8-15-1965


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,]

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Details

- Description: v. ; 23-28 cm.
- Current Frequency: Annual.
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- Spine Title: Annual report of the dean
Notre Dame Law School

Report of the Dean
1964-1965
Since the most important feature of any law school is the student body, I begin, as in earlier reports, with some observations about our students, past, present and prospective.

THE STUDENT BODY

ENROLLMENT

The number of beginning students entering in September of 1964 rose sharply to 99 from 76 a year earlier. Total enrollment rose, also, from 170 to 200. Seventy-seven colleges and universities and twenty-seven states were represented in the student body. Twenty-eight percent of the students were married; twelve percent were veterans. The students ranged in age from 20 to 40. The great majority (82%), however, were between 21 and 24, inclusive.

The number of applications for admission has been growing steadily since 1954. In that year we received a total of 126 applications. As of now (August 15, 1965) we have received 475 applications for admission next month — an increase of 377% over the number received in 1954.

Although applications for admission for 1965-66 have been running well ahead of last year, the number of beginning students will be substantially smaller than a year ago, because we have been more selective this year than last; and we will be still more selective next year, that is, in passing on applications for admission in September of 1966.

As of the date of this report, we had received inquiries from 80 prospective students concerning admission in September of 1966. This expression of interest so early — a year or more in advance — is, for us, a new phenomenon. I do not attempt to explain it or forecast what it presages. It may indicate, however, that there will be another upsurge in applications for admission for the academic year 1966-67.

"Mankind is now in one of its rare moods of shifting its outlook. The mere compulsion of tradition has lost its force. It is our business — philosophers, students, and practical men — to re-create and reenact a vision of the world, including those elements of reverence and order without which society lapses into riot, and penetrated through and through with unflinching rationality." Alfred North Whitehead, Adventures of Ideas, 105 (Mentor).
MORTALITY

The failure rate for first-year students rose for the first time since 1959-60. For the last four years the failure rate has been as follows.

<table>
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<th>Year</th>
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<td>14.1</td>
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<td>10.6</td>
<td>2.0</td>
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</tr>
<tr>
<td>1963-64</td>
<td>10.2</td>
<td>6.4</td>
<td>0.0</td>
</tr>
<tr>
<td>1964-65</td>
<td>16.2</td>
<td>3.5</td>
<td>0.0</td>
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It seems to me likely that the failure rate will resume its decline in the year ahead. As I said in my report for 1963-64, however, it cannot be expected to continue indefinitely. The higher the quality of the student body the higher must be the required standards of performance. “Much will be asked of the man to whom much has been given; more will be expected of him, because he was entrusted with more.” Luke 12, 48 (Knox). This is a matter of utmost importance and must be clearly understood by alumni, students and prospective students. We can succeed in our mission, only if our program is increasingly rigorous and challenging.

STANDARDS OF ADMISSION

We will accept no more than 100 beginning students each year. Since substantially more than that number are applying, we are faced with the necessity of trying to select the “best” 100 from among those who seek admission. To that end, in the summer of 1964-65, we had a study made at the University's Computing Center, utilizing the data provided by our experience with the students who entered in 1961, 1962 and 1963. The data thus obtained were programmed and fed into the computer, which derived therefrom what is called a regression equation. This formula was then used to evaluate every applicant for admission in September of 1964.

It soon became evident, however, that evaluations made by utilizing the formula were out of line, in many cases, with judgment based simply on informed common sense. This variance between test-and-statistical evaluation on the one hand, and experienced human judgment on the other, should not have been surprising, although we had hoped against hope that the regression equation would be helpful. The fact is that the techniques for testing an applicant's abilities and for forecasting his first year's performance in law school are scarcely out of the womb. Indeed, this is recognized, tacitly at least, by the testing and statistical experts, for it was conceded that the regression equation would predict first-year class rank in law school no more accurately than within a spread of 16 places. In other words, at its best, the formula scores a bull's eye if it predicts a man will rank 16th and, in fact, he ranks 32nd — or vice versa. Moreover, even this degree of accuracy is indicated in no more than 68% of the cases.

In consequence, in passing on applications for admission in September of 1964 and again this year (1965) we relied primarily on performance in college as reflected by class rank.

Most, if not all, other law schools attach a higher value than we do to an applicant's scores on the Law School Admission Test. For our part, as already indicated, we are willing to stand on the proposition that, by and large, the quality of the work an applicant does in six or seven semesters in college is a better indicator of his capabilities than the results of a single day's tests. This is not to say that we are hostile to the Law School Admission Test or consider it useless. We simply don't give it the high priority that most other law schools seem to. In this as in other things we do not follow; we lead.

A great lawyer must have many qualities not reflected in college grades and test scores. But we must use the only criteria available. In passing on applications there is no way to ascertain whose judgment will be sound, whose counsel wise, whose advocacy compelling. So we do the best we can because we must, knowing only too well our own limitations and the limitations of the criteria on which, perforce, decisions must be based.

RECRUITMENT

Our policy of vigorous recruiting will be continued, notwithstanding the continuing increase in the number of applications. Recruitment, vigorous recruitment, will be just as necessary as ever, because its purpose is not simply to attract students but to attract students of exceptional talent. This is extremely important, as I said in my last Annual Report. Its importance derives from the fact referred to at the very beginning of this Report, namely, that the most important feature of any law school is the student body. The
best of faculties needs the stimulation of keen, alert, diligent students and the students need stimulation and instruction from fellow students as well as from their instructors. The simple fact is that no law school can become great or continue great without a truly gifted student body.

Since my last Annual Report recruiting trips have been made by the following members of the Faculty: Assistant Dean Broden and Professors Broderick, Ward, Noonan, Murphy, Shaffer and Blakey.

A number of distinguished judges were extremely helpful in this work, namely, Chief Judge Charles S. Desmond of the New York Court of Appeals, Judge Roger J. Kiley, '23L, of the United States Court of Appeals for the Seventh Circuit, United States District Judge John F. Kilkenny of Portland, Oregon, Justice William B. Lawless, '44L, of the New York Supreme Court, Justice Michael D. O'Hara of the Michigan Supreme Court, and Judge Luther M. Swygert, '27L, of the United States Court of Appeals for the Seventh Circuit.

