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Tribute to Distinguished Professor and Dean Emeritus Eugene F. Scoles

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Gene Scoles, Transformational Oregon Law Dean

The official Oregon Law tribute page honoring Gene Scoles names him as the dean who “transformed” the law school.¹ So many are named “transformative” that the adjective risks being misheard as a simple compliment. In the case of Gene Scoles, however, no better

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¹ *A Tribute to Eugene Scoles*, U. OR. SCH. L., <http://law.uoregon.edu/news/article/scoles-tribute/> (last visited Jan. 28, 2014).

adjective exists. He changed our law school—for the better—likely more than any other dean in our school’s 129-year history.

I am grateful to the *Oregon Law Review* for publishing these well-deserved tributes to Gene Scoles. As one who now has the privilege of occupying the dean’s office and enjoying the benefits of Gene’s hard work, I am pleased to offer this brief sketch of Gene’s life and of the profound impact he had on our law school.

GENE SCOLES BEFORE OREGON

Although Oregon eventually became his true home, Gene Scoles spent his first decades in Iowa. Gene was born in Shelby, Iowa, in 1921. His mother was a nurse, and his father was an accountant who spent most of Gene’s childhood working as a state bank examiner and receiver in charge of closed banks. Because of his father’s job, his family moved frequently before and during the Depression, not staying in any one town for very long. Gene attended twelve different schools by the time he graduated from high school.

Gene attended the University of Iowa and had the idea of law school already in mind when he enrolled. He had watched his father work in court on behalf of banks, and Gene imagined “becom[ing] a country attorney in some rural county in Iowa, and then go[ing] into politics.” During law school, Gene became interested in teaching the law instead, and upon his graduation he was offered a fellowship opportunity at Harvard Law School. Gene declined the offer, however, in order to work for a Chicago labor law firm for what he called the “astronomical salary” of \$3000 per year.

Gene did not shake the urge to be a law professor, however. After a few years of private practice, he accepted a teaching position at Northeastern University in Boston in order to “test the waters” of teaching. At Northeastern, he taught business-related law school courses and drew upon his practice experience for a seminar on Labor and Negotiations. At the same time, Gene studied part-time at Harvard for his LL.M and J.S.D. degrees. He focused principally on Labor Law, studying with Archibald Cox, and on Conflict of Laws. He then worked with Elliot Cheatum through a fellowship at Columbia. Gene further pursued his teaching career at the University of Florida law faculty and then the faculty of the University of Illinois.

Gene was an active and engaged scholar as a law professor—two themes that featured prominently in his vision during deanship. His dean at Illinois urged Gene to

take those kinds of jobs that keep you at the forefront of what is going on, and don't forget to charge them well. You do pro bono work for those who couldn't afford, but for those who could afford, he said, "Charge them well. Don't let it be said anywhere that the Illinois faculty is cutting rates."

Gene developed an expertise in Conflict of Laws and in Trusts and Estates, fields in which he continued to write and engage in law reform work throughout his career.

In addition to his more traditional life as a law professor, Gene Scoles spent time working and studying abroad. He was a visiting professor at the University of Khartoum in the Sudan in 1964 and found himself on the ground in the middle of a civilian overthrow of a military dictatorship. In his typical understated manner, Gene said of this, "It was an occurrence with which, as a youngster from the corn fields of Iowa, I had not a great deal of experience." He and his family eventually fled Sudan, making their way to Ethiopia, Kenya, and Uganda before returning briefly to Sudan and then to London. He spent part of 1965 at the University of London Center for Advanced Legal Study before returning to life as a law professor in Illinois.

OREGON LAW BEFORE GENE SCOLES

Put most simply, Oregon Law was a small, regional law school at the time when Gene Scoles was being courted to come serve as Dean. Its physical facility was modest, and its faculty was small—as was its student body. I know from talking with law alumni from this era that the school had a profound impact on those students who attended and graduated. But the school's impact was necessarily limited in scope, both because of its size and the professional inclinations of many of its faculty.

GENE SCOLES AS DEAN OF OREGON LAW

In Oregon Law, Gene Scoles saw an opportunity. In his words, before I came, I recognized that there were serious financial shortages to which the school had been subjected in the past. To make progress there was going to have to be a genuine investment of resources. But there was an opportunity for growth and development of the school not only to a size in which a much richer

program could be offered, but also to provide a center for service to the state, and to make the school . . . a nationally recognized center for law improvement as well as an important center for legal education.

