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Notre Dame Law School Student Bar Association

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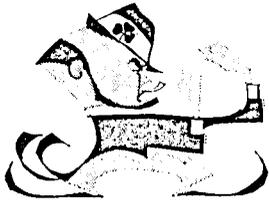


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Dooley's Dictum

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A Newspaper of, by and for the Fighting Irish Lawyers of Notre Dame

Vol. 1 No. 2

Notre Dame, Indiana

Nov. 18, 1970

Groundbreaking slated for spring

Law Center to open in 1973

By GREGG ZIVE
Dictum News Editor

Within the next five months Notre Dame Law School will take a giant-sized step into the future when ground is broken for the Notre Dame Law Center.

The building will be located just northeast of the university's Memorial Library, on the west side of Juniper Road. The Law Center Program carries a \$6 million price tag.

Dean William B. Lawless said he wants to break ground this spring.

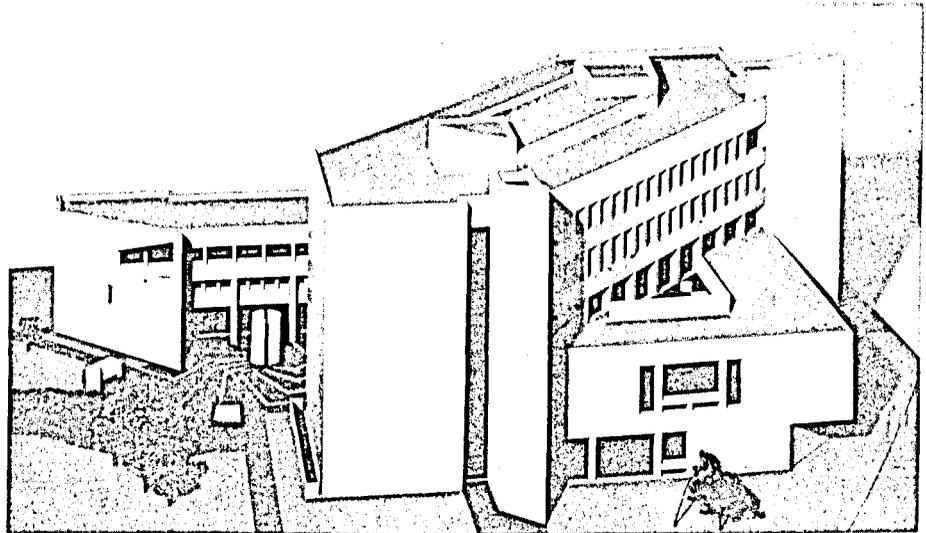
"That means taking bids between January and March," he explained. "The estimated construction time is 20 months. The Law Center will, in all probability, open in September of 1973."

Following that time plan, the present first-year class will be the final one to graduate from the 40-year-old Law School building. The class of 1974, next year's entering class, will be the initial class to graduate from the Law Center with the class of 1976 the first to spend its entire three years in the new facility.

Now completing two years of concentrated work on the Law Center Program, Dean Lawless said his primary concern is with the students now at Notre Dame.

"My job with the Law Center Program is just about complete in the sense of primary time commitment," he commented. "We do not intend to forget or make miserable the lives of students now in law school.

"When the Law Center is finished, with the quality of students we now attract, we'll be the top law school in the country, bar none. The only reason we aren't now is the physical plant," he concluded.



MODEL OF THE NOTRE DAME LAW CENTER

The Law Center Program came into existence shortly after Dean Lawless arrived at Notre Dame in July 1968. It was decided to design a law center that would do much more than prepare students to enter the legal profession. The center's main functions will be education, research and service to the community and the profession.

In the fall of 1968 Dean Lawless talked to representatives of various groups (alumni, Notre Dame Law School Advisory Council, faculty, student body and student organizations) and asked them to advise him of their needs.

In particular, he wanted to know the number of square feet each group or organization was currently using, what was the group doing with the space and was it adequate. He also asked them to determine how much space they would need for 550 JD students.

The reported figures were forwarded to Ellerbe Architects of St. Paul,

Minn., who did their own measuring. The students' figures were never reduced, and in some cases were increased, according to Dean Lawless.

The next step was getting the approval of the Law School Advisory Council and the Notre Dame Law Association: A table model of the proposed building was then constructed just in time for the Law School's centennial celebration in February 1969.

A campaign planning schedule was designed by the dean and university administrators which was closely followed during the effort to raise the \$6 million for the program.

At the present time \$2.5 million has been committed in cash or pledges. Currently there are three major prospects and, according to the dean, two of them will contribute with the third waiting for a legal decision.

