to the source of the fund.

We see Dean Abbott’s qualities of uncompromising honesty and sense of fairness. He was deeply concerned about the treatment of other people and their attitudes. But he was much less concerned about their feelings and attitudes toward him personally, at least as long as they did not affect the quality of the Law School.

One colleague of Abbott’s described him as an “other-worldly person.” Friends sometimes said that much of the reason he loved to study property was because it was old and rooted in another era. If Abbott lived and breathed property, then reading the classics and studying classical architecture were his respite from it. He was not a dabbler; he was thoroughly familiar with these fields. His interest in writers such as Dickens and Thackeray was so marked that he was the first American to be taken into the Dickens Society in London. The classics and more modern literature were not only an escape for Abbott. Their study was also a mental exercise. His daughter, Mrs. Dorothy Kimball, tells us that he always stressed mental discipline with his daughters.
If one incident could capture Nathan Abbott's detachment from the commonplace world, it would be the events of one evening late in his life when he was living in Greenwich Village. He sat talking with two fellow law professors at Columbia and with Sir William Holdsworth, England's most distinguished legal historian of the time. At about 10 p.m., without warning, Abbott went to the window, gazed upwards through obstructing trees, fire-escapes, and cornices to a starlit, moon-brightened sky. He then turned to his guests and said in a quiet voice, "Gentlemen, it's just about the right time now. I want to take you for a walk."

Guiding his friends in a manner that could only have been possible after many experimental hours of night prowling, the guests were shown the curious and fantastic shadows of Trinity Church spire, of gravestones, of lampposts and of buildings, melting into each other, changing as the moon moved from one interlaced pattern into another still more unusual and strange.

Abbott left Stanford in 1907 to join the law faculty of Columbia University, where he remained until his retirement in 1922. He is said to have left Stanford after lack of funds repeatedly thwarted his efforts to achieve some of the improvements he sought for the Law School. Despite expenditures from the principal of the Stanfords' estate, the University lost many of its best faculty during the years following Abbott's resignation.

When Abbott was considering leaving Stanford, his friend, James Hall, wrote to him urging that he remain. Hall said in part, "If you stay you will be remembered justly as the heroic figure of the early days of the Stanford school, the idol of your students." Nathan Abbott was too strong a person to be very concerned about his image or other people's memories of him. He looked instead to accomplishing as much as he could as a teacher and to seeking a broad range of experience and knowledge from which to lead his life.

Abbott worked at Columbia in the same manner as he had at Stanford. After retiring, he continued to lead an active life until his death in January of 1941. He swore never to look at a law case again, and embarked for the Mediterranean to visit several temple sites known to be rich in poetic or historic associations. He apparently went to a hilltop ruin in Sicily that was supposedly haunted by the spirit of Theocritus, and stayed in a dirty little inn at the foot of the hill. For two weeks he climbed the hill each day, pulled a book from his pocket and read Theocritus while sitting on the fallen columns in the sun. Proceeding to the next site, he was overcome by the sense that he did not have the background to savor the experience adequately. So he returned to spend the winter in the slush and sleet of New York, reading Sir James Fraser and Jane Harrison. Next year at age sixty-eight he planned to return to visit the remainder of the sites.