During his deanship, the law school moved into a new building, improved the quality of the students it attracted, and doubled the size of the law faculty. With this growth, the school became able to support more robust research activity in what was then a new initiative on natural resources law and ocean law. The school did not accomplish all that Gene had hoped, a fact he attributed to his own “naïveté of the relationship between progress and financial support.” Continued financial pressures prevented the realization of his most ambitious visions. In many ways, however, one can see the frame of today’s Oregon Law School by looking at the reforms that took place under Gene Scoles’s leadership.

GENE SCOLES ON BEING DEAN

Gene Scoles said he “was never enamored” with being dean.

During administration you simply learn a lot of things about a lot of people that you wish you didn’t know. One thing that a dean becomes, obviously, is a kind of a listening post for all kinds of complaints. Students, alumni, members of the public, and even faculty are sometimes not very generous in their views of their colleagues and others. . . . But then that is simply one of the side things that happens in administration.

His colleagues reliably referred to Dean Scoles as patient and kind in his dealings with others, and the school enjoyed tremendous success during those years. But the demands of the job were greater than Gene viewed as sustainable.

In looking back, I found the experience rewarding, in many ways, and that the rewards clearly outnumbered the disappointments. It is a situation in which your expectations are very high at the outset, and then after repeated frustrations the level of expectation reduces on a declining scale as time goes on. That rather reinforced my view that administrators really were faculty people that go into administration and then ought to be able to return to their faculty and continue to support the school from a faculty position.

And so, after six transformative years as dean, Gene chose to “go back to the job that [he] always liked best of all, and that is being a classroom teacher, a law teacher.”

GENE SCOLES ON THE FUTURE OF LEGAL EDUCATION

Gene Scoles served as President of the Association of American Law Schools, providing him an extraordinary perspective from which to view the current and future states of legal education.² For example, he was active in the crafting and recrafting of California's experiments in bar examination, including the separate testing of professional responsibility as a topic. He also decried the profession's apparent lack of self-regulation during the years in which Federal Rule of Civil Procedure 11 was revised and re-revised.

Gene defended the importance of faculty research against critiques from both the practicing bar and the bench. In his words,

there are not many opportunities where a professional can look at the entire area or entire field of his expertise or experience and relate it to law in general. A practicing lawyer looks at a particular problem that a particular client has and goes no further than that client's needs require. A judge looks at even a more narrow point, the particular problem that a particular client and another client have in a particular area. It seems to me that since we [law faculty] are some of the only people in our profession who have the opportunity to do so, one of the things we ought to do is contribute to the understanding of our profession in our area of the law and its development by our writing.

Gene Scoles's views on legal education at the close of his deanship closely track today's conversations in the legal academy—a sign either of his prescience or of the relatively enduring nature of some of the issues facing legal education generally. Consistent with his own experiences in the Sudan, in London, and in Japan, Gene predicted the increasing importance of international perspectives on law and the practice of law. He predicted and applauded the further expansion of specialized curricular offerings, away from the prior tradition of an almost entirely required set of courses in the J.D. program. He named the growth of non-lawyers engaged in practices once considered the unique domain of lawyers, and he joined a long succession of law professors in bemoaning students' increasing passivity in the educational enterprise.

I'm not sure whether it's the grumpiness of age or whether it's an accurate perception. But there seems to be a decreasing ability and

² Another former Oregon Law dean, Rennard Strickland, also served as President of the AALS. That Oregon Law has been so well represented at the top of this prominent organization speaks volumes about our school's engagement with the legal academy.

less willingness to read critically. . . . There seems to be a willingness to absorb, to act as a sponge rather than to really attack a problem and to be critical of views that are expressed. I regret that.

Finally, and perhaps most relevant to the discussions dominating the landscape of legal education today, Gene urged that

We ought to have a genuine concern over access to legal education. The cost of graduate and professional education, particularly legal education, is becoming so great that many can't participate. . . . Upward mobility within our society is a necessary element in both political and social stability. . . . So I see that there is a real concern about upward mobility that may be impaired because, if you will, a creeping privatization of legal education and the costs incident to it.

Sadly, the governmental disinvestment in public higher education that caused Gene such concern during his deanship has grown worse, rather than improving as he had hoped. The tensions between two unarguably positive aims—affordability and quality—in legal education have not lessened. The costs of increasing the quality of legal education are now regrettably necessarily subsumed by the schools themselves (and to a great extent, therefore, by our students in the form of debt). Inevitably, the success of initiatives that started under Gene's leadership (including an expanded faculty, greater curricular offerings, more clinical opportunities, nationally competitive faculty hiring, and the drive to attract top-caliber students) have increased our law school's expenses. However, the success of these initiatives along with the philanthropic generosity of Oregon Law alumni and friends have also allowed our law school to devote an increasing percentage of its resources each year to student scholarships and other initiatives aimed at easing student debt loads. As to the tension between affordability and quality, I am confident that Gene would counsel us to lose neither touchstone as we move forward.