Special mention should be made, also, of the following alumni and friends of the School, who were exceptionally helpful in giving the word about Notre Dame to prospective law students.

Of all those who have done recruiting for us the most effective, in my opinion, have been graduates of the last few years. From among them the following should have special recognition: Thomas S. Calder, '57L, Burton M. Greenberg, '58L, Daniel W. Hammer, '59L, William J. Harte, '59L, Lawrence A. Kane, '57L, Eugene L. Kramer, '64L, George P. McAndrews, '62L, George P. Michaelly, '56L, Robert P. Mone, '59L, James E. Murray, '56L, Joseph P. Summers, '62L, Paul H. Titus, '60L, George N. Tompkins, '56L, and Eugene F. Waye, '58L. It is gratifying that they are so willing, eager in fact, to help us recruit the best talent available.

I am deeply grateful to all of those named in the immediately preceding four paragraphs — and to any who should have been named but were inadvertently omitted.

SCHOLARSHIPS

It seems to me appropriate to repeat what I said in my last Annual Report.

"Since a law school's quality depends on the quality of its students more than on any other single factor, it is easy to understand why a student who has a really first-rate college record and a high score on the Law School Admission Test can obtain a scholarship at any of the Country's leading law schools. Such students are needed as pacemakers, to stimulate their fellow students and, very important, to stimulate the Faculty. The effectiveness of a faculty is by no means a constant; it rises and falls as the quality and diligence of the students improves or deteriorates."

Again and again I have said that excellence is our platform and we can be content with nothing less. The Notre Dame Law School aspires to be the best — not just good, not even very good, but the very best. To be second is to lose.

But to lead the field presupposes the availability of adequate scholarship funds. Specifically, it means we must have assurance of a rock-bottom minimum of at least $135,000 a year for scholarships.

In 1964-65 the following either joined or renewed their membership in the "500" Club, many giving a great deal more than the minimum of $100:

Edward F. Aylward, '48
Honor. Hugh C. Boyle, '24
Bruno P. Bernabei, '51L
John I. Bradshaw, Jr., '54L
Dean's Report 1964-65

Special thanks are due, also to the following benefactors other than "500" Club members.

The J. Frederick Brown Foundation
Mrs. Charles Davis
Farmers Insurance Group
Five Twenty-Five Foundation
John Houghton Harris Memorial Foundation, Inc.
Labor Policy Association
Frank J. Lewis Foundation
Joseph B. and Robert E. McGlynn
Oare, Thornburg, McGill & Deahl
South Bend Tribune Foundation, Inc.
Weymouth Kirkland Foundation
Mrs. Rosemary Zimmer

Robert F. Graham, '28
Camille F. Gravel, '35
Hon. Timothy M. Green, '47L
Burton M. Greenberg, '56L
Earl Gruber, '56L
Frank D. Hamilton, '30
Thomas R. Hardart, '48
John T. Hawley, '51L
Pau1 F. Hellmuth, '40
John T. Higgins, '52
Henry M. Hogan
Robert A. Hollencamp, '50L
Frederick N. Hoover, '47L
Clement J. Hyland, '26L
John F. Hynes, '15L
Robert Immiger, '27L
H. Clay Johnson, '34L
J. Lee Johnson III, '49L
Hon. William B. Jones, '31L
Joseph B. Joyce, '56L
Lawrence A. Kane, Jr., '57L
Edward J. Kelly, '42L
Hon. John F. Kilkenney, '23L
Joseph T. Kivlin, Jr., '48
Robert J. Kuhn, '51L
Emmett G. Lenihan, '17L
S. E. Locher, '33
Fiorenz0 V. Lopardo, '41
Peter H. Lousberg, '56L
William W. MacMillan, Jr., '53L
Joseph P. McNamara, '29L
Edward B. Madden, '31
Joseph E. Madden, '27
Edward A. Mahoney, Jr., '41

Joseph A. Marino, '60L
William A. Marshall, '42
Frank G. Matavosky, '53L
Eugene A. Mayl, '24L
Hon. Thomas J. Meagher, '36
William Austin Meshan, '46L
James P. Mernurio, '64L
Edward V. Minezskes, '41L
Jeane M. Moriarty
Marion D. Moriarty
Marion Elaine Moriarty
Maurice James Moriarty, '51L
Hon. John C. Mowbray, '49L
Thomas P. Mulligan, '38
J. W. Mullin, Jr.
Hon. James E. Murphy, '22L
John P. Murphy, '12L
Thomas J. Murphy, '54
John F. Murray, '58L
Thomas L. Murray, '51L
Louis J. Mustico, '54L
John C. O'Connor, '40L
Richard C. O'Connor, '41
Mario A. Pasion, '54L
William J. Priebe, '54L
John J. Reidy, '27L
Peter J. Repetti, '39
Martin J. Rock, '48L
Ray J. Schoonhoven, '43
Thomas L. Shafer, '61L
Eli J. Shaheen, '35L
Robert J. Simon, '47L
James A. Smith, '48L
Richard D. Smith, '59L
Thomas L. Smith, '51L
Alphonse A. Sommer, Jr., '48
William F. Spalding, '41
E. Andrew Steffen, '50L
Edmund A. Stephan, '33
Hon. Luther M. Swegert, '27L
Martin P. Tooborg, '94L
William L. Travis, '27L
Raymond W. Troy, '34
G. W. Vander Vennet, '32L
Bernard J. Volt, '17
William E. Voor, '25L
A. Harold Weber, '22
James M. Wetzel, '51L
OTHER FINANCIAL AID

Student loan programs are proliferating. Many of these programs make use of bank loans guaranteed by a sum deposited in the lending bank by a State bar association or other interested group. This is the format of our own loan program, inaugurated early in 1959 with the cooperation of the Continental Illinois National Bank and Trust Company of Chicago. It has functioned effectively. At the end of the academic year 1964-65, there were 54 loans outstanding for a total of $46,070.39. No loan was in default.

We have been allocated a substantial amount of the total to be loaned under the auspices of the American Bar Foundation.

