8-15-1959


Joseph O'Meara
Notre Dame Law School

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Report of the Dean

University of Notre Dame. Law School. [Notre Dame, Ind.]: Notre Dame Law School,

**Items**

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**Details**

- **Description**: v.; 23-28 cm.
- **Current Frequency**: Annual.
- **Local Notes**: Title on 1973-74; 1974-75: Dean's report. Binder's title on 1953-56: Annual report of the dean.
- **Subject**: University of Notre Dame. Law School -- Periodicals. Law schools -- Indiana -- Periodicals.
- **Added Title**: Dean's report
- **Spine Title**: Annual report of the dean
Report of the Dean
1958-1959
Dean's Report 1958-59

In keeping with past practice, I begin with some observations concerning our students — past, present and prospective.

THE STUDENT BODY

ENROLLMENT

Continuing the upturn which began in 1956, first-year enrollment last September was 20.27% ahead of 1957. In contrast, there was an over-all gain of only 2% in first-year registration in the law schools approved by the American Bar Association, taken as a group.

Reversing the down trend which began in 1954, total enrollment last September rose 10%, as against a decline of approximately 1% in approved law schools as a whole.

Following are comparative data on beginning students registered in September in each of the last eight years.

ENTERING CLASS

<table>
<thead>
<tr>
<th>Year</th>
<th>Enrollment Students*</th>
<th>ND</th>
<th>Non-ND</th>
<th>ND</th>
<th>Non-ND</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>56</td>
<td>26</td>
<td>3</td>
<td>13</td>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>1952</td>
<td>74</td>
<td>34</td>
<td>2</td>
<td>1</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>1953</td>
<td>104</td>
<td>66</td>
<td>2</td>
<td>18</td>
<td>20</td>
<td>38</td>
</tr>
<tr>
<td>1954</td>
<td>63</td>
<td>21</td>
<td>2</td>
<td>11</td>
<td>24</td>
<td>42</td>
</tr>
<tr>
<td>1955</td>
<td>62</td>
<td>16</td>
<td>1</td>
<td>11</td>
<td>33</td>
<td>44</td>
</tr>
<tr>
<td>1956</td>
<td>69</td>
<td>15</td>
<td>1</td>
<td>20</td>
<td>31</td>
<td>51</td>
</tr>
<tr>
<td>1957</td>
<td>74</td>
<td>18</td>
<td>1</td>
<td>15</td>
<td>36</td>
<td>51</td>
</tr>
<tr>
<td>1958</td>
<td>89</td>
<td>16</td>
<td>1</td>
<td>27</td>
<td>43</td>
<td>70</td>
</tr>
</tbody>
</table>

*Notre Dame undergraduates enrolled in one of the combination programs which enable a student to obtain both an undergraduate and a law degree in six years.

**Students accepted under the privilege extended to veterans of entering after completing three-fourths of the work required for an undergraduate degree. To illustrate, in 1951 three students were admitted under this privilege, all of whom had done their preparatory work at colleges or universities other than Notre Dame.

***Students who entered with an undergraduate degree. To illustrate, in 1951 twenty-seven students were admitted who had already obtained an undergraduate degree, 13 at the University of Notre Dame and 14 elsewhere.
Total September enrollment in each of the last eight years is given in the following table, which shows that the increase last year was the first since 1953.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>165</td>
<td>150</td>
<td>150</td>
<td>167</td>
<td>201</td>
<td>244</td>
<td>221</td>
<td>204</td>
</tr>
</tbody>
</table>

A total of 60 colleges and universities were represented in the student body. The students came from 30 states (including Hawaii) and the District of Columbia.

The percentage of non-Notre Dame men (that is, students who did their undergraduate work at colleges and universities other than Notre Dame) declined somewhat, as the following table shows.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>20</td>
<td>24</td>
<td>35</td>
<td>34</td>
<td>41</td>
<td>45</td>
</tr>
<tr>
<td>%</td>
<td>36.5</td>
<td>56.45</td>
<td>42.97</td>
<td>55.4</td>
<td>50.56</td>
<td></td>
</tr>
</tbody>
</table>

As of August 15, applications for admission were running very slightly ahead of last year. Improved economic conditions suggest that, this year, a somewhat higher percentage of those accepted will register. On the other hand, there has been an increase in the number of rejections. The net effect of these influences, according to my best estimate, will be an entering class of approximately 80 as against 89 in 1958.

Total enrollment, however, will register a further small increase to approximately 180, due to a second-year class considerably larger than in 1958.

As I pointed out in my annual report for 1954-55 (p. 4), we are convinced that a small law school offers very real advantages. Our growth will be controlled accordingly.

MORTALITY

The percentage of students dismissed for scholastic deficiency in each of the last six academic years is shown in the following table.