CONCLUSION

Gene Scoles transformed the University of Oregon School of Law. At a law faculty retreat several years ago, Oregon Law Professor Rob Illig summarized Gene's contributions best, saying, "If our law school were a law firm, Gene Scoles would be a named partner." We who work and study here at Oregon Law are lucky that Gene Scoles spent so many of his days here. He made this a better place, and we continue to benefit from his wise leadership.

For decades, his perspective, his voice, and his values have served as our institutional anchors. During his deanship, Oregon Law made a bold transition into a modern law school, a transition we have continued in the decades since then. As dean, as a professor, and as an emeritus member of our faculty, Gene has mentored new students, new faculty, and new deans. I could not ask for a better model of vision, wisdom, and professionalism. Our school, our state, and our profession owe much to Gene Scoles.

SUSAN N. GARY*

Tribute to Professor Eugene F. Scoles: Leader in Law Reform

Eugene Scoles had a major impact on the law of Trusts and Estates through his research and writing, his teaching, and his leadership on national and international committees.¹ He always considered his involvement in law reform a critical part of his professional work and, as he explained in a 1991 interview with Professor Don Brodie, “[y]ou teach in the classroom, you teach by the written word, and you teach the policy makers by both the written word and by participation in legislation.”²

Gene attended school in Iowa and considered doing graduate work immediately after law school, but instead took a job in Chicago, with the law firm then known as Seyfarth, Shaw and Fairweather. He practiced Labor Law for only a short time before he began what would be a lifelong commitment to academia. He accepted a position at Northeastern University in Boston and taught there while working on an LL.M. at Harvard Law School. Although he assumed he would teach Labor Law, Northeastern already had a labor law professor and instead needed Gene to teach Trusts and Estates and Conflict of Laws. He discovered his interest in those two subject areas and made them the focus of his academic work throughout his career.

After obtaining his LL.M. Gene joined the faculty at the University of Florida where he continued to teach both Trusts and Estates and Conflicts of Law. He became interested in the overlap of the two

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¹ This brief essay will focus on law reform work connected with Trust and Estate law in the United States. In addition to the work described here, Gene served as United States Delegate to the Hague Conference on Private International Law in the Netherlands and assisted in the drafting and development of an international convention on the handling of decedents' estates. Interview of Eugene Scoles by Don Brodie (1991), *available at* <http://law.uoregon.edu/wp-content/uploads/2012/08/INTERVIEW-OF-DEAN-EUGENE-SCOLES.pdf>.

² *Id.*

areas and took a leave of absence to work on his J.S.D. at Columbia. His doctoral dissertation, the Conflict of Laws in the Administration of Decedents' Estates, combined these two interests and laid the groundwork for future scholarship.

In Florida, Gene participated in state bar activities and began his involvement with law reform by serving as the reporter for the Juvenile Court Act. He found that he “enjoyed the aspect of law reform and law improvement.”³ After he moved to the University of Illinois he became even more involved with the state bar and participated in “a lot of legislative activity and legislation reform” work.⁴ It was while he was at the University of Illinois that he began law reform work at a national level.

In the mid-1960s the American Bar Association (ABA) created a study committee to revise and update the Model Probate Code.⁵ The National Conference of Commissioners on Uniform State Laws (NCCUSL)⁶ created a drafting committee to carry out the work, and the project ultimately produced the Uniform Probate Code (UPC), a codification of rules ranging from intestacy to wills to probate administration. The UPC, initially promulgated in 1969, has influenced probate law across the country and continues to serve as the basis for further developments in the law. Gene served as one of eight reporters selected for their expertise in the areas of wills, trusts, and probate administration.⁷ Gene also served as a member of the ABA Advisory Committee to the Special Committee on the Uniform Probate Code.⁸ He played a particular role in drafting the sections on trusts and administration, working with Professors Richard Wellman and Edward Halbach.⁹

The work on the probate code took four years, and in the summer of 1967, the reporters met at the University of Boulder for an eight-

³ *Id.*

⁴ *Id.*

⁵ Model Probate Code (1946). The American Bar Association and the American Law Institute developed this influential code.

⁶ The organization is now known as the Uniform Law Commission.

⁷ Eugene F. Scoles, *Care and Maintenance of Our Legal System: Richard V. Wellman – Academic Lawyer*, 40 GA. L. REV. 1097 (2005). Richard V. Wellman served as Chief Reporter.

⁸ Interview by Brodie, *supra* note 1.

