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Humanistic Legal Education

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life at notre dame
LAW DEAN WANTS 'MORE'

"We are beginning to find something unique by way of educational focus, something hopeful. It is a kind of humanistic legal education in Thomas More's understanding of humanism. . . . We are beginning to find at Notre Dame Law School the possibility of a people-centered professional school." (Thomas L. Shaffer, Dean of ND Law School)

Can Thomas More become a model for the ND law student? More made his way as a prominent lawyer and humanist. As a lawyer he was a man of wealth. As a Christian humanist with genuine concern for fellow men, he obeyed his own conscience, carefully scanning the issues of his day and weighing the facts without fanfare or ostentatious speeches. His acceptance of martyrdom can symbolize "law against order." The focus of education for More was HUMANITAS, emphasizing respect for his fellow man, accentuating an inner religious vision of self-awareness which passes over to the community of mankind. It is a belief that if one removes himself from this community, the focus of education becomes blurred.

ND Law School, according to Dean Shaffer, has the opportunity to follow More's footsteps. It has a humanistic climate in which students can learn to become personally involved in their clients' problems, where students can learn to bring Christian humanism to their work through a people-centered legal education.

The Dean cites several reasons for a people-centered legal education: since most legal discussions are not made in the courts, lawyers spend a third to four-fifths of their time in counseling. The lawyer alone makes decisions which include emotions, loyalties and hang-ups. As a counselor, professional skill must include acceptance, understanding and sense of togetherness. A humanistic legal education can help the student's ability to function in the real situations of his profession. For example, there is a clear distinction between feeding the ill-fated man of the slums and being able to cry with him. There is a difference between lawyers who are moved by human suffering and those whose only obsession is Wall Street. Thus, Dean Shaffer believes one focus of this people-centered profession to be the students' resolution to serve human needs with compassion.

Moreover, a people-centered legal education stresses reform. Like Thomas More, "my country, but God first" plays an integral part in learning to become agents of change. The American tradition has always been implemented by revolution and reform, by lawyers who can respond to people's need for change. However, the Dean stands in keen contrast to the Chief Justice, who remarked last summer that men who want to change the world should avoid the legal profession. Dean Shaffer found this statement "unhistorical and ignorant. How can one avoid bomb throwers as agents of change?" Charles Morgan, who works with the American Civil Liberties Union in Atlanta, is a splendid example of a reform-seeking lawyer, using his position of wealth and prominence to influence reform. He is a country club lawyer, part of the southern establishment, yet he is one of the most feared criminal lawyers.
in the country, a man who advocates "law against order."

Humanistic legal education experiments with the idea of collaboration and consensus rather than competition. People-centered lawyers who are compassionate and who understand real human needs for reform are more effective in decision-making groups—firms, boards, etc., where decisions are not made by majority rule.

PEOPLE-MINDED PROFESSOR:

Thomas L. Shaffer is a Notre Dame Law graduate, active in civil-liberties work and writes in estate planning and law and psychology for a variety of legal journals. He was on leave in 1970-71 as Visiting Professor of Law at the University of California, Los Angeles. Law students remember him for his work as a draft counselor. This year Shaffer has assumed the seat vacated by former politically minded Dean Lawless.

Shaffer's philosophy presents a sharp contrast to Lawless, who, according to many students, seemed more interested in the prestige of the ND Law School than its distinct advantages and potentialities. Dean Shaffer, however, agrees with Prof. Ed Murphy's statement, "I would rather we were good than to simply have people think we were good." Thus, Shaffer opposes the "prestige" argument for increased enrollment at ND Law School, and he believes that a law school of approximately 400 students can provide a uniform community where every student knows his classmates, and where faculty-student relationships are stimulated. Graduating classes of 100 allow personal attention to placement. The Practice Court program at ND would be unreasonable with 200 students. Moreover, limited growth in size can improve organizations now existing in the law school, such as law review, moot court, the legislative drafting service, and the legal aid and defender association. Furthermore, if and when funds for the law school are augmented, it is Shaffer's conviction that the emasculated scholarship fund should cry for more money before building a new law school or remodeling the present one. People are just more important than bricks.

The deepest intellectual concern at ND Law School is interpersonal legal education between professors and students, students and students, students and the South Bend community, and between potential lawyers and pressing problems of our era such as civil rights, international development, peace and poverty.

MYTH OF REALITY?

A portrait of Thomas More hovers over Dean Shaffer's office as a symbol of aspiration and humanistic focus for ND Law School. Do law students regard it as the Dean's "folly"—or does his philosophy of a people-minded educational focus unify the students with a sense of common purpose?