In view of what I am about to say, I must emphasize that, in addition to the $46,070.39, borrowed under our own loan program, our students have accumulated substantial indebtedness under other loan programs. We have no knowledge, however, of the extent of their borrowing from these other sources.

A student while in law school is acquiring a capital asset and should be willing to borrow a reasonable amount to enable him to do so. Too many, it seems to me, are willing to borrow too much. Then, when the time comes to set up housekeeping, as the saying used to be, there are all sorts of things a young couple must have which were unheard of only a generation or two ago. A refrigerator, a washer, a dryer — all these things and many more must be purchased in addition to the furniture and other household articles their parents and grandparents had to buy. And, of course, everybody has to have a car these days; and everybody wants a home. Everything it goes without saying, will have to be bought on credit — so much down and so much a week or a month, including interest and other charges. If the burden of all this debt is superimposed upon a large indebtedness created to complete one's education, will not these young lawyers, in all likelihood, spend the rest of their lives in hock? Pressure to meet the payments necessarily will curtail freedom to satisfy normal desires of wife and children. Will this have no effect on domestic peace and tranquility?

All this underlines and re-emphasizes the essentiality of adequate scholarship funds.

NOTRE DAME LAWYER

During the past year the activities of the Notre Dame Lawyer have expanded beyond anything contemplated previously. Vigorous solicitation programs, designed to bring to the attention of interested segments of the legal profession the merits of the articles and student comments appearing in the Lawyer, were prosecuted to successful completion. These efforts resulted in an increase (1) in single copy sales of over 400% and (2) in subscriptions of over 33%. The beneficial effect of the promotions vindicates the editors' contention that most law reviews, while publishing useful material, fail in their responsibility to make the profession aware of the timeliness and value of their contents. When such effort is made, the response is gratifying and the interest evident. The Lawyer intends to continue its promotional activities under the direction of the Development Editor, who fills a newly-created post and is primarily responsible for public awareness of and interest in the Lawyer and, of course, for increasing its circulation.

During the past year permission was given to republish 10 articles and eight student notes which appeared in recent issues of the Lawyer.

The editorial board for volume 40 of the Lawyer was composed of:

Editor-in-Chief, Mr. John A. Lucido, St. Louis
Research Editor, Mr. John A. Beatty, Lynchburg, Virginia
Case Editor, Mr. Richard D. Catenacl, Woodbridge, New Jersey
Articles Editor, Mr. Fernand N. Dutile, Sanford, Maine
Book Reviews, Mr. John M. Lamont, Chicago
Note Editor, Mr. John P. McQuillan, Munster, Indiana
Survey Editor, Mr. Douglas F. Spesia, Joliet
Managing Editor, Mr. Michael D. Sullivan, Chicago

MOOT COURT

Mr. Justice Goldberg presided over the Court hearing the final argument in our Annual Moot Court Competition last October. Sitting with him were Judge Carl McGowan of the United States Court of Appeals, Washington, D.C., and Chief Judge William J. Campbell of the United States District Court in Chicago.
The students who participated in the argument before this distinguished tribunal were:

Mr. Henry J. Boitel of Brooklyn, a graduate of St. John's University
Mr. John H. Martin of Sacramento, a graduate of the University of Notre Dame
Mr. Kevin W. Carey of Yakima, Washington, a graduate of Gonzaga University
Mr. James J. Leonard of Kansas City, Kansas, a graduate of Brown University

Mr. Leonard won the first prize of $150; the second-place award of $100 went to Mr. Martin. These prizes were provided, in accordance with his practice, by Mr. A. Harold Weber, '22L, a member of the Law Advisory Council.

The officers of the Moot Court for 1964-65 were:

Director, Mr. Larry E. Shinnick, Fort Lauderdale
Assistant Director, Mr. Kevin W. Carey, Yakima, Washington
Assistant Director, Mr. Leonard J. Mcce, Newburgh

Mr. Justice Fortas will preside over the Court hearing the final argument next year, that is, in the fall of 1966.

STUDENT LAW ASSOCIATION

The Student Law Association is the student body's governing organ. Among its most important responsibilities are administration of (1) the Honor System of unproctored examinations and (2) our student loan program.

The officers for 1964-65 were:

President, Mr. Francis W. Riebenack, Forest Hills, New York
Vice-President, Mr. Dennis S. Sterolsky, Port Huron, Michigan
Treasurer, Mr. Taras M. Wochok, Philadelphia
Secretary, Mr. Benedict V. Aspere, Newton, New Jersey
Third-Year Representative, Mr. Larry E. Shinnick, Fort Lauderdale
Second-Year Representative, Mr. John D. Gottlick, Chicago
First-Year Representative, Mr. Charles A. Chenard, Somerset, Massachusetts.

They did a first-rate job and Mr. Riebenack, in particular, deserves sincere thanks.

GRAY'S INN

Named for one of the four major Inns of Court, this student organization invites qualified speakers to discuss current social, economic and cultural topics which have a bearing on law, as well as strictly legal subjects. The speakers are then expected to answer questions which, at times, are extremely searching. Among those who appeared at the Inn's informal, off-campus meetings during 1964-65 were the following:

Mr. Thomas P. Ford of the Wall Street law firm of Shearman & Sterling
Mr. Wilson Baker, Director of Public Safety of Selma, Alabama
Mr. Hugo Winterrowd, Special Agent in charge of the Administrative Division of the F.B.I.'s New York office
Mr. Norman J. Barry of the Chicago law firm of Rothschild, Hart, Stevens & Barry
Professor John T. Noonan of our Faculty
Mr. William Stringfellow of the New York bar

The officers for 1964-65 were:

Treasurer, Mr. Steven A. Weidner, Waterloo, Iowa
Vice-Treasurer, Mr. Henry J. Boitel, Brooklyn
Master of Revels, Mr. Edward J. DenDooven, Neenah, Wisconsin
Keeper of the Black Book, Mr. Joseph P. Della Maria, Jr., Chicago

LEGAL AID AND DEFENDER ASSOCIATION

The Legal Aid and Defender Association was organized formally last year to assist in the defense of those who cannot afford to pay even a minimal fee to counsel. It received and processed more than thirty cases involving convictions for murder, rape, burglary and forgery. Members of the Association conducted investigations, did extensive research, held interviews and, in many instances, wrote memoranda in anticipation of the filing of post-trial and appeal motions.