⁹ Scoles, *supra* note 7, at 1100–02.

week drafting session.¹⁰ The group worked intensely, revising prior drafts and assembling a tentative final draft. As Gene explained, “[t]o relieve the tensions of debate and drafting, after adjourning our daily session, we gathered for an ‘attitude adjustment’ hour with spouses, children, and visitors.”¹¹ Attending that session as an observer for the Oregon State Bar was a University of Oregon law professor, Tom Mapp. Apparently, Professor Mapp told Gene and his wife about Oregon and in Gene’s words “harangued” him about how attractive Oregon was.¹² As it happened, that fall the Law School began a search for a Dean and asked Gene to apply. Although Gene had ignored other inquiries about deanships, the conversations with Tom Mapp convinced Gene to consider Oregon.¹³ Gene became Dean of the Law School in 1968, and thus his work in law reform played a role in bringing him to Oregon.

In 1972, the Uniform Probate Code project grew into the Joint Editorial Board for Uniform Trust and Estate Acts (JEB-UTEA). It was formed under the sponsorship of the ABA Section of Real Property, Probate and Trust Law,¹⁴ the American College of Trust and Estate Counsel, and NCCUSL.¹⁵ Members for the JEB-UTEA came from the three organizations and, in addition, included probate judges and law professors. Initially, the JEB-UTEA provided educational material and responded to questions from legislatures and the public about the UPC.¹⁶ Over time the JEB-UTEA engaged in a variety of law reform projects, advising NCCUSL on the need for uniform acts in the Trust and Estate field and then acting as a team of experts to comment on the drafting projects.

Gene served as a Commissioner of NCCUSL from 1971-1983 and as a member of the JEB-UTEA until just a few years before his death.¹⁷ He contributed to its work on acts that included revisions to the Uniform Probate Code and separate acts related to the field. In addition to providing input on all acts that came through the JEB-

¹⁰ *Id.* at 1099.

¹¹ *Id.* at 1100.

¹² Interview by Brodie, *supra* note 1.

¹³ *Id.*

¹⁴ The section is now known as the Real Property, Trust and Estate Section.

¹⁵ Scoles, *supra* note 7, at 1102.

¹⁶ *Id.*

¹⁷ Obituaries, *Eugene Scoles*, MUSGROVE.COM, <http://www.musgroves.com/obituary.cfm?name=EugeneScoles> (last visited Feb. 23, 2014).

UTEA, Gene served as advisor or liaison to a number of acts.¹⁸ The work was technical and demanding, and the projects benefitted significantly from the thoughtful, analytical attention that Gene brought to all his endeavors.

In 2008 the JEB-UTEA recognized Gene's contributions to law reform in the area of Trusts and Estates by honoring him with the Richard V. Wellman Award.¹⁹ Then, when the JEB-UTEA received news of Gene's death, the group passed a resolution, recognizing his service that lasted more than four decades and "the wisdom, sound judgment, and genuine collegiality" he brought to the group's deliberations.²⁰

Gene once wrote, "[o]ne of the important functions performed by the legal profession, or lawyers, is the maintenance and improvement of our legal system in its impact on all of us."²¹ Gene took this to heart throughout his career. He was an able teacher, scholar, and administrator, and he was someone who made the law better. He made a difference not only because he was smart and skillful, but also because he cared so much about what he did. In describing his initial experiences in the academy, Gene remarked, "I discovered what I have believed ever since that it was, for me at least, the best job in the world. I enjoyed it, I was stimulated by it, and I continued it."²² The University of Oregon School of Law, legal education in general, and the state of Trust and Estate law throughout the country, have all benefited by his "continuing it."

¹⁸ These included the Uniform Conservation Easement Act (1981); the Uniform Multiple-Person Accounts Act (1989); the Uniform TOD Security Registration Act (1989); and the Uniform Testamentary Additions to Trusts Act (1991).

¹⁹ *Eugene Scoles, Distinguished Professor Emeritus and Former Dean at Oregon Law, Receives the Richard V. Wellman Award*, U. OR. SCH. L. (Apr. 3, 2008), <http://law.uoregon.edu/2008/04/03/eugene-scoles-distinguished-professor-emeritus-and-former-dean-at-oregon-law-receives-richard-v-wellman-award/>.

²⁰ E-mail from Thomas Gallanis to Susan Gary (Dec. 9, 2013) (on file with author).

²¹ Interview by Brodie, *supra* note 7.

²² *Id.*

DOMINICK R. VETRI*

Gene Scoles

Gene Scoles was an esteemed teacher, a prolific scholar, dedicated to public and professional service activities, an unstinting mentor, an advocate of legal reform, a visionary dean and colleague, and a good friend.