Thirty percent of ND law students are Catholic; one-half or sixty percent come from Catholic colleges. Dean Shaffer has found that, although these students from Catholic colleges and universities are "turned off" to Catholic education, they have chosen a law school with a Christian Lawyer image. Nevertheless the students' initial reaction to the Dean's new philosophy is met with an outburst of laughter, a serene grin or utter perplexity. Ironically many students are unaware that the Dean's terminology, "humanistic legal education," even exists. The students' response stems, then, from an opinion that the Dean is a castle builder of myths, it stems from a reaction to the absurdity of their own unawareness, or it stems from their questioning the necessity of Shaffer's labelization of the educational focus, since Christian humanism is nothing unique to Notre Dame.

Without doubt, the Dean is optimistic about humanistic legal education, and he attempts to practice it. For example, Dean Shaffer spends a week on humanistic exercises as an introduction to "Property III." He begins it with the discussion of how people feel when wills are made, such as feelings of death, possession and family, and he relates this to how the students themselves feel about their possessions, questioning the student's personal self-awareness. One needs self-awareness to become aware of others. Building bridges to students, the Dean also holds bull sessions as an orientation for third year students. Some feel the Deans actions are too much like holding hands. They question his liberal image and his opposition to the myth of pure rationality, they question whether he can conquer bureaucracy. Many students claim they are already aware that law books don't teach ethics. Besides, interpersonalism is not necessary to pass the bar exam, only hard knowledge of law books. The Dean may dream dreams, but for him, helping the student become aware of himself in relation to the community is a reality. Some people, as Thomas More said, poke holes in another's ideas for fear of looking foolish themselves.

Although some law students are unaware of the Dean's explicit labeling of humanistic legal education at ND, they are aware of the law school as headquarters for social change and improvement. One-half of the students do volunteer work in C.C.D., the Neighborhood Help-Study Program, Michigan City prison, the Legal Aid Office, and so on. The number of recent graduates in full-time teaching is about four times the national average, one-tenth of graduates give full service to the poor with low salaries, some work with large corpora-
tions taking one day off a week to help Legal Aid Offices. Of the recent graduates, 50 are working for low salaries among the poor. Nevertheless, only about one-half of the students retain their altruism. Some work in legal aid with the sole intention of practical experience in trial work, the bureaucracy of many corporations will not permit the lawyer to take one day off, and the private law practitioner may claim he financially cannot afford to spend two hours with every woman who needs a divorce. Shaffer views most of these excuses as “cop-outs”; the real question after three years is how you want to live and what your priorities are. But does altruism permit a law school to judge the students' priorities?

Other law students question Dean Shaffer’s attempt at labeling Notre Dame's people-mindedness “unique and hopeful,” claiming that humanistic legal education is neither unique nor is it a mythical mystique, but it is happening every day. Most of the law school's faculty have a personal love for Notre Dame which is not programmed. The professors themselves are imbued with interpersonal practice and conviction. The ideas of institutional loyalties within the faculty are far more than mere patriotism. It is something deeper and far reaching into the student's spirit of inner fulfillment and striving.

Furthermore, third year students note the non-isolation policy between students. Imagine: a table in the Pay-Caf built for four, an upperclassman seats himself opposite a freshman, soon the table is filled to its maximum, but no sooner than that five students, six students, often eight students are seated around a table built for four. “It doesn’t stop at Notre Dame,” says Charles Sullivan, “there is no isolation and the professors won’t isolate themselves either.”

Most of the third year law students believe that the first year men cannot be trained to become aware of ND’s interpersonalism, but that it is something which grows without words or labels. For example, the first year men have the same complaints about facilities; Room 102 has Mickey-Mouse desks with barely enough room for one notebook. In the reading room of the library, only 200 students can reasonably exist at one time; during eighty-degree weather two noisy fans buzz at opposite ends of the room, and louvers, inserted in the doors, are called air-conditioning. When a student wishes to find a Blue Book, he may spend some time searching over every Tom, Dick and Harry's shoulder, because the library only has one series. Moreover, while a first year juror hunts every cubicle for his wanted book, he may be fortunate enough to overhear upperclass students discussing the same case in which he will serve on the jury. Sometimes three students can share one locker!

These are the joys of ND Law School. In 1969 Charles Sullivan and the freshman class arranged with the Board for use of the new Business Administration Building, which has better lighting, comfortable chairs, air-conditioning, and numerous other luxuries. Isn’t it ironic that the students refused to accept the permission? Mr. Sullivan claims that they just didn’t want to depart from the community. People are more important, it seems. The students consider the school’s problems to be their own problems, so why picket? The feeling is nothing unique to ND Law School—or is it?

The interpersonal or humanistic focus of ND Law School can be perceived as the myth of reality. It is a traditional, non-fictitious story comparable to Thomas More's Utopia, whose irony of a lawyerless society is useful in legal education—lawyerless, in the sense of earthiness as opposed to strict formalism. Dean Shaffer intends to conserve the reality of this traditional myth, because people make myths real by keeping them alive. Thus, the success of preservation will be determined by the fervent effort of students, faculty and the Dean himself to strive for reform, “law against order,” compassion and understanding within the law school itself. Only then can the myth of More pass over into the reality of the world outside the law school.

—cheri weismantel