Plans for the Defender Association include working very closely with a venture it is hoped can be set up, with the aid of funds from the Office of Economic Opportunity (O.E.O.) to provide legal services to those not able to pay legal fees.
The spirit of the men who participated in the Defender program was excellent. They were actuated solely by a realization that there is a need in the community, calling for action by dedicated, competent people. They sought to fill that need to the extent that, as students, it was possible for them to do so. I think I can say they were sparked by what I once called “a fierce partisanship for justice.” I salute them.

LEGISLATIVE BUREAU

A Student Legislative Bureau was organized, with Professor Robert E. Rodes as Faculty Advisor. It is the policy of the Bureau to draft legislation at the request of legislators or others with substantial legislative programs. The actual drafting, of course, is preceded by exhaustive research into existing law and legislation in other jurisdictions. Requests were received from several members of the Indiana General Assembly and from one municipal agency.

PRIZE WINNERS

Mr. Michael C. Farrar of Waterbury, Connecticut, top man in the graduating class, was the recipient of the Hoynes Award of $100, generally considered the number one prize.

The Lawyers Title Award of $100, generously provided by the Lawyers Title Insurance Corporation of Richmond for excellence in the law of real property, went to Mr. Fernand N. Dutile of Sanford, Maine. After receiving his law degree, Mr. Dutile was employed by the Department of Justice under the Attorney General’s Recruitment Program for Honor Law graduates.

The Farabaugh Prize of $25, given in memory of the late Gallizzen A. Farabaugh of South Bend, was won by Mr. John A. Lucido, Editor-in-Chief of the *Notre Dame Lawyer*.

Mr. Douglas F. Spesia of Joliet, Illinois, was the winner of the Law Week Award, a year’s subscription to United States Law Week. This prize goes to the student whose academic work shows the greatest improvement in his senior year.

The A. Harold Weber Awards for the best senior research papers were won by Mr. Ronald L. Sowers of Sheboygan Falls, Wisconsin, who received the first prize of $150; and by Mr. Chalmer P. Acker-man of Bridgman, Michigan, and Mr. John T. Mulvihill of Grand Rapids, each of whom received half ($50) of the second prize.

As noted earlier in this Report, the A. Harold Weber Moot Court Awards went to Mr. James J. Leonard, Jr., of Kansas City, Kansas, who received the first prize of $150 and Mr. John H. Martin of Sacramento, who received the $100 second prize.

PLACEMENT

Competent young lawyers are in demand. More professional openings were brought to our attention than we could fill from the members of the class of 1965. To be sure, primary responsibility for finding a suitable professional opportunity rests on the students themselves. But we recognize an obligation to help them in every way we can, and I do not know of any graduate in recent years who is not satisfactorily situated.

Eight men were appointed to judicial clerkships, as follows:

- Mr. Kevin W. Carey by United States District Judge John F. Kilkenny of Portland, Oregon
- Mr. Richard D. Catenacl by United States District Judge Robert Shaw of Newark
- Mr. Michael C. Farrar by United States District Judge Frank Ellis of New Orleans
- Mr. John M. Lamont by United States District Judge Robert A. Grant of South Bend
- Mr. James J. Leonard, Jr., by Judge Laurens L. Henderson of the Arizona Superior Court
- Mr. Larry E. Shinnick by United States District Judge Joseph C. McGarraghy in Washington, D.C.
- Mr. Michael D. Sullivan by Judge Roger J. Kiley of the United States Court of Appeals for the Seventh Circuit
- Mr. Frank J. Walz by Judge Luther M. Swygert of the United States Court of Appeals for the Seventh Circuit
- Mr. Ronald L. Sowers, ’65L, was placement liaison man for his class and did a grand job.

Those who have positions to fill and are desirous of considering men from the class of 1966 are urged to communicate with us early in the fall, since there is a strong trend toward earlier commitments. Campus interviews can be arranged to suit a visitor’s convenience,
and every member of the Faculty is happy to give his personal evalua-
tion of an applicant. Please direct inquiries to Assistant Dean
Thomas F. Broden, Law Building, Notre Dame, Indiana.

BAR EXAMINATION RESULTS

Notwithstanding he has a law degree, a graduate cannot practice
law until he has taken and passed a bar examination. Ours is a
professional school. Students come to us who want to practice law.
Hence we cannot be indifferent to their success or failure when they
take a bar examination. A bar examination is not a test of the
capabilities of those who take it or of the quality of their legal
education. Only the poorest schools gear their instruction to the bar-
examination success of their students. On the other hand, if a man
has a quality education, there is no excuse for him to fail, except
in case of illness or some similar circumstance. But a quality educa-
tion, without more, will not suffice in many cases. For one thing, the
bar examinations cover three years' work. It is folly to go into such
an examination without having systematically prepared for it. This is
the most frequent cause of failure on the part of our students; and
very largely, I think, explains the miserable showing made by the
class of 1964, only 82.6% of whom passed on the first try in the
State of intended practice. One of them, who had failed the first
time, wrote me an interesting letter after passing the second time.
Portions of his letter follow.

"I took the Bar in July of 1964 and failed it. However, I have
no excuse and there can be no excuse for a graduate of the Notre
Dame Law School. I was cocky when I should have been cautious.
This will never happen again. I feel not unlike the old
gentleman, reputedly the wisest man in town, who was asked:

"To what would you attribute the fact that you know so
much?"

"Good judgment," replied the sage. "I'd say it was my good
judgment."

"But where did you get your good judgment?" persisted the
friend.

"That I got from experience."

"But where did you get your experience?"

"From my bad judgment!"