<table>
<thead>
<tr>
<th>Year</th>
<th>1st Year</th>
<th>2nd Year</th>
<th>3rd Year</th>
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<tr>
<td>1953-54</td>
<td>15.2%</td>
<td>12.0%</td>
<td>10.5%</td>
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<tr>
<td>1954-55</td>
<td>13.9</td>
<td>14.9</td>
<td>5.0</td>
</tr>
<tr>
<td>1955-56</td>
<td>17.7</td>
<td>6.5</td>
<td>1.7</td>
</tr>
<tr>
<td>1956-57</td>
<td>27.6</td>
<td>12.8</td>
<td>5.4</td>
</tr>
<tr>
<td>1957-58</td>
<td>29.7</td>
<td>2.8</td>
<td>5.4</td>
</tr>
<tr>
<td>1958-59</td>
<td>21.3</td>
<td>2.6</td>
<td>0.0</td>
</tr>
</tbody>
</table>

Non-Notre Dame Men in Entering Class

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1953</td>
<td>20</td>
<td>18</td>
</tr>
<tr>
<td>1954</td>
<td>24</td>
<td>36.5</td>
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<td>34</td>
<td>42.97</td>
</tr>
<tr>
<td>1957</td>
<td>41</td>
<td>55.4</td>
</tr>
<tr>
<td>1958</td>
<td>45</td>
<td>50.56</td>
</tr>
</tbody>
</table>

As this table shows, the attrition last year was the lowest for any year in the 6-year period. While intermediate fluctuations are to be expected, I think we can hope that the long-term trend will be downward, as our standards for admission rise and our selection procedures improve.

There are some dissenters who complain that our standards are already too high. These critics, I suggest, overlook the fact that, "In all occupations, the level of competence required is constantly increasing." The Pursuit of Excellence: Education and the Future of America 9. (The Rockefeller Report on Education, Doubleday and Company, Inc., New York, 1958)

The following affirmation by the President of the American Bar Association is pertinent in this connection.

"As a learned profession whose only excuse for existence is the rendition of service to the public in a highly intellectual field of activity, we carry a heavy responsibility for the quality and the qualifications of the members of our profession... Our profession must never be satisfied with mediocrity.

"There are two major factors which control the quality of the legal profession. The first is the individuals who are attracted to the study of law, who become members of the profession after passing the Bar; the second is the education which they receive..." Malone, "The President's Page," 44 ABAJ 843, 844 (September, 1958)

The law schools are under a corresponding and increasingly heavy obligation—to their students and to the Country. As one of the top schools, Notre Dame has a special obligation, an obligation which can be fulfilled only by providing the best possible legal education to the best possible students.

We are by no means interested only in geniuses. But we must be and, as pointed out in my Annual Report for 1956-57 (p. 10), "...are interested first of all in the intellectual attainments of prospective students. Whitehead was right: 'In the conditions of modern life the rule is absolute, the race which does not value trained intelligence is doomed.' It would be a mistake, nevertheless, to look solely at the undergraduate academic record of prospective students. Other factors must also be taken into account, namely, character and qualities of leadership."
RECRUITMENT

Communism, unhappily, is the only fighting faith in the world today. If we are to battle it successfully, we must re-create democracy as the fighting faith it once was. To whom can we turn for the re-creation of democracy as a fighting faith? Let me quote from our brochure Law at Notre Dame, written by Professor Rodes of our Faculty (p. 1):

"Liberty and justice have been dreams in nearly every age and place. For us, and for millions of English-speaking peoples all over the world, although they are something less than fully achieved realities, they are a great deal more than dreams. We have brought them down from the realm of abstraction and woven them into the fabric of our lives. For this, we have the lawyer to thank more than anyone else. It is he who stamps our dreams on the hard metal of reality."

In consequence, in the words of Father John Courtney Murray, C.F.R., there is a virtue in the Western tradition of law that warrants us in calling it redemptive. Western man has sought in the idea of law a manifold redemption — from the arbitrary despotism of uncontrolled power; from the threat or fact of injustice to his person or his property; from dispossession of his human and his civil rights; from the degradation that ensues upon social inequalities destructive of his personal significance and worth; from disruption of his life by the irrational forces of passion, caprice and chance."

Yes, if democracy is re-created as a fighting faith, it will be an accomplishment of the legal profession. So there is great need for lawyers, thoroughly competent lawyers, at once idealistic and practical — lawyers who can dream, and who have the will to make their dreams come true. Yes, dreams — for, as the President of E. I. duPont de Nemours & Company has reminded us, "... there is a virtue in the Western tradition of law that warrants us in calling it redemptive. Western man has sought in the idea of law a manifold redemption — from the arbitrary despotism of uncontrolled power; from the threat or fact of injustice to his person or his property; from dispossession of his human and his civil rights; from the degradation that ensues upon social inequalities destructive of his personal significance and worth; from disruption of his life by the irrational forces of passion, caprice and chance."

Yet the number of lawyers in relation to the population has been declining. Former Dean Harno of the University of Illinois College of Law declared in 1957:

"The fact is that there is today a serious shortage of lawyers, and in my judgment that shortage will become definitely more acute before there will be any improvement in the situation."

Letters to The Law Alumni 166 (Burdette Smith Co., Chicago, 1958)

Figures compiled recently by the Survey of the Legal Profession fully support Dean Harno's statement. This is pointed out by an eminent practitioner, Reginald Heber Smith of the Boston Bar, in "The Bar Is Not Overcrowded: Some Facts About An Ancient Legend," 44 ABAJ 1054 (November, 1958)

Briefly, the figures compiled by the Survey of the Legal Profession show that:

1. There were 25,732 fewer lawyers admitted to practice in the decade 1940-49 than in the previous decade, notwithstanding a population increase of 27,000,000.