"I am confident we'll raise our goal not later than September 1971," Dean Lawless said.

(continued on page 4)

Massachusetts' war against the war

Bob Lueck

Getting the Supreme Court of the United States to rule on the direct issue of the constitutionality of the Vietnam war is no easy task as the State of Massachusetts is finding out. Massachusetts, home of the Kennedy family and a veritable hotbed of Vice President Agnew's despised "radic-libs" among other things, found the war so repulsive that its state legislature passed a resolution that no Massachusetts male could be drafted to fight in Vietnam unless the war was found to be constitutional.

The Supreme Court, however, must feel that it is too august a body to review such a thing as war's constitutionality. On a 6-3 vote, the Court refused to consider the merits of the case. Massachusetts will now start the hassle at the Federal District Court level.

The state's logic for passing such a resolution was believed to be sound. Although the war has raged on for a number of years, the Supreme Court has managed to avoid the issue of the war's constitutionality by invoking the long-established escape device of asserting that the question is predominantly more political than legal and the proper avenues of action are the political processes, not the federal courts. The Massachusetts resolution is different in that it is an action by a state thereby invoking the original jurisdiction of the Supreme Court. Opponents of the war thus felt they could finally get a top level judicial hearing.

The state's brief argued that its citizens were being drafted to carry on a presidential war, conducted without the authorization of Congress and damaging in many respects to citizens of Massachusetts. One sentence of the brief best summarizes the underlying thrust of the state's arguments: "If indeed, as the government contends, war-declaring power has passed from the people and the Congress to the President and the executive branch by a kind of crude prescription and usage, then we submit that it is incumbent on the Court to tell the American people that this is the case."

Massachusetts may be very sincere in its action but that won't help the state in handling some of the legal footwork involved in the case. While the Supreme Court does have original jurisdiction, it still requires the state to show that it has a real interest of its own and that it is not merely seeking benefits for individuals who are the real parties at interest.

Moreover, when a state and the federal government meet in litigation, the state is not permitted to act as *parens patriae* (father protector). The United States, so says the Supreme Court in earlier decisions, is the ultimate *parens patriae* and since the state has nothing to do with the military service required of the citizens, it lacks the power to inquire into the constitutionality of the war or any defense or foreign policy matter as well.

The Court refused on round one and far more likely than not, will never rule directly on the constitutional merits of the Vietnam War. The question will probably be sidestepped—again—by holding that it is a political and not a legal question. Chief Justice John Marshall established that point as judicial doctrine as far back as 1829 and the current Supreme Court with two Nixon appointees on it is not at all likely to go where its predecessors feared to tread. Those who have tried to use the courts to protest the war will find themselves back where they started—nowhere.

Dear Readers:

A few weeks ago your editors chose to name the new Notre Dame Law School newspaper after me. However, they somehow neglected to properly introduce me, and I must now take upon myself the task of telling all of you exactly who I am.

My full name is Mr. Martin Dooley. I am really the creation of Finley Peter Dunne, a journalist whose fame at the turn of the century made him a public idol and confidante of President Theodore Roosevelt. As the *alter ego* of Mr. Dunne, I appeared in approximately five hundred essays which were published from 1892 to 1914 in Sunday newspapers and magazines throughout the country.

My work was to give my own Irish-American commentary on current events and on this country's legal and political systems. Even though the status of the average Irish-American citizen has changed, it has come to pass that many of my statements are still applicable today.

The list of my legal admirers includes Chief Justice Hughes and Justice Holmes. Justice Frankfurter, who called me "that great philosopher," cited me in the United States Supreme Court case of *A.F.L. v. American Sash Door*, 335 U.S. 538, 557 (1949).

I consider myself a solid citizen with only my fair share of weaknesses. I am neither a liberal nor a conservative but there are very few social issues upon which I have not commented. For example, it was many years ago when I asked, "What does a woman want of rights when she has privileges?" Of the Vice President I once said, "He must be a good speaker, a pleasant man with the ladies, a fair boxer and rasser, something of a liar, and if he's a Republican campaigning in Texas, an active sprinter."

In general, I feel that this is the "home of opportunity where every man is the equal of every other man before the law if he isn't careful."

That then is my own picture of myself. I hope that you are as proud as I am that Notre Dame and Dooley have finally become associates.

Dooley

P.S. I will appear in future issues with a revival of my own brand of legal and political commentary, Spiro Agnew notwithstanding.

M.D.

On the Docket

Nov. 13

Law Advisory Council
TGIF
Chief's Pep Rally, 11:15 a.m.

Nov. 14

Football—
Georgia Tech at Notre Dame,
1:30 p.m.
Postgame sherry party,
room 101 Law School
Law Advisory Council
Bob Hope Concert—ACC at 8 p.m.