PROGRAM OF INSTRUCTION

The first question which confronted us on the eve of the opening
of classes in September of 1964 was how to handle the 99 beginning
students. It has been our hypothesis for the last decade that 35 or
40 is the optimum class size. Dividing the beginning students into
two sections would have been inconsistent with that hypothesis,
which we believe has the support of our experience. On the other
hand, teaching the same material to three sections separately, that is,
doing it nine or twelve times weekly — well, what could be more
deadly? We did divide the beginning students into three sections of
approximately 33 each, but, at the suggestion of Assistant Dean
Broden, adopted a new teaching rhythm. To illustrate, assume a
Monday-Wednesday-Friday sequence, that is, a course taught each
week on those days. We did not teach each section separately. On
the contrary, we taught two of the sections, say (a) and (b), to-
gether on Monday morning; and that afternoon section (c) ap-
proximately 33 students, by itself. On Wednesday section (a) and
(c) were taught together in the morning and section (b) in the
afternoon by itself. On Friday sections (b) and (c) were taught
together in the morning and section (a) by itself in the afternoon.
That was the pattern, although there were variations in some courses
for particular reasons. The pattern, that is, this new approach, was
designed to insure against the depersonalization of large classes. It
worked well; and it had some by-products of great value. The teachers
found that they learned to know the students very quickly as a
result of meeting with one of the three sections, by itself, each week.
Knowing the students they found they could handle a class of 66
(two sections combined) with little loss of the active student partic-
ipation which we believe to be of the essence of top quality legal edu-
cation. A further bonus, a very important one, resulted from this
system of rotation: every one of the beginning students knew every
one of his classmates within a very few weeks.

Ours is a small school. We intend to keep it that way. No more
than 100 beginning students will be admitted each September. That
will give us a stable student population, we estimate, of between 250
and 275. In a school of that size every teacher will know every
student; every student will know every teacher; and every student
will know every other student. In short, we will have a community.
To that we are committed. No pedagogical assembly line for us.

Since the inception of our Practice Court, Judge Luther M.
Swygert, '27L, of the United States Court of Appeals for the
Seventh Circuit, has heard all the cases with only infrequent and occasional help from other judges. He has done a magnificent job at great personal sacrifice. The time has come, however, to give him a long overdue respite, although it should be emphasized that he did not ask for it. Accordingly, beginning with the academic year 1965-66 the Practice Court will consist of seven judges. Judge Swygert will serve as Chief Judge. Other members of the court will be Chief Judge Robert A. Grant, '30L, and Judges Jesse E. Eschbach and George N. Beamer, '29L, of the United States District Court for the Northern District of Indiana; and Judges F. Kenneth Dempsey, E. Spencer Walton, '36L, and Norman Kopee, '51L, of the Superior Court of St. Joseph County. It is a privilege to add them to our Practice Court, and we are grateful for their willingness to serve.

No one could understand the magnitude of Judge Swygert's contribution, since the beginning of our Practice Court program, without some understanding of how the program operates. To that end I quote the following from my Report for 1963-64:

"Our Practice Court, under the direction of Professor Barrett and United States Circuit Judge Swygert, '27L, generates more intense interest than any other feature of our instructional program. The trials are held in the courtroom of the United States District Court in South Bend and are presided over by Judge Swygert. The witnesses and parties are South Bend business and professional men and their wives, and members of the Local Police and Fire Departments. Medical testimony, when appropriate, is given by physicians from the South Bend Medical Foundation and from St. Joseph's Hospital.

"The student counsel are supplied with the name and address of their client (always someone unknown to them) and with nothing else. All they ever know about the case is what they elicit from their client and from the witnesses, whose names and addresses they must obtain from their client.

"Having gotten the facts by interrogating their client and the witnesses, they must decide what to do, what sort of pleading to file, what to prove, which witnesses to use and in what order. They must then prepare and file, three days before the case is heard, a trial brief covering fully the issues of fact and law involved and containing requested instructions.

"The cases are called promptly at 8:30 in the morning and, more than once, the jury (made up for the most part of first-year law students and girls from St. Mary's College) has not brought in its verdict until 8:30 that evening."

THE FACULTY

No law school, repeat, no law school has a better Faculty. The men who have been appointed on my recommendation range in age from 29 to 40. Their average age is 36. Taking the Faculty as a whole, the span is from 29 to 60 and the average age is 43. So it is a young Faculty, dedicated and productive — and not merely productive but creatively productive. Our teachers haven't reached the age when so many begin to coast, relying on whatever momentum they may have built up in their youth. I don't believe they ever will reach that age; they are far too dedicated, too involved in the subjects they teach, ever to be afflicted by the "horrible insouciance" lamented by Father Ong, American Catholic Crossroads, 105 (Macmillan 1960).

And they enjoy teaching and are interested in the students. This attitude was noticed by a prospective law student, who wrote me about it:

"At Law Day, I saw something that I never really experienced in undergraduate school. . . . I guess that something was that somebody cared!"

Professor Edward F. Barrett received a very appreciative and congratulatory letter from the trial counsel of one of the top law firms of Chicago, whom he had invited to witness one of the top trials in our Practice Court. Portions of his letter to Professor Barrett follow:

"Your students performed admirably, due to an obviously excellent job on your part. I even agree with the jury verdict — which is a rarity for a practicing attorney!

"I hope the day will come when we will be able to conduct our course on trial practice at my law school on the same basis as you do at Notre Dame."

Professor G. Robert Blakey's article on "The Rule of Announcement and Unlawful Entry: Miller v. United States and Ker v. California," 112 U.Pa.L.Rev. 499, was cited and described as "an excellent discussion" in State v. Mariano, 152 Conn. 85 (1964). He testified last spring in favor of H.R.6508, which subsequently became the Law Enforcement Assistance Act of 1965; and addressed the Buffalo Police Academy in June on "Search and Seizure Problems and Organized Crime." Recently he was appointed Deputy Prosecuting Attorney (along with Professor Robert E. Rodes) to try the case against the owners of a local theater for showing a moving picture the Grand Jury considered obscene.
Professor Thomas F. Broden, Jr., was appointed assistant dean. Pope Paul VI conferred on him the Knighthood of St. Gregory the Great. He was invited to and did attend the Conference on Law and Poverty, called by the Attorney General and the Director of the Office of Economic Opportunity (O.E.O.). Subsequently, he was appointed consultant to O.E.O. Before that he had served as a special consultant to the Ford Foundation to evaluate the effectiveness of the large grants made by the Foundation several years ago to support law-teaching training programs at Harvard, Yale, Columbia, New York University and the University of Wisconsin. The Foundation wrote to me that he "did an outstanding job. His report is exceptionally valuable, combining as it does meticulous attention to facts and detail with a very great amount of original thinking." Dean Broden testified twice against bills designed to withdraw federal court jurisdiction over state reapportionment cases. In each instance he presented a statement signed by both of us.