2. Since 1949 the number of lawyers admitted to practice has declined steadily from 89 per million of the population in that year to 57 per million of the population in 1956.

3. Thus the number admitted to practice, relative to the population, has been declining for more than a quarter of a century.

And, taking the country as a whole, there has been a long-term downward trend in the number of law students. Even more serious, the ablest college graduates, by and large, are not studying law; they are being beguiled into graduate work looking toward a scientific or an academic career. Now, it may be true that we need more scientists and engineers. But if more scientists and engineers are needed, they are needed to advance the arts of war. That is dreadfully important, I agree. But it is even more important to learn to keep the peace and, as I have said above, for that purpose it is lawyers that we need, not scientists and engineers.

As for the widely heralded need for more teachers, I agree with Mr. Beardsley Ruml: if all the trivia were removed from high school and college curricula, it seems altogether likely there would be teachers aplenty — and higher salaries for those who deserve them. See "How To Double College Salaries," 46 Life 34 (May 25, 1959) ; Ruml, Memo For a College Trustee (McGraw-Hill, New York, 1959).

The American Bar Association is concerned about the decrease in the number and quality of law students. President Malone has said:

"... one of the two major factors which control the quality of the legal profession is the ability and character of the in-
individuals who are attracted to the study of law... the current national emphasis on the need for a greater number of scientifically trained men and women, combined with the dramatic accomplishments of science during the last decade, have combined to affect materially the quantity and quality of young men and young women applying for admission to law schools.

"... There is... general concurrence that we have not yet felt the full impact of the situation and that it will get worse before it gets better..."

The problem was presented to the Board of Governors of The American Bar Association at its fall meeting... At that time the Board of Governors authorized the institution of a program to accelerate the recruitment of law students with emphasis on ability..." "The President's Page," 44 ABAJ 1129, 1130 (November, 1958)

We have a responsibility to turn our share...yes, and more than our share...of the lawyers so urgently needed to meet the awful challenges of the modern world—lawyers technically competent to serve their clients well who, at the same time, are equipped for responsible leadership in a troubled world. Accordingly, we are going to have to extend and intensify our recruitment and somehow make it more effective.

As I said in my last Annual Report (p. 6), "The recruitment program is not designed merely to enlarge the student body. Its primary purpose is to attract outstanding students—students who have the ability to become great lawyers and leaders. Excellence is our platform and we can be content with nothing less. Just as Notre Dame athletic teams always play to win, so the Notre Dame Law School is determined that its graduates shall be able to compete with and excel the best from the best schools in the land. To that end it is just as necessary for us as it is for the coaches to get the very best talent available."

The need is very great, as I have urged in my Annual Report for each of the last two years. I feel justified in appealing personally to every alumnus and to every friend of Notre Dame to make it his business to be on the watch for talented prospective law students and to bring to their attention the many advantages of the Notre Dame Law School.

Last year recruitment visits were made to 22 colleges and universities, the same, with few exceptions, as those listed at page 5 of my Annual Report for 1957-58. In addition, every Catholic college and university and every active Newman Club chaplain was reached by mail at least three times.

The following members of the faculty assisted me in the recruitment program: Assistant Dean Broderick and Professors Broden, Kellenberg, Krasnowiecki, Murphy, Rodes and Ward.

A number of alumni and friends of the School, to whom grateful acknowledgment is due, were extremely helpful in the recruitment program, especially, Thomas S. Calder, Louis Clabeaux, Honorable Charles S. Desmond, Robert P. Gorman, Lawrence A. Kane, Jr., and Hugh E. Wall.

SCHOLARSHIPS

Effective recruitment is an absolute impossibility without adequate scholarship funds to assist talented young men eager to attend the Notre Dame Law School but unable to afford it. Real progress has been made in this matter of scholarships. Only two years ago, in my Annual Report for 1956-57, I said (p. 6):

"When I came to Notre Dame in the fall of 1952 there was not a single dollar of scholarship money available. Under the leadership of Mr. Clarence J. Donovan, when he was president in 1953-54, the Notre Dame Law Association undertook to correct that unhappy situation. It inaugurated a scholarship program designed, when in full operation, to raise approximately $20,000 a year. This project has moved steadily ahead. During the presidency of Mr. Norman J. Barry of Chicago, it gathered speed and momentum. Mr. Roger P. Brennan of Cleveland, who succeeded to the presidency of the Association in June, can be counted on to provide the same inspired leadership which characterized Mr. Barry's term of office. The somber fact remains that the goal of $20,000 a year is still to be realized. Meanwhile, our tuition has, perforce, been increased from $650 to $900 a year"—and, a few weeks ago, to $1000.

Well, $20,000 a year for scholarships is no longer simply a target! We have exceeded the goal! In the last two years contributions to the Law Scholarship Fund have grown from $15,945 for the academic year 1956-57 to $32,478.51 for 1958-59! That, indeed, is cause for rejoicing.

