1-1-1995

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The entire issue of the Notre Dame Lawyer, 1994–1995 is available electronically at http://scholarship.nd.edu/nd_lawyer/1

Pratt’s article describes the early law school deans: William Hoynes, Francis Vurpillat, Thomas Konop, Clarence Manion, and Joseph O’Meara as well as life during the early years of the law school.
The Early Years of the Notre Dame Law School

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The history of any institution is really the history of people. It is therefore fitting that the more recent history of the Law School be told through the stories of two people who have been such a vital part of the life of the school — Ed Murphy and Bill McLean. My contribution to this birthday issue of the alumni magazine focuses on the earlier years of the Law School — a time when people were no less important even though memories may have begun to fade.

The Law School was little more than a gleam in Father Sorin’s eye when the State of Indiana granted the University a charter on January 15, 1844. The charter seems to have been the suggestion of John DePree, the state senator from St. Joseph County, who doubtless saw in the University an opportunity for economic growth in his constituency. Father Sorin’s diary lends a note of irony to DePree’s actions, coming as they did amidst the pervasive anti-Catholic sentiment of the time. After noting that DePree was a Methodist, the diary entry continues, “in this case God was pleased to cause him to lay aside for once the prejudices of his sect and even his personal animosities, to make him useful to his country even in favoring his enemies. To the surprise of many and to the general rejoicing of the Catholics as well as to the vexation of their enemies.”

Although the charter empowered the University to have a law school, that early ambition was not realized until December 1868, when the University announced that it would “offer a great boon to our future graduates, or others who intend to devote themselves to the study of law.” The proposed two-year course would, if passed, qualify students for admission to the bar “in most, if not in all the States.” The prospectus grandly announced that there would be three degrees available, LL.B., LL.M., and LL.D., though there was no information about the two higher degrees.

Classes began in February 1869, on the eve of the modern era of legal education in the United States. (The era dates from 1870, when Christopher Columbus Langdell became dean at Harvard Law School.) There was, however, little legal education in these early years at Notre Dame. The first three law degrees came in 1871; between 1871 and 1879 there were only 21 law graduates.

This article is taken from my current research for a history of the Law School. I have omitted footnotes because they seemed out of place in this magazine. I would be happy to provide citations for anyone who might be interested. Of course, interested readers can always wait for the book, to be published toward the end of the academic year.
Most accounts agree that the law program really began in 1883 with the appointment of "Colonel" William Hoyne as dean. There is a special need for sensitivity about the differences between legal education then and now; for example, the description of the law course in 1886 is little more than what today would be printed in a commercial outline:

The duration of the regular course is from two to three years — two years for those who attend two lectures a day; and three years for those who attend but one. Each lecture lasts an hour. The first is delivered in the morning, and the other begins at 2.30 o'clock in the afternoon. These lectures are so arranged and delivered that the youngest student cannot fail to understand them. They are prepared with special reference to brevity and clearness, and are free from the contradictory and repugnant dicta so commonly found in the text-books. They are delivered slowly enough to enable the student to write them down substantially as given.

The practice of listening to and transcribing the notes lends to firm and ineffaceable in the memory the definitions and principles they embody.

Hoyne said that the system of teaching which he inaugurated was based on the lecture system from the University of Michigan. "It is a system," he said, "possessing undoubted merit for serious and attentive students, and I followed it in preparing lectures ample enough to serve as treatises on the more important branches of the law, both adjective and substantive. It was incidentally a source of economy to students, in that it obviated the purchase by them individually of books." Hoyne went on to identify another reason for the nature of his lectures: The law library was inadequate for research.

By the next fall, at least according to the Scholastic, the Law School had "taken rank among the very best law schools in the country." The measure of that success was that "[not one of his graduates during the past three or four years] has failed to pass a creditable examination for the Bar in any of the States." The author did not indicate which bar exams might have been creditable.