Professor John J. Broderick was promoted to the rank of full professor. At the same time he was relieved of his administrative duties to enable him to devote all his time to teaching.

Reverend William M. Lewers, C.S.C., joined our Faculty, and we are simply delighted to have him. In point of fact, I have been seeking to add Professor Lewers to our Faculty for nearly eleven years — since January of 1955. He obtained both his undergraduate and law degrees at the University of Illinois, where he was a close friend of Professor Murphy of our Faculty. Following graduation he returned to Kansas City, his home, and practiced law there for two years. He then went to the Yale Law School on a Sterling Fellowship. At Yale at the same time, also on a Sterling Fellowship, was Professor Ward of our Faculty. It was he who first brought Professor Lewers to my attention. By that time he was teaching in the University of Kentucky College of Law. I invited him to visit Notre Dame to explore with us the possibility of his joining our Faculty. Upon receiving my letter he telephoned me that quite some time before he had received an offer from his own school (Illinois) which he considered very attractive. So, he said, he didn’t think it would be fair to come, at our expense, since he was much inclined to accept the Illinois offer. I replied: "Come anyway." He came — his first visit to Notre Dame. He did go to Illinois but he must have been impressed by what he saw and heard on that first visit to Notre Dame. For, after teaching for several years at the University of Illinois, he joined the Congregation of Holy Cross and on June 9, 1965, was ordained in Sacred Heart Church on the Campus. So now, at long last, he is a member of our Faculty — an outstanding teacher and a tremendous man, combining genuine compassion and abundant common sense.

Professor Edward J. Murphy was promoted to the rank of full professor. He is presently working on a revision of his Contracts casebook and is now teaching the course on Negotiable Instruments. He is one of the moderators of "The Professors," a weekly, open-end type discussion program of WNDU-TV, South Bend.

Professor John T. Noonan’s great book entitled Contraception: A History of its Treatment by the Catholic Theologians and Canonists was published by the Harvard University Press. This is an absolutely original contribution, no one else ever having undertaken to put the genesis and development of this doctrine under the microscope of history. It is creative scholarship of the highest order, and has made and will continue to make a profound impression. Time's review of the book includes the following:

"... during the worldwide debate on (birth control) few Catholics have had the chance to examine the full record of what Popes and theologians of other centuries really said about birth control. Now they have. In his book Notre Dame Law Professor John T. Noonan, Jr. . . . has produced a magisterially documented history of church teaching on birth control, from Genesis to genetics. Noonan conclusively proves that Catholic doctrine has consistently anathematized contraception — yet also suggests that there are good reasons why the traditional stand can change."

Following the preparation of his book, Professor Noonan was appointed consultant to the Papal Commission on Population and attended the Commission’s meeting in Rome last spring. Since then he has addressed meetings at many universities as well as non-university groups. Now he has been awarded a Guggenheim Fellowship to make a study of matrimonial causes in the ecclesiastical courts of the Roman Catholic Church. Again for the first time, so far as I know, the study will focus on the procedures followed in these courts. That is, Professor Noonan will be seeking to ascertain how the Church courts actually function.

A memorandum by Professor Roger P. Peters, discussing the constitutional authority of common councils in Indiana cities to enact human-rights ordinances, is being relied on to support the validity of the ordinance creating the Gary Human Relations Commission.

As to Professor Robert E. Rodes, I quote with pleasure a letter to him from a 1963 graduate, a carbon of which he sent to me:
"I want to tell you that I am finding the teaching method you used in your corporations course of great value to me now. At the time I took the course I viewed the problems with skepticism, not seeing how they could possibly relate to the problems I would face in practice. However, in the months I have been with this firm, I now see that your multi-issued problems, each having interesting ramifications, are closer to what I will be facing than single-issued problems illustrating single black-letter principles. I am growing more appreciative of your teaching method every day — I wish I had more fully taken advantage of it."

A tribute well deserved.

Professor Thomas L. Shaffer was invited to and did attend a workshop for teachers of Trusts at New York University School of Law this summer. He addressed the St. Joseph County Bar Association on the use of "pour-over trusts" in estate planning, and continued to write a monthly column, "Young Lawyers in Action," in Res Gestae, the monthly publication of the Indiana State Bar Association.

Professor Bernard J. Ward continued the excellent work he has been doing as Reporter to the Advisory Committee on Appellate Rules of the Judicial Conference of the United States. One of the Country's best known procedure specialists wrote me of his great respect for the high quality of Professor Ward's scholarship. I share his view, as do the members of the Advisory Committee.

A three-judge United States District Court, sitting in Indianapolis, appointed me to a committee of three Indiana law-school deans to prepare a plan apportioning the Indiana General Assembly, for consideration by the Judges, against the possibility that the Legislature will not enact a constitutional measure. The appointment of the committee of deans followed the Court's invalidation of Indiana's most recent apportionment statute. Earlier I was appointed to the Executive Committee of the National Citizens Committee for Human Relations. Honorable Arthur H. Dean is chairman of the Committee.

**SYMPOSIUM**

One of the means by which we have sought to dramatize public-law problems and responsibilities has been a series of symposia, each dealing with a highly controversial problem of urgent national concern. The following have been considered in this way:

- Legislative Investigations
- The Role of the Supreme Court in the American Constitutional System
- Problems and Responsibilities of School Desegregation
- Labor Union Power and the Public Interest
- Next Steps to Extend the Rule of Law
- Interstate Organized Crime
- The Constitutional Amendments Proposed By The Council of State Governments

In keeping with the tradition thus established, a symposium on Violence in the Streets was held on March 27. Various aspects of this breakdown of law and order were discussed by the following:

- Dr. Gurstin Goldin, Department of Psychiatry, School of Physicians and Surgeons of Columbia University
- Professor Allen D. Grimshaw, Indiana University
- Police Commissioner Howard R. Leary of Philadelphia
- Dean Joseph Lohman, School of Criminology of the University of California at Berkeley
- Mr. Arnold Sagalyn, Director of the Office of Law Enforcement Coordination, United States Treasury Department and United States Representative, Interpol
- Mr. William Stringfellow, New York City attorney
- Mr. Roy Wilkins, Executive Director of N.A.A.C.P.