For this achievement four men are chiefly responsible, Paul F. Hellmuth of Boston, a member of the Law Advisory Council; Oscar John Dorwin, Senior Vice President and General Counsel of The Texas Company, also a member of the Law Advisory Council and National Chairman of the Notre Dame Law Association's Scholarship Program; Roger P. Brennan, '33 of Cleveland, Honorary President of the Notre Dame Law Association; and his predecessor in that position, Norman J. Barry, '48L of Chicago. I salute them and express my heartfelt thanks.
The generosity of many people has contributed to the happy result. Special thanks are due to the following for generous contributions they have made or have secured from others:

**STUDENT LOAN PROGRAM**

In a letter transmitting a generous contribution to the Law Scholarship Fund, Mr. T. E. Leavey, President of the Farmers Insurance Group of Los Angeles, made an important point:

- One of the significant American traditions is educational opportunity for young people with outstanding talent but with limited finances. Another is the position of the independent universities, which among our institutions of higher learning are uniquely American in their freedom from government support and control.

Ample scholarship funds are as indispensable as they are traditionally American. It by no means follows, though, that all financial assistance to students must be by way of gratuitous awards. It is in keeping with the spirit of our institutions, and preferable in some cases, to make loans available rather than to provide outright grants. I said in my last Annual Report (p. 9):

"... it is imperative that a way be found to enable necessitous students to borrow their requirements, within reasonable limits, on easy terms as regards interest and repayment."

A way has been found! This was made possible through the cooperation of the Continental Illinois National Bank and Trust Company of Chicago, with which an arrangement has been worked out enabling deserving second- and third-year students to borrow up to $500 a semester. These loans will bear simple interest at not to exceed 6%, which includes the cost of life insurance to assure repayment in event of the borrower's death. While a student is in school, he will pay 2% and the balance of the interest will be paid by the Notre Dame Law Association. After graduation, of course, the student will pay the entire interest himself.

The loans will be due one year after graduation, at which time arrangements will be made for repayment in installments over a suitable period, provided interest payments have been kept up to date.

If we had a guarantee fund of $25,000 there is every indication that the Bank would be willing to increase its lending to students, as required, to an aggregate of $150,000. That, so far as I can see ahead, would take care of all of our loan requirements. In practical effect, therefore, there is at our disposal a loan fund of $150,000 if and when we can raise $25,000 — and the Bank will pay us interest on the $25,000!
STUDENT ACTIVITIES

NOTRE DAME LAWYER

Volume 34 of the Notre Dame Lawyer (that is the December, 1958, and the March, May and August, 1959 issues) appeared in a new and attractive format. The Lawyer is student-edited, that is to say, all the work of getting it out is done by students and they make all the decisions. In this it differs from some law reviews which, though nominally student-edited, in fact are the work, in large part, of the faculty advisor. We have a faculty advisor, too. He is Professor Robert E. Rodes, Jr., and he has done a superb job; but his job has consisted of stimulating and inspiring the students, not in doing the work for them. I agree with his estimate of the progress made by the Lawyer in 1958-59:

"This year for the first time we can say with some conviction that we have reached the stature of the first rank of law reviews in the country."

Professor Rodes is not alone in his optimistic assessment of the progress that has been made. Professor Conrad Kellenberg of our Faculty, who spent the year at the Yale Law School writing a book on the law of real property, has said that

"... the improvement ... in the staff work is nothing short of amazing."

And I have had a number of very favorable comments from law teachers in other schools.

A feature of Volume 34 of the Lawyer is a note on "Civil Liberties Within the Labor Movement," written by three members of the Class of '60, namely, G. R. Blakey of North Carolina, John A. Slevin of Illinois and Paul H. Titus of Pennsylvania. The following aspects of the subject, among others, are discussed in detail:

Right to union membership
Right to a fair trial in proceedings against a member
Right to participate in union elections
Right to an accounting of union funds

In the preparation of the note, not only were the decided cases consulted but, in addition, more than 75 union constitutions were subjected to painstaking analysis. The note has attracted very favorable comment.

What has been accomplished reflects ability and dedication on the part of the student editors, and long hours of hard work. On the average, the student editors spend 40 to 45 hours a week on Lawyer work. This, I point out, is in addition to the course load which all law students must carry. Nevertheless, third-year members of the Lawyer staff did better, relatively, in their regular law-school work than other third-year students. In other words, it appears that the long hours devoted to the Lawyer helped rather than hurt their grades.

STUDENT LAW ASSOCIATION

Last year the Student Law Association was given the responsibility for administering our system of unproctored examinations, commonly known as the Honor System. This was a tribute to the Association's demonstrated responsibility and to the maturity of its officers.

The Honor System has not been imposed upon our student body. Each student elects for himself whether to accept the privilege of unproctored examinations and the consequent responsibilities. The number so electing was approximately 95% of the student body. I hope the time will come soon when the tradition of writing examinations on the Honor System is so firmly established that every student will elect to do so as a matter of course. When that time comes we will bury, I hope forever, the expedient of writing examinations under the eyes of a proctor — an expedient abhorrent at best and assuredly not in keeping with the ideals and responsibilities of the legal profession.