He brought a dynamic sense of growth and expectations to Oregon Law as he helped us develop into the modern, flagship law school of the state. His insistence on excellence in teaching, scholarship, and public service established standards that remain models for us today.

I was in my first year of teaching in 1967 when we were searching for a new dean to lead us into the modern era of legal education. In the interview talks he gave in old Fenton Hall, I recall that he was frank with us, saying that as dean, he would expect excellence in all that we did. He impressed and inspired us and scared the hell out of us at the same time. His Illinois Law School experience, scholarship, abilities, charm, and high standards easily made him our choice for dean.

He did not disappoint. In his years as Dean, we increased from thirteen to about twenty-three faculty, modernized and set high standards for admissions, doubled the number of students, built and moved into a new building, developed a modern curriculum, established a writing requirement, developed a moot court program, established one of the first clinical programs in the country through a Ford Foundation grant, started career services for our graduates, began an alumni development program, and much, much more.

On a personal level, it was very important to me to have Gene as the Dean, a mentor, and a good friend during those early years of my

* Professor Emeritus, University of Oregon School of Law; J.D., University of Pennsylvania Law School; B.S., New Jersey Institute of Technology. Gene's leadership and passion for legal education inspired Professor Vetri to help Oregon Law School grow into the modern and respected institution it is today. Professor Vetri is now retired and continues to teach Art Law once each year, serves on the Board of Directors of the Jordan Schnitzer Museum of Art, and curates two gallery exhibitions of photographs by North West photographers each year in the Mezzanine Gallery at the Law School.

law teaching career. I recall the presentations he made to bar leaders and lawyer groups about the school's improvements across the board, especially in teaching techniques and in our new Legal Aid Clinical Program, which became very successful through the efforts of Legal Aid Director, Merv Loya, and attorney, Bruce Smith. Gene's talks always uplifted and encouraged us all to build a better law school. Gene thought it was very important to better integrate the students and faculty with the legal community. He and I worked together on briefs to the Oregon Supreme Court to approve supervised trial and appellate court appearances for students in our clinical programs and to help law professors who had already passed an exam and been admitted elsewhere gain admission to the Oregon bar.

I could talk with Gene about cutting-edge issues in Conflict of Laws, Trusts and Estates, or the legal profession and sooner or later the conversation would move to his show dogs, how our gardens were doing, and perhaps the exquisite taste of a homegrown tomato. I commented in my last visit with him that it was curious how legal educators have such a strong interest in gardening and suggested that maybe it's part of seeing a kinship between students and vegetables and appreciating that we have helped them to grow, develop, and mature. Gene certainly cared deeply about his family, his students, the people he worked with, the institutions he served, and the law. He was always ready with creative suggestions or a hand to assist.

One story of an incident that we shared involved Gene's driving skills, which were not comparable to his deaning abilities. Most vividly, I remember he drove us down a hill near his home in a major snowstorm to pick up some faculty for an evening Holiday party at his and Helen's place. They gave great parties! Helen tried to persuade us not to venture out on the roads. In going down a hill, we skidded off the road and ended up in a ditch at an acute angle. I expected better of an Illinois driver! He turned to me, and his first words were, "Don't tell Helen," rather than a concern for his colleague. We chuckled over that story in succeeding years. Gene's leadership skills, on the other hand, were first class; he set us on a straight course, kept us on the road, and guided us into becoming the outstanding law school we are today.

Gene will be sorely missed, but he has left behind much for us to remember him by.

LESLIE HARRIS*

Tribute to Eugene Scoles

Gene Scoles is one of the most distinguished people ever to serve on the Oregon Law faculty. He became the eighth dean of the Law School in 1968 and led its transformation from a small regional school to a national player over the next six years, overseeing the doubling of the faculty and the construction of a new, much larger building.

A nationally recognized scholar who helped shape the modern law of Trusts and Estates and Conflict of Laws, he was one of the drafters of the first Uniform Probate Code and remained on its editorial board for decades. After he developed expertise in legal ethics, he became a founding member of the committee that drafts the Multistate Professional Responsibility Exam, which is part of the bar exam in all but three states. After leaving the Oregon deanship, he was elected president of the American Association of Law Schools. His former students are leaders of legal communities around the country and of many law schools.

Gene left the University of Oregon Law School to teach at the University of Illinois in the early 1980s, but fortunately for Oregon, he returned to Eugene and to the law school a few years later, which is when we met. He was a great friend and one of my most trusted advisors. He was kind and wise, listened carefully, and gave great advice. His views were always grounded in a strong sense of what's ethical and honorable. Many of my colleagues had similar experiences; he made the law school a much better place, and he will always be missed.

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