I opened the Symposium with a short analysis of the problem, as I see it, and the posture which should be assumed by the authorities, as follows:

"The riots in 1964 in northern cities demand serious attention by all who value a free, open and civilized society. But there has been rioting far removed from the violence in Negro neighborhoods, which is apt to come to mind when violence in the streets is mentioned. Thousands of young white people, for example, rioted in and around small, quiet resort towns in Oregon and New Hampshire as the summer season came to a close. More recently there have been campus riots, beginning with the continuing disorders at Berkeley, whose name, I suggest, ought to be Milquetoast.

"In short, violence in the streets — and, since September, on
the campus—has become an ugly and menacing feature of American life.

"What is the cause of these lawless outbreaks? The evidence which has come to my attention indicates that (1) the 1964 riots were not race riots, they were youth riots; (2) contrary to what Dr. Martin Luther King has said, they were not due to "environmental causes" that is, the dehumanizing conditions of slum living; and (3) they were not caused by police brutality. Brutality has been an occupational disease of the policeman in every age and place and, unhappily, we have our share of it. But we have curbed it more successfully, I believe, than any nation except Britain. However that may be, "police brutality" is no more than a convenient whipping boy as regards the street riots of 1964.

"What, then, has caused these violent outbreaks? We live in an age of total revolution. There is revolution not only in race relations but in morals, in knowledge and technology—everywhere, even in the Church. In short, we are living in the midst of a tremendous explosion of constantly accelerating change. The young people of today, regardless of color, naturally reflect the unsettlement of all this turbulence. It is thus easy for them to brush aside the precepts handed down to them, and they are more lawless and more violent, but, at the same time, they are more sensitive to injustice, have a greater sense of mission, are more generous and more courageous than earlier generations.

"We must admire them when they devote their free time to tutoring underprivileged youngsters in slum areas, and when they risk discomfort, personal indignities, bodily harm and even death to help in the registration of Negro voters in Mississippi and Alabama. But we must not shrink from our duty when they riot in our streets and on our campuses. Law and order are a precondition to civilized living and must be preserved. There are well-known techniques for dealing with riots. They should be used. If they are used, as they should be, some of the young rioters will get hurt. If enough of them get hurt, they and their fellow scofflaws may think twice before starting another riot. In short, I venture to suggest it's time to get tough when violence erupts either in the streets or on the campus. And let no one mistake a peaceful demonstration for a riot.

"I should add—indeed, I should have said at the very beginning—that these are the musings of one who freely admits he is not an authority on any aspect of the subject of our Symposium. Each member of the panel is an authority, and we believe they will illuminate the problem we have met to probe and analyze."
exclusive use in the Memorial Library, and little-used books will be
transferred from time to time to this Law Library segment of the
Memorial Library, thus relieving the pressure on our stacks. Not a
desirable arrangement but a viable one.

NATURAL LAW INSTITUTE

Publication of the tenth issue of the Natural Law Forum was
delayed by the preoccupation of the Editor-in-Chief, Professor
Noonan, with his great work on the history of the Church's teaching
on contraception. Contributors to the tenth issue, now on the press,
will represent eight nations and twelve universities in this Country
and abroad.

A distinguished law teacher and legal philosopher has written:
"The Forum has certainly become our country's leading journal
on legal philosophy and is everywhere admired and respected."

In addition to the Editor-in-Chief, Professor John T. Noonan of
our Faculty, the following are members of the Forum's Editorial
Board:

Professor Vernon J. Bourke, St. Louis University
Professor David Daube, Oxford University
Professor A. P. d'Entraves, Turin University
Professor Carl J. Friedrich, Harvard University
Professor Lon L. Fuller, Law School of Harvard University
Professor E. Adamson Hoebel, University of Minnesota
Professor Iredell Jenkins, University of Alabama
Professor Harry W. Jones, Columbia University School of Law
Professor Wilber G. Katz, University of Wisconsin School of Law
Provost Edward H. Levi, University of Chicago
Professor Antonio de Luna, University of Madrid
Professor Myres S. McDougal, Yale University Law School
Professor F. S. C. Northrop, Yale University Law School
Professor Adolf Portmann, University of Basel
Professor H. A. Rommen, Georgetown University

Hereafter the Forum probably will come off the press in the fall
rather than in the spring.

Notre Dame Law Association

Mr. Raymond J. Broderick, '35, of Philadelphia, was elected
president at the annual meeting in June. He has set as his goal more
than twice as much as the largest amount heretofore raised for the
Law Scholarship Fund, and has made an inspired start toward
achieving that objective.

Other officers elected at the June meeting follow:
Honorary President, Mr. James M. Wetzel, Chicago
First Vice-President, Mr. Joseph A. Tracy, New York
Second Vice-President, Mr. Alphonse A. Sommer, Jr., Cleveland
Third Vice-President, Mr. William F. Spalding, Los Angeles

Directors of the Association, including the officers just listed, follow:

Term expiring in spring of 1966:
Mr. Thomas Calder, '57L, Cincinnati
Mr. Thomas Conneely, '64L, Chicago
Mr. Daniel Downey, '44, West Palm Beach
Mr. Carl F. Eiberger, '54L, Denver
Mr. Patrick J. Faber, '37L, Indianapolis
Mr. Hugh F. Fitzgerald, '34, New York
Mr. Robert P. Genen, '57L, Newark
Mr. Camille F. Gravel, Jr., '55, Alexandria, Louisiana
Mr. Hugh J. McGuire, '60L, Detroit
Mr. George P. Michael, Jr., '56L, Washington, D.C.
Mr. John W. Schindler, Jr., '41L, Mishawaka, Indiana
Mr. Alphonse A. Sommer, Jr., '50, Cleveland
Mr. Ronald L. Sowers, '65L, Fort Wayne
Mr. James M. Wetzel, '51L, Chicago