GRAY'S INN

The newest student organization is Gray's Inn. Named for one of the four major Inns of Court, it was founded in 1954 by members of the Class of '57. Two of its meetings were of outstanding interest. The subject of the first was "Civil Liberties within the Labor Movement." Various aspects of this topic were discussed by members of the student body.

The second of these meetings was devoted to the very timely subject of "Urban Planning and Redevelopment." Both legal and non-legal aspects of this subject were considered by a panel consisting of Professor Jan Krausoweczki of our Faculty, Professor T. Brooks Brademus and Mr. Henry Sucher. Professor Brademus is the head of a consulting firm on city planning and is visiting professor of city planning at The University of Notre Dame; Mr. Sucher is associated with the Redevelopment Commission of South Bend.

MOOT COURT

Our Moot Court team lost to the University of Chicago Law School in the first round of the Regional Competition in Chicago last November. There is consolation, however, in the fact that our team's brief received a score substantially higher than its opponent's.

In 1956 and again in 1957 our Moot Court team won the championship of Region 9, comprising Indiana, Illinois and Wisconsin.

The judges who will hear the final arguments in the Annual Moot Court Competition next October are:
Honorable Harold H. Burton, Supreme Court of the United States
Honorable Alfred P. Murrah, United States Court of Appeals for the Tenth Circuit
Honorable Paul C. Weick, United States District Court for the Northern District of Ohio

This carries forward the tradition of having on the court for the final arguments a member of the Supreme Court of the United States. Last fall the Supreme Court was represented by Justice Sherman Minton.

STUDENTS APPOINTED

Notre Dame is on the list of law schools visited annually by a representative of the Attorney General of the United States in connection with the Attorney General's Recruitment Program for Honor Law Graduates. An offer of employment, under this program, was received by Mr. Patrick F. McCartan of Youngstown, Ohio, Editor-in-Chief of the Notre Dame Lawyer. However, he had already accepted appointment as law clerk for Justice Charles E. Whittaker of the Supreme Court of the United States. Mr. Robert P. Gorman, '57L, one of Mr. McCartan's predecessors as editor-in-chief of the Lawyer, spent the year following his graduation as law clerk for Justice Tom C. Clark.

Other members of the Editorial Staff of the Lawyer who have received law clerkships are Mr. Robert E. Curley, Jr., of Evanston, Illinois, who will be law clerk for Judge John C. Lewe of the Appellate Court of Illinois; Mr. William J. Harte of Chicago, Illinois, who will be law clerk for Judge Roger J. Kiley of the Appellate Court of Illinois; Mr. John E. Kennedy of Minneapolis, Minnesota, who will be law clerk for United States District Judge Howard E. Devitt of Minneapolis; Mr. Arthur J. Perry of South Bend, Indiana, who will be law clerk for United States District Judge Robert A. Grant of South Bend; and Mr. Richard D. Schiller of Aurora, Illinois, who will be law clerk for United States District Judge Luther M. Swygert of Hammond, Indiana. At least one other member of the staff would have received a law clerkship had it not been for his military commitment.

The Director of the Moot Court, Mr. James A. Durkin of Rockford, Illinois, also received a law clerkship. He will serve in that capacity for Judge W. Lynn Parkinson of the United States Court of Appeals for the Seventh Circuit.

BAR EXAMINATION RESULTS

Thirty of our 1958 graduates have taken the bar examination in the state where they intend to practice. In states other than New York, 87.5% passed on the first try. In New York the results were disgraceful. There were special reasons for this but, of course, that fact does not show on the record books. Taking New York into account, 76.67% passed on the first try, a thoroughly unsatisfactory performance.

PROGRAM OF INSTRUCTION

A unique feature of our instructional program is its emphasis on the problem method in the second and third years. This method was explained in detail by Professor Bernard J. Ward in a perceptive and illuminating article on "The Problem Method at Notre Dame" in 11 Journal of Legal Education 100 (1958). I consider it a real contribution to legal education.

Mr. Howard C. Westwood of Covington & Burling, Washington, D. C., having read my article on the "Notre Dame Program of Legal Education" in the July, 1957 issue of the American Bar Association Journal, visited us last spring and attended a second-year class taught by Professor Ward and a third-year class taught by Professor Edward F. Barrett. Afterward he expressed the view that we are doing a more constructive job of teaching than any law school in the country. Mr. Westwood is a member of the Board of Visitors of the Columbia University School of Law.

No program of instruction is perfect; none will be. Ours is a good program, however; and it is my considered judgment that no law school anywhere has a better.

THE FACULTY

Professor William D. Rollison completed a casebook on Estate Planning on which he has been working for several years. It is to be published by the University of Notre Dame Press.

Professor W. J. Wagner has accepted a Fulbright lectureship and will spend next year at the Universities of Paris and Rennes. He will also lecture at the International University of Comparative Sciences at Luxembourg.

Professor Bernard J. Ward addressed the Michigan State Bar Association at Grand Rapids. His subject was "The Role of the Supreme Court in the American Constitutional System." Professor Ward has been elected a director of the Legal Aid Society of St. Joseph County, Indiana.