Hoyne's significance to the early years of the Law School is evident in a letter one graduate wrote to Hoyne in 1902: The letter reported that mention of "Notre Dame's Law department is equivalent to saying Col. Hoyne." At the least, it is clear that the law program was becoming more important within the University.

According to one count, "the majority of bachelor's degrees granted during the regime of Father Morrissey (1893-1905) were in Law." At the turn of the century, over 70 students were studying in the Law School. Of course, not all of the students were necessarily the most diligent. There is a tradition that Law School was the rebus locorum for students from the other schools at the University. And, even as late as 1920, the Scholastic termed the Law School a haven for "all of athletic or oratorical turn of mind," surely not an entire compliment. Some graduates of the Law School had a different opinion. For example, Terence B. Cosgrove, from Danville, Illinois, wrote to Hoyne in 1907 to report that he had been one of only two students who earned cum laude honors in a graduate law course at Yale:

"The courses at Yale, although in advance [sic] work following the case system, are practically the same as that you employ at Notre Dame, and I had absolutely no trouble in adapting myself to the mode of quizzing, which was precisely the same as yours and surely not more searching.
By the end of World War I the Law School was poised for growth, encouraged by the dedication of the "Hoynes College of Law" in 1919. In addition to a new law building, the year 1919 marked the beginning of considerable change for the University as a whole. Father James A. Burns became president of the University in that year, the first president to have a Ph.D. His background in education no doubt prompted him to respond positively to a number of suggestions for change. One of the changes was to organize the University into colleges, each with its own dean. The deans and elected professors made up the University Council, which revised the Law School curriculum in its first year of organization. In particular, the council approved a resolution from the law faculty asking that one year of college work be required for admission and that the regular course of law study be changed from four years to three. Although there were hints of an emerging autonomy for the Law School, the University itself continued to manage the bulk of the activities within the school. For example, in October 1920, the council approved new rules that would require quizzes every three weeks, with each quiz being required to meet a specific standard: "This shall consist of five (5) questions at least two of which shall be hypothetical cases of fact. These examinations shall be in lieu of the regular quarterly examinations." Three months later the council allowed the law faculty to omit "one of the tri-weekly quizzes for the present semester." By contrast to such detailed management, the council allowed the law faculty to determine whether a student should be allowed to enter without the credit for logic which was required of all Notre Dame undergraduates; and it left to the law faculty a decision about allowing a particularly accomplished student to graduate in three years, rather than four.

Colonel Hoynes joins the 1905 Law School graduating class at commencement.

Below left, Francis J. Vurpillat served as dean of the Law School from 1919 to 1923.

Below right, Thomas Konop became dean of the Law School in 1923 and served until 1941.

Vurpillat was dean for but a short time, until 1923. The University dismissed him, apparently on account of his repeated pleas for an honorary LL.M. degree as well as because of disputes over attendance in the Law School, by students and faculty.
Thomas Kono followed Vurpillat into the dean's office late in 1923. Indeed, it is Kono who shepherded most of the accomplishments at the Law School during this period. The AALS accepted the Law School for membership in 1924; the ABA accredited the school a few years later. During that period, the Notre Dame Lawyer first appeared. The editors of the Scholastic were effusive in their praise of the inaugural issue: The Notre Dame Lawyer has made its initial appearance on the campus. It stands a living refutation of any charges of narrow knowledge so commonly preferred against law students. Though not so pretentious as the leading law reviews of the country, it is a readable, compact, legal publication. We cannot be too profuse in our congratulations to the staff and to the student body upon the quality of their journal.

In 1931 the Law School moved into a new building, one which it continues to occupy. Then, in the 1940s the school found a distinctive voice in the Natural Law Institute. The leader of the movement promoting natural law was Clarence Manion, who had joined the law faculty in 1924. By 1937 he was appearing regularly with what seems to have been a stock speech praising the United States as “the only country in the world whose government is built upon the express declaration that God plants certain natural and inalienable rights into each human soul at the moment of its creation.” Manion later declared that the Declaration of Independence was a much more important document than the Constitution. In 1941, following his selection as dean, Manion announced (in a speech at Columbia University) that the Declaration would “henceforth be the basis of law student instruction.”

The Natural Law Institute held its first meeting in December 1947. In each of the following four years the institute sponsored a two-day program, attracting as many as 600 people. In 1951, the NLI included a coast-to-coast radio broadcast of a panel discussion by its speakers. The Notre Dame Lawyer was itself part of the increasing study of natural law, at least according to a column in the Scholastic. The Lawyer, the columnist said, allowed students to inject Catholic beliefs into a legal quarterly; it was distinguished from other law reviews because it considered morality and had a philosophy of natural law. The Natural Law Institute did not meet after 1951, but was replaced by a scholarly journal, The Natural Law Forum.

When Joseph O'Meara replaced Manion as dean in 1952, the Law School seemed to resume its emphasis on improving standards. O'Meara himself was quoted as declaring war on mediocrity:

Father Hesburgh has said: “Neither God nor man is well served by mediocrity.” Excellence is our platform and we can be content with nothing less. This requires, on the part of the Law School, the highest of standards and, on the part of the students, sustained hard work. In no other way can our graduates be properly prepared for the great responsibilities that lie ahead.

O'Meara's most fundamental change was the elimination of the elective system, which he said “involves many absurdities such as not taking a class before 9:30.” He further said that “the elective system coddles students by letting them pick easy courses or easy graders.” He continued with the charge that the elective system was “at war with one of our obligations — namely, to train lawyers for responsible leadership. This means that our graduates must have a rounded and balanced legal education; and this, in turn, means that they must
have training in areas which many, if left to
their own devices, would pass by."

With the elimination of electives came the
introduction of comprehensive examinations
and a reduction of involvement in University
activities by law students. A first-year student
in 1958 explained:

A very arduous undertaking awaits those who re-
spond to the calling, and at Notre Dame, in the
words of Dean O'Meara, "Excellence is our plat-
form, and we can be content with nothing else. This
requires, on the part of the Law School, the highest of
standards and, on the part of the students, sustained
hard work." So many of the positions of the Univer-
sity are therefore barred to us by the simple expedi-
cency of time economy. Moreover, by its nature, the
Law School has an end which differs in degree, and
probably in kind, from the University . . . . The
Law School has perceived a basic difference between
its end and the sundry activities that are proper to
undergraduate life. The rituals of rallies designed to
induce Pep, the round potato tradition as enumerated
by Mr. Bowen, the intercollegiate golf tournament, or
nominations for "Who's Who" are probably impor-
tant issues at the University; at the Law School they
are just so much banality.

O'Meara's first "Annual Report of the
Dean," reflected the mixed reaction one would
expect to such a dra-
matic program of re-
form. He reported
that "1953-54 was a
rough year, as I fore-
told it would be."
But, he continued,
"we made some
progress." He went
on to observe that the
student body had
poor morale during the 1953-54 academic
year. "There were a number of reasons for this. In part it was simply mediocrity fighting
back against higher standards and harder
work." He had other, less favorable, comments
to make about the students. The senior class,
he reported, had been divided for no apparent
reason; the student law association had pro-
vided little leadership, and there had been "ex-
tensive cheating" in first two days of the January
eams. O'Meara went on to generalize about the latter problem:

In this connection it seems to be widely accepted on
campus that dishonorable and dishonest conduct is
no more than a venal sin and can be indulged in
safely, unless one succeeds in stealing too much
money.

This venal-
sin [stolen
in original]
psychology
will not be
tolerated in
the Law
School.

It is my
announced
policy not to
recommend
for gradua-
tion anyone who has proved his unfitness to be a
lawyer by dishonorable conduct.