Term expiring in spring of 1967:
Mr. Raymond J. Broderick, '35, Philadelphia
Mr. John M. Grimme, '33L, Pittsburgh
Mr. Philip J. Faccenda, '51, Chicago
Mr. Thomas W. Flynn, '35, Honolulu
Mr. Burton M. Greenberg, '38L, St. Louis
Hon. John F. Kilkenny, '25L, Portland, Oregon
Mr. George B. Morris, Jr., '40L, Detroit
Hon. J. Gilbert Prendergast, '30, Baltimore
Mr. William F. Spalding, '41, Los Angeles
Mr. Martin Torborg, '34L, Fort Wayne
Mr. Joseph A. Tracy, '42, New York
Mr. Leo B. Ward, '20L, Los Angeles

Term expiring in spring of 1968:
Mr. William E. Brown, '28, Milwaukee
Mr. Robert T. Burke, Jr., '36, Louisville
Hon. Victor H. Fall, '27L, Helena
Mr. E. Milton Fairley III, '52L, Richmond, Virginia
Mr. James C. Higginson, '53L, Berkeley, West Virginia
Mr. Gerald J. McGinley, '26L, Ogallala, Nebraska
Mr. William P. Mahoney, Jr., '40L, Phoenix
Mr. George E. Fletcher, '51L, Houston
Mr. William H. Schroeder, '35, Atlanta
Mr. David M. Thornton, '53L, Tulsa
Mr. George W. Vander Vennet, '32L, Davenport
Mr. Lawrence Weigand, '26, Wichita
Mr. James W. Wrape, '25L, Memphis

The Association’s Executive Secretary, Mrs. Jeannette Allsup, has done a superb job, making a tremendous contribution not only to the Association but to The Law School as well. She is entitled to a unanimous vote of thanks.

LAWS ADVISORY COUNCIL

Mr. Morris B. Abram of the New York law firm of Paul, Weiss, Rifkind, Wharton & Garrison, was appointed to the Council. We welcome him.

The full membership of the Law Advisory Council follows:
Mr. Morris B. Abram, New York
Mr. Norman J. Barry, '43, '48L, Chicago
Honorable Hugh C. Boyle, '24, Pittsburgh
Mr. John E. Cassidy, '17L, Peoria
Mr. Patrick F. Crowley, '33, Chicago
Honorable Charles S. Desmond, '33, Chicago
Mr. John W. Dorgan, '29, Chicago
Mr. Oscar John Dorwin, '17, New York

CONCLUSION

When I was invited by Father John Cavanaugh to leave the practice of law and accept the position I now hold, I told him that, if I became dean, Notre Dame would not have a comfortable law school. His response was that Notre Dame did not want a comfortable law school — that it wanted and always would want a law school “in itself excellent.” We have attained that goal, we have achieved excellence, Notre Dame has a law school “in itself excellent.”

Though we have achieved excellence, though there is no better law school anywhere, we cannot slacken our efforts. Indeed, the very fact that we have achieved the goal demands fresh endeavors to achieve greater and constantly increasing excellence. Unless we now pursue that with all our will and strength, we will slip, sideways at first and then back. One cannot stand still; willy-nilly there is movement — movement up or down, forward or backward. There is no third choice. The evidence for this is impressive; it has been recognized by distinguished men in widely diversified fields.

Alfred North Whitehead:
“Advance or Decadence are the only choices offered to mankind.”
Adventures of Ideas, 354 (Mentor 1933).
Teilhard de Chardin:
"We are confronted with two directions and only two: one upwards and the other downwards, and there is no possibility of finding a half-way house." The Phenomenon of Man, 232 (1960).

John Courtney Murray:
"... any given measure of success demands enlargement on penalty of instant decline." We Hold These Truths, p. VII.

Isaac Stern on a television interview:
"Unless you keep reaching you fall down."

The President of General Electric, Fred J. Borch:

Neil McElroy and Howard Morgens, Chairman and President, respectively, of Procter & Gamble:
"A continuous dissatisfaction with products as they are is the proper stance of a successful Procter & Gamble scientist. When one product improvement is made, the improved product is immediately made the springboard for takeoff for the next improvement." Report of 1965 Annual Meeting 3-4.

Notre Dame is not just a school where law is taught; it is a school where lawyers are made. Our business, in the words of Mr. Justice Holmes, "is to teach law in the grand manner, and to make great lawyers." "The Use of Law Schools" in Collected Legal Papers, 37 (1921). Among other things, that requires us to keep before our students what Whitehead called "the habitual vision of greatness," The Aims of Education 77 (Mentor), and to keep their powers always "at full stretch." Id. 46.

What has been accomplished has been the result of the devoted support and unflinching loyalty of many extremely able people — the University Administration, the Faculty, the student body and its leaders, the alumni and many others, friends of the School whose benefactions have been indispensable. To every one of them I express my deep personal gratitude.

Respectfully submitted,
Joseph O'Meara
Dean
August 15, 1965

FACULTY PUBLICATIONS

1964-65

G. Robert Blakey

Book:

Thomas F. Broden

Article:

Book Review:

John J. Broderick

Book:

John T. Noonan

Book:

Articles:
Tokos and Atokion: An Examination of the Natural Law Arguments against Usury and against Contraception, accepted for publication in The Natural Law Forum.

Contraception, accepted for publication in The New Catholic Encyclopedia.
Book Review:

JOSEPH O'MEARA

Articles:
Introduction, Symposium on Violence in the Streets, 40 *Notre Dame Lawyer* 497 (1965).

ROGER PAUL PETERS

Book Review:

ROBERT E. RODES

A Supplementary State Civil Rights Act, accepted for publication in the *Harvard Journal on Legislation*.

THOMAS L. SHAFFER

Book:

Articles:

Book Review:

“... It is a very real privilege to have been born in this particular period of history, face to face alike with the opportunity for the alert and the challenge to the valiant which always exists in a time like the present. . . .”

—BISHOP WRIGHT