Professor Conrad L. Kellenberg, who was on leave, spent last year...
at the Yale Law School where he completed the draft of a book on the law of real property.

Professor Jan Krasnowiecki resigned to join the faculty of the University of Pennsylvania Law School. We wish him well.

Mr. Harris Wofford, Jr., has been appointed visiting associate professor for research. He did his undergraduate work at the University of Chicago and in 1954 received an LL.B. from the Yale Law School. Mr. Wofford has been serving as Father Hesburgh's legal assistant on the Commission on Civil Rights. He is a man of extraordinary ability and great promise. We welcome him most warmly.

I was appointed (1) a member of an Advisory Committee of the William Allanson White Psychiatric Foundation, which has undertaken an important study relating to law and mental illness; and (2) a consultant to the Public Affairs Program of The Ford Foundation, serving as a member of the Advisory Committee for the Law Faculty Fellowship Program. I participated in a conference on legal education held in June under the auspices of the University of Michigan Law School; and have been invited by the White House to participate in a national conference on "Law and the Layman" to be held in Miami in connection with the Annual Meeting of the American Bar Association later this month.

A list of publications by members of the Faculty for the academic year 1958-59 is appended.

SPECIAL EVENTS

SYMPOSIUM ON PUBLIC SERVICE


The speakers were:
Mr. Oscar H. Davis, First Assistant Solicitor General of the United States
Mr. Thomas G. Meeker, General Counsel of the Securities and Exchange Commission
Mr. Murray Seasongood, former Mayor of Cincinnati
Mr. Hugh Sherer, Chief Counsel to the Attorney General of Ohio
Mr. G. W. Snyder, Assistant Regional Commissioner of Internal Revenue

Messrs. Davis and Meeker discussed the opportunities and responsibilities of career public service in the Federal Government. Mr. Snyder approached the subject from the point of view of a regional Federal official. Mr. Sherer described the public service challenges in State government. Mr. Seasongood explored the practicing lawyer's opportunities for public service in the local community.

SYMPOSIUM ON SCHOOL DESEGREGATION

In the last five years we have sponsored three symposia, each dealing with a highly controversial problem of urgent national concern. First, in December, 1953, there was a Symposium on Legislative Investigations; then, in April, 1958, the Symposium on the Role of the Supreme Court in the American Constitutional System. The third, a Symposium on the Problems and Responsibilities of School Desegregation, took place on May 8 and 9, 1959. The purpose and scope of this Symposium are stated in my introductory remarks, as follows:

"The decisions of the Supreme Court in the school-integration cases have created enormous problems, which have grown progressively more serious in the five years since Brown v. Board of Education was decided. The tragic dearth of leadership, on all levels, only increases the obligation which all of us would have anyhow to do what we can to find a viable way out of this calamitous situation. We recognize that obligation here at the Notre Dame School and seek by means of this Symposium to make some contribution toward the resolution of these grave problems, which menace our unity and waste our strength...

"We have no intention of debating the merits or demerits of the Supreme Court's decisions, which we support. Our purpose is to concentrate on the practical problems arising from the Court's decisions and on the responsibilities, in relation to these problems, of public officials, of the churches, of educators and school administrators, of the Negro community and of the legal profession. Thus the whole point of the Symposium is to approach the matter constructively with the idea of illuminating the problems involved and making practical suggestions for their solution.

"One thing that seems obvious is that the process of desegregating the public schools of the South cannot rightly be left to the Federal Courts alone. Congressional action, I submit, is needed urgently. I think it neither necessary nor desirable for Congress to go out in detail how local Communities should go about desegregating their schools. There is the greatest need, however, for some action - indeed, any action - which will put Congress on record in support of integration. I can only hope, therefore, that Congress will give prompt at-
tention to this most important matter and that, after full oppor-
tunity for all to be heard, those who disagree will nevertheless
permit the majority to act.

"Some able and informed people believe that the plan of
desegregation which is being followed in Nashville offers the
best hope, so far, of combining 'all deliberate speed' with a
minimum of tension, resistance and disorder. Under this plan
desegregation proceeds one grade at a time, beginning with
the first grade, followed by the second a year later, and so on
until all have been integrated. It has this feature, in addition.
Any child (colored or white) who is in a racial minority in his
grade or school, may be transferred to another school on re-
quoting of his parents. There may be a better way of desegre-
gating the schools with 'all deliberate speed,' but it does seem
to me that the Nashville plan deserves the most careful con-
ideration.

"There are two ways of approaching a problem: one is to
see it as a road block, the other as a challenge. Our Symposium
has been planned on the assumption that the latter is the ap-
proach that should be made. It has been planned, moreover,
on the assumption that, if we can stop calling names long
enough to take a hard look at the practical problems involved
in desegregation, and to assess our responsibilities with respect
thereto, we will find the answer to this crisis of education, this
crisis of law, this crisis of morals; and thus will be able to face
the challenge of a thermonuclear world as one united people."

The papers presented at the Symposium will be published in
a special Symposium Issue of the Notre Dame Lawyer, which will be
distributed early in October.