Nov. 16

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Nov. 19

Law Wives meeting—
Memorial Library

Nov. 20

TGIF
Chief's Rally—11:15 a.m.
Gray's Inn: John C. Worth, lobbyist

Nov. 21

Football—L.S.U. at Notre Dame
Postgame sherry party,
room 101, Law School

Nov. 24

Second round of second-year
Moot Court competition,
Hayes-Healy Business Center

Nov. 25

Thanksgiving recess begins after
classes

Nov. 26

Thanksgiving Day

Nov. 28

Football—Notre Dame at So. Cal.

Nov. 30

Classes resume

Dooley's Dictum

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Sports

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Bow to Northwestern in moot court regionals

By TOM DOVIDIO
Dictum Co-editor

Arguing the question of whether a newspaper correspondent has a constitutional right in refusing to disclose his confidential sources of information in a civil suit for libel, Notre Dame's two moot court teams journeyed to the regional tournament in Chicago.

This year's national competition case was *T. T. Notrub v. Samuel Gudgye*. Along with the disclosure question, the case also dealt with a substantial conflicts of law issue.

Notre Dame entered two teams of third-year men in the regionals. Arguing for Notre Dame were Jim Aranda, Mike Brennan, Ted Leo, Skip Beisenstein, Dave Bornhorst, and Mike Scopelitis.

The regional competition is the first inter-school phase of the national competition, to be held the first week of December, in New York City. The country is divided into twelve regions; Notre Dame being one of twelve law schools from the Illinois, Indiana and Wisconsin area. Each region sends its top two teams to the nationals, after its own elimination competition.

Skip Beisenstein's team met and defeated Illinois and Indiana-Purdue, at Indianapolis, law schools in the preliminary arguments. Rounding out that divisional group were teams from DePaul and Chicago-Kent law schools. These victories were strong enough to place Notre Dame first in its division and advance to the semifinals.

Notre Dame's other team, captained by Jim Aranda, didn't fare quite as well. Meeting I.U.-Purdue and DePaul in the prelims, Aranda's team won both arguments but failed to capture its division on the basis of most points. This Notre Dame team became its divisional runner-up to Wisconsin law school (eventual winner and defending national moot court champion). Rounding out this division were the second teams from Chicago-Kent and Illinois law schools.

The tournament was divided into four divisions of five to six teams each. All divisions were assured one place each in the semi-finals. Because of the intense competition in Aranda's division, his team placed second but was within the top four teams of the entire tournament on the basis of total points. Since only one team from each division could gain the semi-finals, Notre Dame's second team

could not advance.

In the semi-finals, Beisenstein's team met and was defeated by Northwestern Law School. Speaking on this loss, Beisenstein stated, "They (Northwestern) gave a perfect presentation. We couldn't attack their analysis on a single point. Their interpretation of the existing law was the same as our own. All that was left was for us to present our side of the case and submit it to the court (three Federal District Court judges) for a decision. They decided against us. Northwestern has an excellent team, thoroughly prepared, and gave an outstanding performance."

Northwestern and Wisconsin were the semi-final victors and faced each other in the finals late Saturday night. The outcome didn't matter much as both will go to New York for the finals.

Summing up the total experience, Aranda stated, "Notre Dame presented itself very well and stood in the regional competition on equal footing with Northwestern and Wisconsin—certainly the finest company in moot court competition."

The six Notre Dame representatives agreed they were never outcoached. Praising Professor Thornton for the fine job he did as moderator and coach, the teams went on to thank Professors Link, Beytagh, Mrs. Farmann, and the Deans—Lawless, Rice and Foschio.

Summer session set

Dean William B. Lawless has announced that the Notre Dame Law School will again conduct a Summer Law Program in English and American Law this summer. Professor Peter Thornton has been appointed Director of the Program.

The Summer Program will be conducted at Brunel University at Uxbridge, a suburb of London. Classes are scheduled to commence on Monday, June 28, 1971, and conclude on Friday, August 6. Final examinations will be conducted on August 9, 10 and 11.

It is estimated that the Program will cost approximately \$800 per person, including jet economy round trip transportation, room and three meals each day at Brunel University, and full tuition for the classes. During the summer session as many as seven semester hours of credit may be earned toward a degree.

Raiders ignore odds--win

By **BILL SMOLEY** and **TINY LEE**
Dictum Sports Editors

The intramural football league roared to a climax with a four-team playoff for law school supremacy. The semi-finals found two third year teams, regular season winner Ray Scotto's Roster Raiders paired against Tiny Lee's determined Good Guys. The other game featured Jerry Mackey's second year team against an upstart first year team captained by Mike Bradley.

Entering the playoffs as the only undefeated team, the Roster Raiders relied on the clutch passing of Henry Ciocca to long receiver Denny Kelly and swing man Bob "Flash" Merkle to squeak by Lee's team. Facing a fierce pass rush headed by Jim Rettinger and Mike "Gator" Burman, Good Guys QB Jim Aranda was unable to generate much of a passing game and threatened to score only twice in the whole game.

The other semi-final contest matched two topnotch quarterbacks, Tom Gores, 1L, and Mike McGloin, 2L, and two fired-up defensive units. The second year team entered the action seeking revenge for an unexpected early season loss to the first year players. Gores and company were determined to defy tradition and become the first frosh law school team in modern history to capture the Football Championship.

A first-half march climaxed by a 50-yard TD pass to Jerry O'Shaughnessy put the first year team ahead in a game dominated by staunch defensive play.

After this score neither team was able to sustain a touchdown drive but the size of the second year team and the constant rushing pressure applied by Paul "Cheap Shot" Binder and Jerry Mackey were becoming increasingly important factors. The passing of McGloin to Pete Martin and Stretch Herald finally resulted in a TD for the second year men. The extra point attempt was good and the second year team never relinquished the lead after that. The final score was 12-6.

THE BIG GAME

As the two semi-final victors prepared for the opening kickoff in front of the SRO crowd at Lawless Park, the top oddsmaker, Filthy Fred the Greek, noting the recent injuries to third year players Mike Heaton and

Timmy Westfall, picked the second year squad as favorites by a three-point spread.

A quick score on a pass from QB Mike McGloin, 2L, to halfback Joe Camepa made oddsmaker Filthy Fred look good for the first time in his life but fine defensive work by Raider cornerback Denny Kelley and middle linebacker "Mad Dog" Bremman stopped Stretch Herald just short of paydirt on the conversion attempt. This turned out later to be the crucial play of the game.

Neither the Roster Raiders, behind for one of the few times this season, nor their Golden Girl, Kathy McFarland, lost composure. Taking the ensuing kickoff, the Big Yellow Machine marched the length of the field on a drive highlighted by a 50-yard TD pass to Bob "Flash" Merkle.

With the score knotted at 6-6, the conversion attempt loomed as the biggest single play of the season for both teams. Rather than going to his star receivers, QB Henry Ciocca relied on the uncanny ability of Ray Scotto to look harmless. Scotto stumbled undetected into the end zone and caught a perfect pitch for the game-winning point. All-star play counter Melinda Cunningham signaled the end of the first half with the Raiders ahead 7-6.

The second half was dominated by the defensive units of both teams. Steady pressure applied by Chris Schraff, Jerry Mackey, and Jack McCollough prevented the Raider offense from mounting another scoring drive. The Raiders only resort was to throw the bomb. The second year's safety, Tom "Wop" Dovidio, playing his best

game, broke up a toss to Scotto. He then hit Kelly hard enough to force a 40-yarder from being complete.

The second year team had a TD pass nullified by a holding penalty and lost another scoring opportunity with only five plays left in the game when McGloin hit Jerry "Concrete Hands" Mackey with a pass in a bad place (his hands) while Mackey was all alone in the end zone.

The game, the playoffs, and the season ended with Ray Scotto's Roster Raiders champions of the league with their thrilling, down-to-the-wire 7-6 victory.

The postgame victory celebration was muted somewhat when the Raiders learned that Heywood Hale Broun of CBS news was unable to make it to the locker room for a planned television interview.

Law Center

(continued from page 1)

The \$6 million will be broken down with \$3.5 million going for the construction of the Law Center; \$500,000 for furnishings and equipment; \$1 million for faculty development and \$1 million for library development.

The five-level building will contain 18 classrooms, including 10 seminar rooms, a library with a capacity of 160,000 volumes and a seating capacity of 400, a Moot Court Room accommodating 50 administrative and faculty offices, rooms for student organizations, a dean's complex, a faculty working library of 5,000 volumes, student lockers and showers, and a modern student lounge.

The 120,000 square feet will double the size of the present building. The library will be more than double the size of the one now in use.

Dean Lawless wants a Cambridge bridge built between the Memorial Library's second floor and the Law Center's third floor. The 100,000-150,000 law-related volumes in the Memorial Library would mean the number of volumes available for law students would jump from the present 80,000 to more than 250,000.

The building is completely air-conditioned and the classrooms are terraced and will be built for classes of 75, 100 and 150 students.

OYEZ

OYEZ

Second Year

Moot Court

Nov. 24

7:30 p.m.

Hayes-Healey

Business Court

All Are Welcome