But O'Meara was not to be deterred from
his goal of improving the standards of the Law
School: "The examinations will continue to be
stiff, however, and it is to be expected that
there will be a substantial mortality. For one
thing I am sure: if everybody passes nobody
works." He had begun to require that appli-
cants take the LSAT, effective with those enter-
ing in September 1954:

I am feeling my way with the LSAT and have
adopted a fairly low required minimum score,
namely, 350. In effect this means simply that I am
excluding only those whose score puts them in the
lowest 15 percent of all the students who have taken
the Test throughout the country in the last five years.
And even if a man drops below this minimum re-
quirement, I still will take him if he was in the
upper half of his college graduating class . . . .

For the present I am using the Test only to
screen out those who seem plainly sub-marginal.

He further recommended the elimination
of the combination course which allowed stu-
At right, Notre Dame law students listen intently to their professor.

Edward J. Murphy taught every student in the Law School since 1957.

O'Meara's second report as dean was slightly more heartening. There was, to be sure, a decline in enrollment, from 240 in September 1953 to 201 in September 1954, a change which he attributed to the demand for higher standards. The demands had caused a decline in morale among the students, especially the seniors, a considerable number of whom never fully accepted the new program with its higher standards and harder work. The other classes, however, had shown better morale.

O'Meara was not unhappy with a smaller enrollment, especially since he saw indications that the students were improving:

As I have said before, no law school can become great or continue great without a topnotch student body. The finest faculty ever assembled will produce indifferent results if the students are mediocre. The best of faculties needs the stimulation of keen, alert, diligent students. And the student body needs stimulation from its own ranks as well as from its instructors. In a great law school the faculty and the students are constantly infecting one another with enthusiasm and zeal.

But, if the school was to attract the caliber of students O'Meara sought, he explained that it must have scholarships.

O'Meara drew a direct correlation between the availability of scholarships and quality of student:

For the first time in its long history the Notre Dame Law School had some scholarships to offer in 1954-55. Scholarships were awarded to seven members of the class entering in September 1954. Had it not been for these scholarships, not a single one of those men would have studied law at Notre Dame. Of the top 10 percent of the class, all but one were scholarship students.

He reported that he had not yet reached a conclusion about the use of the LSAT; but he added that "we do not apply the same criteria of selection to Notre Dame graduates as to other applicants. Every applicant who has an undergraduate degree from Notre Dame will be accepted and given a chance to show that he has what it takes. This is an innovation, adopted recently in the interest of good public relations with the University's alumni."

As far as the faculty was concerned, O'Meara was obviously pleased with a new salary scale which would assist him in attracting "outstanding young men as they become available." He characterized the improved salaries in this way: "An event of the first magnitude in the history of the Notre Dame Law School was the adoption in the spring of 1955 of a new and realistic salary scale. We still cannot compete salary-wise with schools such as Harvard, Pennsylvania, Michigan. But the new scale is a viable one."

One of the "outstanding young men" that O'Meara attracted was a recent graduate of the University of Illinois Law School, Edward J. Murphy. Professor Rice's article therefore appropriately continues the story of the growth of the Law School at Notre Dame.
Notre Dame is a Catholic law school dedicated to the integration of reason and faith in the study of law and committed to developing Judeo-Christian principles within systems of jurisprudence. Therefore, Notre Dame Law School’s mission is:

To be an outstanding teaching law school, continuing to prepare professionals who have both competence and compassion, who are committed to championing the cause of justice and whose decisions are guided by the ethical values and morality which Notre Dame represents.

Through faculty research and scholarship and institutional projects, to be a leader among institutions making contributions to the development of the law, the system of justice, the legal profession and legal education, concentrating on the important qualities of the Notre Dame moral value system.

Through service along with teaching and scholarship, to sensitize students, faculty and other members of the University community to societal problems and the potential for legal institutions and lawyers to bring about peace by working for justice.

Contributing authors: Kathleen D. Blum, Anne Hamilton, Kitty Cooney Hoye, Sabrina McCarthy and Thomas L. Steffer.

Notre Dame Lawyer was designed and copy edited by Publications and Graphic Services for the Notre Dame Law School.

Academic year 1994-95