LAW HONOR BANQUET

The President of the American Bar Association, Mr. Ross L.
Malone of Roswell, New Mexico, was the featured speaker at the Law
Honor Banquet on May 6. This annual affair affords an opportunity
to salute the members of the graduating class and, at the same time,
recognize the achievements of all members of the student body
who have distinguished themselves in one way or another. This year,
in addition, it was the occasion for a joint observance of LAW DAY
U.S.A. by the Notre Dame Law School and the St. Joseph County
Bar Association.

Mr. Malone's predecessor as president of the American Bar As-


Notre Dame Law School

In my introduction of Mr. Malone, I called attention to some
neglected aspects of the problem of internal security, as follows:

"In the words of Thornton Wilder, 'every good and excellent
thing . . . stands moment by moment on the razor edge of
danger . . . . This is due, of course, to the successful interna-
tional conspiracy known as Communism. It invites, indeed, it
imperatively requires protective measures. Almost everybody
understands this. What many seem not to understand is that
no defense against Communism can succeed which, at the same
time, is an attack upon our own political first principles.

"Communism, unhappily, is the only fighting faith in the
world today. If we are to battle it successfully, we must re-
create democracy as the fighting faith it once was. . . .

"It will not do simply to take agitated, uncritical action in
the name of internal security. That, in my view, is what was
done by the House of Delegates of the American Bar Associa-
tion at its mid-winter meeting in Chicago. Without question,
there is room for legitimate difference of opinion on some—
perhaps all—of the issues on which the House of Delegates
committed the Association. But the House, it seems to me, pro-
ceeded on nothing more substantial than the assumption that
our security requires the measures it recommended to Congress.
I do not see on the part of the adherents of these measures the
painstaking, critical sifting and weighing which would char-
acterize their approach to the practical problems of a client.

"Not every measure sought in the name of internal security
is wise or beneficial; some may even weaken our security; and
God knows not every so-called security measure is consistent
with our democratic faith.

"To be against Communism is not enough. Hitler was
against Communism. If we are to prevail in this struggle for
survival, we must be for democracy. If we are for democracy
in a real and living sense, we will recognize that there is no such
thing as absolute security; there is only relative security; and
those measures are best which produce the optimum degree of
safety consistent with the preservation of what we started out
to make secure. What these measures are can only be ascer-
tained by the most painstaking, realistic assessment of the facts
abjuring emotionalism and taking nothing for granted. This
hardheaded, tough-minded attitude is the sine qua non of an
effective security system; and I venture to suggest that it has
been conspicuously absent from most of the debate on what to
do in the face of the Russian menace."
THE LAW BUILDING AND LIBRARY

In my Report for 1953-54 I called attention to the need for additional space for the Law Library and for faculty offices, and pointed out that the situation would become progressively more serious.

To meet this growing need for additional space the University's architects in 1955 proposed that the Law Building be extended to the east. The building has two wings, both on the east side, one at the north and the other at the south end; and the proposed extension would be accomplished by running a wall south from the eastern end of the northern wing.

In October, 1956 and again in October, 1957, the Law Advisory Council approved the proposed addition. At its April meeting last year, however, though no formal vote was taken, the Council gave unmistakable evidence that its members were unanimously in favor of a new building for The Law School. The thinking back of this change of view was that the Law Building could be turned over to the College of Engineering, which also has a space problem; that this would obviate the necessity of a proposed $500,000 addition to the Engineering Building as well as the proposed $500,000 addition to the Law Building; and that the money thus saved could be used to better advantage by putting up a new building for The Law School. The University's architects estimate that the cost would not exceed a million dollars.

As I have said on a number of occasions, if we were dealing only with The Law School's space problem, I would not feel justified in recommending a new building. I must say, though, that the proposal described above, which was advanced and supported at the last meeting of the Law Advisory Council, seems to me to make abundant sense. But whether we proceed with the addition or are fortunate enough to get a new building, our need for space is a pressing need now.

In my Annual Report for 1956-57 (p. 21) I indicated that I could see my way through the academic year 1959-60 but did not see how we would be able to make do beyond it. Well, necessity is the mother of invention and there is a way in which we can manage with the space we have for a few years more, though it makes me shudder to think about it. Our great need is for more shelf room for books and more faculty offices. The latter we can obtain by converting one of the classrooms into a number of small offices by means of partitions. I have been reluctant to recommend this because, in the long run, it means money down the drain; we can hold off the inevitable for only a very few years at best and then, in all likelihood, the partitions will have to be ripped out.

Somebody has said that the most important places in a library are the empty places on the shelves, that is, the spaces which are waiting to receive new books. After this year, for practical purposes, there won't be any empty places on our shelves. This creates a problem whose dimensions can hardly be realized by one who is not familiar with the management of a library. It means, obviously, that every time a new book comes in, a book already on the shelves must go somewhere else; and, since all the space in the Library will have been exhausted, that means it must go to storage outside the Library. But that is not by any means the only unhappy feature of the situation. There is the constant moving of books, and moving them, and moving them. It is not just a matter of putting new books on the shelves but of moving books already there, and of moving still other books to make room for them, and so on endlessly.

Our Library is so far understaffed that this in itself is a problem. Superimpose the necessity of constant handling and relabeling of books, and the burden of the Librarian almost surpasses human endurance. We cannot go on as we have been for the last couple of years. The problem has to be solved.

We can solve it by eviscerating our Library and that is what I propose to do. We will simply have to take, say, 15,000 of the least used volumes and move them out of the Library into semi-dead storage.

This reduction of our usable collection by nearly 2/5 will ease the unbearable pressure on the Library staff and give us a viable library operation. Hence I propose to proceed with it and in this way to get the space we have to have on our library shelves, though I do not attempt to conceal the heartbreak it involves.

By means of the expedients I have been describing, I estimate we can stave off the inevitable for approximately three years. Within that time I can only hope it will be possible to find someone who will be glad to provide the funds we need for a permanent solution of our problem.

NATURAL LAW INSTITUTE

One of the most significant events of 1958-59 was the announcement by The Ford Foundation of a grant to the Notre Dame Law School in the sum of $153,000, payable over a six-year period. This money will be used, in major part, to help finance the research and other activities of the Natural Law Institute, which will be expanded and intensified. I express my profound gratitude to the Foundation for this generous support.
NOTRE DAME LAW ASSOCIATION

The Notre Dame Law Association is playing a constantly more important role in the affairs of The Law School. Its new President, Mr. Albert H. Monacelli, '34 of Dunnington, Bartholow & Miller, New York City, has entered with enthusiasm upon the discharge of his duties, and can be counted on to provide the same inspired leadership that characterized the term of office of his predecessors, Mr. Norman J. Barry, '48L of Chicago and Mr. Roger P. Brennan, '33 of Cleveland.

New directors of the Association are:
Mr. L. Vincent Burke, Jr., '33 of Pittsburgh, Pa.
Mr. Francis X. Fallon, '33 of Grand Rapids, Mich.
Mr. Robert F. Graham, '28 of Chicago, Ill.
Mr. Joseph P. McNamara, '29L of Bridgeport, Conn.

I am confident they will make a real contribution to the Association and thus to the School.

LAW ADVISORY COUNCIL

The resignation of Mr. Charles N. McCune of Fort Lauderdale was reluctantly accepted. I have asked him to consider himself a member emeritus.

Mr. McCune was succeeded on the Council by Mr. James T. Finlen of Butte, Montana, and Fort Lauderdale.

CONCLUSION

As Whitehead pointed out, "Advance or Decadence are the only choices offered to mankind." Alfred North Whitehead, Adventure of Ideas 354 (Macmillan Company, New York, 1933)

We must either press forward or fall back; we cannot stand still. 1958-59, I am glad to be able to report, was a year of progress. What was accomplished would have been impossible without the unfailing support of the Administration and particularly Father Hesburgh and Father Soleta. Special thanks are due, also, to the Faculty, to the Notre Dame Law Association, to the Law Advisory Council and to the student body, particularly Mr. Patrick F. McCartan, Editor-in-Chief of the Notre Dame Lawyer and Mr. Thomas J. Dixon, President of the Student Law Association. For all the help and many kindnesses I have received, I am deeply grateful.

Respectfully submitted,
JOSEPH O'MEARA
Dean

August 15, 1959

FACULTY PUBLICATIONS

1958-59

THOMAS F. BRODINK, JR.

Articles:
The Strawman of Legal Positivism, accepted for publication in the August 1959 issue of the Notre Dame Lawyer.

JOHN J. BRODERICK

Book:

Articles:

ANTON-HERMANN CHROUST

Articles:
The American Legal Profession from the Revolution to the Middle of the Nineteenth Century, Parts I, II, III and IV, accepted for publication in The Notre Dame Lawyer.
The Ranks of the English Legal Profession, accepted for publication in The Western Reserve Law Review.
A Second (and Closer) Look at Plato's Political Philosophy, accepted for publication in The Thomist.
Who is the Platonic Philosopher King?, accepted for publication in The New Scholasticism.
Charges of Philosophical Plagiarism in Greek Antiquity, accepted for publication in The Modern Schoolman.
Some Aphoristic Reflections on Natural Law, accepted for publication in the Festschrift for Johannes Messner by the University of Vienna, Austria.
Professional Ethics and the American Lawyer, accepted for publication in the Festschrift for Luis Legaz Lacambra by the University of Santiago de Compostela, Spain.
Book Reviews:

Jan Krasnowiecki
Article:

Edward J. Murphy
Book Review:

Joseph O'Meara
Article:
The Problems and Responsibilities of Desegregation: Introductory Statement, accepted for publication in the Notre Dame Lawyer.

Roger Paul Peters
Article:

Robert E. Rodes
Book Review:

William D. Rollison
Book:
Cases and Materials on Estate Planning, 2 volumes, in publication by the University of Notre Dame Press.

W. J. Wagner
Book:

Articles:
La Codificazione del Diritto in Europa e il Movimento per la Codificazione Negli Stati Uniti alla Meta del Secolo Decimonono, 10 Jus, Rivista di Scienze Giuridiche (Milan) 119 (1959).
Advisory Opinions in the Federal Judiciary — A Comparative Study, accepted for publication in the University of Kansas City Law Review.

Book Reviews:

Bernard J. Ward
Article:

Book Review: