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Report of the Dean 1965–1966

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Notre Dame Law School

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Report of the Dean



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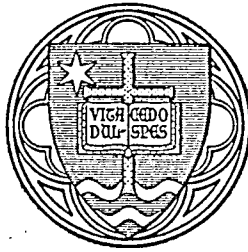
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Notre Dame Law School



Report of the Dean

1965-1966

From a letter received recently from a 1959 graduate:

“I consider myself fortunate to have attended the Law School at Notre Dame. The major reason for this is the influence the school had on my desire and respect for doing a job in the best possible way. The Law School developed my appreciation for the attitude . . . that ‘second best is still a loser.’”

Dean's Report 1965-66

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 1965 was 76. This represented a 23% decline from the 99 beginning students who registered in the fall of 1964. Applications for admission increased again — to 501 from 477 the year before. Obviously, therefore, the drop in the number of beginning students (forecast on the first page of my last Annual Report) was due to greater selectivity.

The number of applications for admission has been growing since 1954, as the following table shows:

1954	126	1960	266
1955	158	1961	274
1956	171	1962	284
1957	207	1963	289
1958	237	1964	412
1959	236	1965	477
		1966	501

This is an increase of approximately 400%.

Enrollment has not kept pace with the growing number of applications because we have been raising our standards of admission. Entrance requirements for the academic year 1967-68 will be the highest in the history of the School.

Returning to our students, total enrollment in the fall of 1965 was 197. Sixty-eight colleges and universities and 25 States were represented in the student body. Twenty percent of the students were married; 6% were veterans. The students ranged in age from 20 to 39. Eighty-seven percent were between 21 and 24, inclusive.

MORTALITY

The failure rate for first-year students declined to its lowest level under our present program of instruction. For the last five years the failure rate has been as follows:

	<i>1st year</i>	<i>2nd year</i>	<i>3rd year</i>
1961-62	14.1	7.3	2.0
1962-63	10.6	2.0	0.0
1963-64	10.2	6.4	0.0
1964-65	16.2	3.5	0.0
1965-66	10.0	1.5	0.0

The decline in the failure rate definitely cannot be expected to continue. I repeat what I said in last year's Report. 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 demanding.

Total first-year attrition (including voluntary as well as involuntary withdrawals) was 21%, the lowest, with one exception, since I came to Notre Dame. In 1961-62 it was 20.3%. The high point of total first-year attrition was reached in 1957-58, when it was 54% — a sorry figure.

As our Bulletin points out "we have an arduous and highly competitive program, and no one should come to Notre Dame unless he is prepared for continuous hard work." Prospective students should clearly understand this. They should know 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., 1958). We can keep pace only by constantly raising our sights.

To any who are averse to "hard, unrelenting mental labor"¹ and very stiff competition, I recall the words of a former President: "If you can't stand the heat, get out of the kitchen." That will deter only a few. Most men, in this and in every other age, have responded to a challenge. Consider this advertisement:

Men wanted for Hazardous Journey. Small wages, bitter cold, long months of complete darkness, constant danger, safe return doubtful.

That is said to have been one of the most effective advertisements ever written. Composed by Sir Ernest Shackleton, explorer of the South Pole, it ran in London newspapers at the turn of the century. Of the response to the ad, Sir Ernest said: "It seemed as though all the men in Great Britain were determined to accompany us." *The National Observer*, November 29, 1965, p. 1.

STANDARDS OF ADMISSION

I have already said (p. 1) that applicants for admission in 1967-68 will have to meet higher requirements than ever before in the history

¹ Hesburgh, *Patterns for Educational Growth* 59 (1958).

of the School. Determining the standards and applying them is a difficult and unrewarding task. No formula, applied mechanically, can serve the purpose. Experienced human judgment must be and is the final arbiter. But that judgment, unhappily, must take account of the only criteria available and these are not by any means infallible. I am acutely conscious, therefore, that some applicants are rejected who will do well in law and life, and that some are accepted whose record in law school and later will reflect the mediocrity which Admiral Halsey is reputed to have called "the unforgivable sin." In this situation all we can do is the best we can, taking some comfort from the steady improvement in the capabilities of our student body.

A further major change in the standards of admission was put into effect. This makes qualified young women eligible for admission on the same terms and conditions as men; and two of them, the first in the long history of the School, are expected to register for the forthcoming academic year. They are most welcome.

RECRUITMENT

We will continue our policy of vigorous recruiting, notwithstanding the continuing increase in the number of applications. It is just as necessary as ever, because its purpose is not simply to attract students but to attract students of exceptional talent. This is a matter of urgent importance. Its importance derives from the fact, referred to at the beginning of this Report: 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, as I have said before, that no law school can become great or remain great without a truly gifted student body. This puts primary emphasis on intellectual capacity, for we agree with Alfred North Whitehead:

In the conditions of modern life the rule is absolute, the race which does not value trained intelligence is doomed. *The Aims of Education* 26 (Mentor).

I am well aware of what has been described as "the insidious cloud of anti-intellectualism which hangs over this Country like a great shroud." Charles Allen Thomas, President of Monsanto Company, in *Monsanto Magazine*, October-November 1955, p. 21. More than once I have been criticized for insisting too much on intellectual capabilities in admitting applicants and awarding scholarships. And I am not the only one who has been a target for criticism on similar ground, as the following excerpt indicates.

Mr. Palcuzzi, principal of the Jefferson Elementary School, once got tired of hearing objections to special provisions for gifted children, so he decided to spice an otherwise mild PTA meeting with *his* proposal for gifted children. The elements of the Palcuzzi program were as follows:

1. Children should be grouped by ability.
2. Part of the school day should be given over to special instruction.
3. Talented students should be allowed time to share their talents with children of other schools in the area or even of other schools throughout the state. (We will pay the transportation cost.)
4. A child should be advanced according to his talents, rather than according to his age.
5. These children should have special teachers, especially trained and highly salaried.

As might be expected, the "Palcuzzi Program" was subjected to a barrage of criticism. "What about the youngster who isn't able to fit into the special group; won't his ego be damaged?" "How about the special cost; how could you justify transportation costs that would have to be paid by moving a special group of students from one school to another?" "Mightn't we be endangering the child by having him interact with children who are much more mature than he is?" "Wouldn't the other teachers complain if we gave more money to the instructors of this group?"

After listening for ten or fifteen minutes, Mr. Palcuzzi . . . said that he wasn't describing a *new* program for the intellectually gifted, but a program the school system had been enthusiastically supporting for a number of years — the program for *gifted basketball players!* Gallagher, *Teaching the Gifted Child* 89-90 (Allyn and Bacon, Inc., 1964).

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

A number of distinguished judges were extremely helpful in this important work, namely, Chief Judge Desmond of the New York Court of Appeals, Judges Roger J. Kiley, '23L, and Luther M. Swygert, '27L, of the United States Court of Appeals for the Seventh Circuit, and Justice William B. Lawless, '44L, of the New York Supreme Court.

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.

In Boston: Mr. Charles J. O'Malley, '64L.

In Buffalo: Justice William B. Lawless, '44L, and Professor David J. Valik, '57.

In Champaign-Urbana: Mr. John C. Hirschfeld, '61L.

In Chicago: Messrs. William J. Harte, '59L, John A. DiNardo, '60L, George P. McAndrews, '62L, Norris J. Bishton, '59L, Richard C. Clark, '59L, Michael D. Sullivan, '65L, Harold E. McKee, '63L, Ray F. Drexler, '58L, George W. Vander Vennet, Jr., '62L, and William E. Kelly, '62L.

In Cincinnati: Messrs. Thomas S. Calder, '57L, Lawrence A. Kane, Jr., '57L, F. Walter Riebenack, '65L, John W. Beatty, '65L, Robert M. Brady, '62L, and Edmund J. Adams, '63L.

In Cleveland: Mr. Daniel W. Hammer, '59L.

In Columbus: Mr. Robert P. Mone, '59L.

In Lansing: Professor Edward Bartoli, '58L.

In New York City: Mr. George W. Tompkins, '56L.

In Niagara Falls: Mr. Patrick J. Berrigan, '57L.

In Philadelphia: Mr. Eugene F. Wayne, '58L.

In Pittsburgh: Mr. Paul H. Titus, '60L.

In St. Louis: Mr. Burton M. Greenberg, '58L.

In St. Paul-Minneapolis: Mr. Joseph P. Summers, '62L.

In Washington, D.C.: Messrs. George P. Michaely, '56L and James E. Murray, '56L.

Of all those who have recruited for us, the most effective have been graduates of the last few years. The following, in particular, deserve special recognition: Messrs. Burton M. Greenberg, '58L, Daniel W. Hammer, '59L, John C. Hirschfeld, '61L, Lawrence A. Kane, '57L, George P. McAndrews, '62L, Robert P. Mone, '59L, Joseph P. Summers, '62L, George N. Tompkins, '56L, and Eugene F. Wayne, '58L. It is gratifying that they are so eager to help us recruit the best talent available.

Notwithstanding what I have just said, the man most effective in recruiting able students for us was Justice William B. Lawless, '44L, of the Supreme Court of New York.

I am warmly grateful to all I have named—and to any who may have been omitted inadvertently—who have borne the burden of our recruiting.

SCHOLARSHIPS

BASIS OF AWARDS

When I came to Notre Dame in the fall of 1952, there was not a single cent of scholarship money available. Under the leadership of Mr. Clarence J. Donovan, '31L, when he was president in 1953-54, the Notre Dame Law Association undertook to correct that sorry situation. It inaugurated the scholarship program, designed to give financial aid to talented students who *want* to come to the Notre Dame Law School but cannot afford it.

From the inception of the scholarship fund, therefore, need as well as talent has been a decisive factor. This is stated in our Bulletin as follows:

Scholarships are awarded on a strictly competitive basis. The factors taken into account are college grades, scores on the Law School Admission Test, extracurricular activities and, of course, need. But need by itself is never sufficient. In other words, the needy student must equal or excel his competitors in academic excellence and leadership qualities.

The plain implication of that provision is that renewal or continuation of a scholarship will depend on continuance of the need present at the time of the original award. We make no inquiries, however (except in a few cases in which a grant is expressly conditioned on summer earnings), taking for granted that the recipient of a scholarship will report to us any substantial change in his financial condition.

Moreover, our scholarships are modest by comparison with the stipend received by graduate students. This is true of law scholarships generally. Our scholarships and (with *very* few exceptions) those awarded by other law schools do not cover all of a student's expenses for an academic year. Hence a scholarship must be supplemented somehow. Accordingly, though we emphasize, as strongly as we know how, that *the study of law is a full-time occupation*, we do not object when pressing economic reasons compel a scholarship holder to obtain employment while in attendance. Obviously, however, a student's income, from whatever source, has a bearing on his need. Simply to illustrate a type of situation to which this applies: Thus far, for unmarried students on scholarships, we have not sanctioned earnings during the academic year in excess of \$560. What I have said in this paragraph has been implied and, I believe, understood all along. I am spelling it out in this Report simply to avoid any possibility of misunderstanding by anyone.

THE NECESSITY OF SCHOLARSHIPS

Notre Dame is a high-cost law school; and law students, for the most part, do not come from well-to-do families. Obviously, therefore, if we are to get the extremely talented students who are so essential we must be able to provide financial assistance to those who need it. Such students are needed urgently as pacemakers, to stimulate not only their fellow students but the Faculty as well. The effectiveness of the Faculty is by no means a constant; it rises and falls as the quality and diligence of the students improve or deteriorate.

I do not mean to suggest that it is enough to have a few outstanding students in each class. What is essential is to have talented students in depth. Indeed, as I remarked on page 5, a truly gifted student body is imperative. That means *every student in the School must possess unusual talent*. Otherwise—well, remember that *to be second is to lose*.

There are some who argue that a student should be able to put himself through law school. They may have done it themselves; many good lawyers have. But time marches on. The law has grown and is growing to such an extent, both in magnitude and in complexity, that getting a legal education has become, perforce, a *full-time occupation*. We expect our students to devote to it *not less* than 60 hours a week. That doesn't leave much time for a job. The fact is, indeed, that a student can devote to a job no more than 10 or 12 hours a week *at the most* without damage to his legal education. This is a serious matter, because the best professional opportunities, almost without exception, are offered to the students with the best law-school performance records.

Of course, a law student can earn some money in the summer-time. To the best of my knowledge, every one of our students has a summer job. With summer earnings and a part-time job during the school year, a student ordinarily can cover a substantial part of the cost of studying law at Notre Dame. Unhappily, he cannot earn enough to cover it all. There is a margin of \$1000 a year or more, over and above what a student can earn, which must be provided by somebody if he is to study law at Notre Dame.

Plainly, therefore, there is an *obvious* and *urgent* need for adequate scholarship funds. The fact is that we must have assurance of a rockbottom minimum of at least \$275,000 a year for scholarships. Yes, \$275,000—*and I mean exactly that*. We won't need the full amount next year (1967-68) but we *will* need it in 1968-69 and thereafter.

The "500" Club of the Notre Dame Law School, established in 1960, resulted from a suggestion—more exactly, from an inspiration—of Mr. Albert H. Monacelli, '34, a former president of the

Notre Dame Law Association. In 1960-61 its membership numbered 123; this year there are 233 names on the roster — a gain of 89%. Members agree to contribute not less than \$100 annually to the Law Scholarship Fund. As the name suggests, the Club's goal is 500 members each pledged to contribute *at least* \$100 annually. In 1965-66 the following either joined or renewed their membership in The "500" Club, many giving a great deal more than the required minimum of \$100.

Mr. Morris B. Abram	Mr. John P. Coyne, '55L
Mr. John D. Anderson	Mr. John M. Crimmins, '33L
Mr. Edward F. Aylward, '48	Mr. Patrick F. Crowley, '33
Hon. Richard Barber, '31	Mr. William V. Cuddy, '52
Hon. George N. Beamer, '29L	Mr. Gerald A. Currier, '42
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Mr. Robert L. Berry, '53L	Mr. Benedict R. Danko, '51L
Mr. John F. Bodle, '50L	Mr. Louis L. DaPra, '40L
Hon. Hugh C. Boyle, '24	Mr. John D. Deeb, '51L
Mr. John I. Bradshaw, Jr., '54L	Mr. Joseph F. Deeb, '33L
Mr. Donley L. Brady, '49L	Hon. John T. Dempsey, '21
Mr. Roger P. Brennan, '33	Mr. Victor A. DeSimon, '49L
Mr. Roger W. Breslin, '28	Mr. Robert B. Devine, '36L
Mr. Earl W. Brieger, '31	Mr. Dana C. Devove, '59L
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Mr. Raymond J. Broderick, '35	Mr. Joseph J. Dockman, '33
Mr. Bernard D. Broeker, '30	Mr. Clarence J. Donovan, '31L
Mr. Clifford F. Brown, '38L	Mr. John W. Dorgan, '29
Hon. Philip A. Brown, '57L	Mr. Daniel Downey, '44
Mr. William E. Brown, '28	Mr. William B. Dreux, '33
Mr. Edmund J. Burke, '51L	Mr. Charles T. Dunn, '48L
Mr. William A. Burke, '35L	Mr. Thomas B. Dunn, '27
Mr. Richard P. Byrne	Mr. James F. Dwyer, '29
Mr. Thomas G. Carney, '25	Mr. Philip J. Faccenda, '51
Mr. Lawrence E. Carr, Jr., '49L	Mr. Philip J. Faherty, Jr., '33
Mr. John E. Cassidy, Sr., '17L	Hon. Charles Fahy
Mr. Louis C. Chapleau, '30L	Hon. Victor H. Fall, '27L
Mr. Thomas H. Clifford, Jr., '49L	Mr. E. Milton Farley III, '52L
Mr. James J. Clynes, Jr., '45	Hon. Edward H. Fenlon, '27L
Mr. John C. Cochran, '23L	Mr. James L. Ferstel, '50L
Mr. John J. Coffey III, '61L	Mr. William G. Ferstel, '00
Mr. Joseph A. Conerty, Jr., '50L	Mr. James T. Finlen
Mr. John T. Connolly, '51L	Mr. Louis J. Finske, '19L
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 Mr. Robert A. Hollencamp, '50L
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 Mr. Gerald J. McGinley, '26L
 Mr. James B. McGlynn, '53L
 Mr. Robert E. McGlynn, '51L
 Mr. William F. McInerny, '41L
 Hon. J. S. McKiernan, '34
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 Mr. Patrick Maloney, '16L
 Mr. John F. Marchal, '58L

- Mr. John R. Martzell, '61L
 Mr. Eugene A. Mayl, '24L
 Mr. William Austin Meehan, '48L
 Mr. Joseph J. Miller, Jr., '42L
 Miss Marion D. Moriarty
 Mr. Maurice J. Moriarty, '51L
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As I have noted from time to time in earlier reports, our graduates of the last eight or 10 years are among our most generous alumni. The following excerpts are from typical letters received with their contributions.

It gives me great pleasure to make this gift to Notre Dame and to the Law School, particularly at this time of year, as I shall be forever indebted to them for all I received during the wonderful years I spent there. I trust that my growing practice will permit me to increase my contribution with each succeeding year.

Enclosed you will find a check for fifty dollars for the scholarship fund. I'm sorry that it can't be larger this year and hope that next year's will be. As I could not have attended Notre Dame without help from the scholarship fund, I feel a moral responsibility to at least replace with interest those funds which were given to me.

It gives me real pleasure to be able to forward to you the enclosed check which I hope will be credited to the Law Scholarship Fund. I am more appreciative every year for the education and the inspiration which I received at the Notre Dame Law School, and I have tried in my practice to exemplify the type of graduate which you are striving to produce at the Law School.

It is a fact, I repeat, that, by and large, our graduates of the last eight or 10 years exceed older alumni in generosity. It is nevertheless true that the man whose efforts resulted in the largest addition to the Law Scholarship Fund in 1965-66 was Mr. George B. Morris, Jr., '40L, Personnel Manager for General Motors.

OTHER FINANCIAL AID

I feel so strongly about it that I repeat what I said in my last Report.

Student loan programs are proliferating. Many of these pro-

grams 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 pioneering 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.

STUDENT ACTIVITIES

NOTRE DAME LAWYER

Volume 41 consisted of six issues, totaling over 1,000 pages. A special Robinson-Patman issue was published in February, and a decennial index was published as a separate issue in April. The establishment of a rigid printing schedule facilitated the appearance of all scheduled issues on the 15th of the designated month.

The *Lawyer's* rapidly increasing promotional activities resulted in a substantial increase both in subscriptions and in single-copy sales. Over 40,000 members of the Bar received information about articles which had appeared in the *Lawyer*. The success of this program justifies plans for its expansion during the coming year.

The second annual *Lawyer* Alumni Meeting was held last fall, and the third annual meeting will be held on October 8, 1966. In addition to fostering a greater interest in the *Lawyer*, these meetings provide an invaluable source of ideas for its continued growth and development.

During the past year, permissions were given to republish twelve articles and six student notes which had appeared in recent issues.

The Editorial Board for volume 41 of the *Lawyer* was composed of:

Editor-in-Chief, Mr. Francis M. Gregory, Jr. of St. Louis
Managing Editor, Mr. Michael F. Del Fra of Philadelphia
Articles Editor, Mr. Joseph P. Della Maria, Jr. of Chicago
Note Editor, Mr. Thomas J. Kenney, Jr. of Baltimore
Case Editor, Mr. Robert S. Krause of Lincoln, Nebraska
Development Editor, Mr. Paul V. Niemeyer of South Bend
Book Review and Survey Editor, Mr. Stephen A. Seall of
South Bend
Research Editor, Mr. Richard E. Steinbronn of Chicago

MOOT COURT

In nine of the last 11 years a member of the Supreme Court of the United States has presided over the court hearing the final argument in our annual Moot Court Competition. Their names and dates follow:

October, 1955: Mr. Justice Tom C. Clark
October, 1956: Mr. Justice John M. Harlan
October, 1957: Mr. Justice William J. Brennan
October, 1958: Mr. Justice Sherman Minton (died April 9,
1965)

- October, 1959: Mr. Justice Harold H. Burton (died October 28, 1964)
October, 1960: Mr. Justice Stanley F. Reed
October, 1961: Mr. Justice William O. Douglas
October, 1962: Mr. Justice Byron R. White
October, 1964: Mr. Justice Arthur J. Goldberg (resigned October 4, 1965)

And in November of this year (1966) Mr. Justice Abe Fortas will preside. He will be the tenth Supreme Court Justice to serve in that capacity in the 12-year period beginning in October of 1955.

In addition, Justices Potter Stewart and Charles E. Whittaker (retired April 1, 1962) sat on our Moot Court in this period. Mr. Justice Stewart was then (in 1955) a member of the United States Court of Appeals for the Sixth Circuit and Mr. Justice Whittaker (in 1956) was a member of the United States Court of Appeals for the Eighth Circuit.

In November of 1963 we sought to honor two distinguished members of the United States Court of Appeals for the Fifth Circuit, namely, Chief Judge Elbert P. Tuttle of Atlanta and Judge Richard T. Rives of Montgomery, Alabama. They have exemplified the highest traditions of judicial service under very trying circumstances. Notwithstanding criticism, condemnation and personal abuse, they have fulfilled their oath of office honorably and ably. Although it was our purpose to honor them, it was they, in fact, who honored us by coming to Notre Dame to sit as judges in the final argument of our Annual Moot Court Competition. I am the more happy to say, therefore, that Judge Rives paid us another visit for a different purpose: he came at Commencement last June to receive an honorary degree awarded him by the University in recognition of his valiant service. The citation accompanying the degree reads as follows:

At the 121st Commencement of the June exercises The University of Notre Dame confers the degree of Doctor of Laws, *honoris causa*, on a great judge of the United States and a true servant of the American People: the elements so combined in him that he would have been a great judge in any age. In his *own* age, he was obliged to achieve greatness amid the distraction of shouts of anarchy and charges of betrayal. He has spent nearly the whole of his judicial service in the front lines of the second great constitutional war of American history. Born in his beloved Alabama, in the city where Jefferson Davis took his oath of office, his *own* oath, as he understood it, has impelled him to stand against the fondest hopes of many of his fellow citizens; to declare again and again, to unwilling ears, that it was the *people*

of the United States, and not the States thereof, who ordained and established the Constitution.

For his masterful and enduring opinions, which have so enriched our jurisprudence; for his quiet courage in the cause of unity and peace, which has cost him dearly of his own repose; for his deep respect for all his fellow men, which have made the court where he sits a place of refuge for the poor; on Richard Taylor Rives, Montgomery, Alabama.

And again in November of 1965, as specified below, two outstanding United States Circuit Judges sat on the Court hearing the final argument in our Annual Moot Court Competition.

Altogether, in the period beginning in October of 1955 and including (for this purpose) the final argument scheduled for November 19, 1966, the membership of our Moot Court has included ten Supreme Court Justices, fifteen United States Circuit Judges and eleven United States District Judges—a Moot Court we are very proud of.

The final argument in the 1964-65 Moot Court Competition was held on November 6, 1965. The Court on that occasion was composed of the following distinguished jurists:

Honorable John S. Hastings, Chief Judge of the United States Court of Appeals for the Seventh Circuit (Illinois, Indiana and Wisconsin)

Honorable George Edwards of the United States Court of Appeals for the Sixth Circuit (Michigan, Ohio, Kentucky and Tennessee)

Honorable A. Leon Higginbotham, Jr., of the United States District Court in Philadelphia

The students who participated in the argument before these outstanding judges were:

Mr. Joseph S. Maxwell of Glenside, Pennsylvania, a graduate of the University of Notre Dame

Mr. Thomas J. McNally of Covington, Kentucky, a graduate of Villa Madonna College

Mr. Robert A. Murphy of Lawrence, Massachusetts, a graduate of Villanova University

Mr. Robert W. Schmiede of LaGrange, Illinois, a graduate of the University of Notre Dame

Mr. Murphy won the first prize of \$150; Messrs. Maxwell and McNally tied for the \$100 second prize, each receiving half. These prizes were provided, in accordance with his practice, by Mr. A. Harold Weber, '22, of South Bend, a member of the Law Advisory Council.

The officers of the Moot Court for 1965-66 were:

Director, Mr. John D. Gottlick of Chicago

Assistant Director, Mr. Francis B. Reiser of Butte, Nebraska

Assistant Director, Mr. Michael J. Sullivan of Chicago

STUDENT BAR ASSOCIATION

The Student Law Association adopted a new constitution and changed its name to the Student Bar Association. It 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 1965-66 were:

President, Mr. Dennis L. Sunderhaus of Lima, Ohio

Vice-President, Mr. Benedict V. Aspero of Newton, New Jersey

Secretary, Mr. Charles A. Chenard of Somerset, Massachusetts

Treasurer, Mr. Robert A. Siebert of Jamaica, New York

Third-Year Representative, Mr. Thomas J. McNally of Covington, Kentucky

Second-Year Representative, Mr. Thomas G. Farrell of Cambria Heights, New York

First-Year Representative, Mr. Dennis G. Collins of Rochester

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. The high points of the year's program were the meeting addressed by Mr. Harris Wofford, formerly a member of our Faculty, now Deputy Director of the Peace Corps, and that at which Mr. Jack Weir, President of the Canadian Bar Association, was the speaker.

The officers for 1965-66 were:

Treasurer, Mr. Samuel J. Bernardi of Highland Park, Illinois

Vice-Treasurer, Mr. Peter J. Ippolito of Rockaway, New Jersey

Master of Revels, Mr. Joseph P. Della Maria, Jr., of Chicago

Keeper of the Black Book, Mr. Jerry L. Berthold of Huntington, West Virginia

PRIZE WINNERS

Mr. Francis M. Gregory, Jr., of Webster Grove, Missouri, 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. Ross W. Peterson, a native of Downey, California. Mr. Peterson ranked fourth in his class.

The Farabaugh Prize of \$25, given in memory of the late Gallitzin A. Farabaugh of South Bend, was won by Mr. Robert S. Krause of Lincoln, Nebraska, the number two man in the class.

Mr. Paul J. Polking of Breda, Iowa, was the winner of the Law Week Award, a year's subscription to the *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. Peter Ippolito of Rockaway, New Jersey, and Mr. Martin Idzik of Depew, New York, who divided the first prize of \$150 and by Mr. Ross W. Peterson of Downey, California, who won the \$100 second prize.

As noted earlier in this Report, the A. Harold Weber Moot Court Awards went to Mr. Robert A. Murphy of Lawrence, Massachusetts, winner of the first prize, and Mr. Joseph S. Maxwell of Glenside, Pennsylvania, and Mr. Thomas J. McNally of Covington, Kentucky, who won the \$100 second prize, each getting half.

LEGAL AID AND DEFENDER ASSOCIATION

The Association, now in its third year, is dedicated to assisting, to the fullest extent consistent with the fact that its members are students, not yet lawyers, those who cannot afford legal counsel. It has emphasized assistance to indigent prisoners who seek postconviction relief from the State and Federal courts and before parole and clemency boards. This organization, reflecting, as it does, our commitment to justice, owes the momentum it has gained to Mr. John C. Fine of Scarsdale, Class of '67, and to its Faculty Advisor, Professor Thomas L. Shaffer.

The members of the Legal Aid and Defender Association will be pleased to know of the well-deserved recognition accorded two recent graduates of our School. The Common Pleas Court of Geauga County, Ohio, awarded Mr. Lawrence J. Dolan, '56L, a Certificate of Commendation for excellence in the performance of his professional obligation as court-appointed counsel for an indigent boy, who had been indicted for knifing with intent to maim and for assault with a dangerous weapon. The Certificate of Commendation was the first ever awarded in the area in which Mr. Dolan practices.

Another alumnus of our Law School, Mr. Joseph J. Straub, '55L, received high praise from the Iowa Supreme Court in an opinion in a case in which he served as state-appointed council. "[W]e must

compliment [his] diligent effort" . . . declared the Court. "He left no stone unturned." This language of the Court was quoted by the *Des Moines Register* in a very complimentary editorial. Mr. Straub practices in Algona, Iowa.

LEGISLATIVE BUREAU

The purpose of the Student Legislative Bureau is to draft legislation requested by legislators or others with substantial legislative programs. In 1965-66 it prepared three bills at the request of members of the Indiana General Assembly. The actual drafting, of course, is preceded by exhaustive research into existing law and legislation. Any second- or third-year student may participate; and participation is accepted in fulfillment of the second-year research paper requirements and the senior seminar requirements. Mr. Murray C. Campbell of Michigan is Director of the Legislative Bureau and Professor Robert E. Rodes, Jr., is Faculty Advisor.

PLACEMENT

Wars and rumors of war laid a mantle of uncertainty over the aspiring lawyers who were graduated on June 5. Fifteen of them were sure of prompt military assignment and 11 others had uncertain futures because of draft eligibility or R.O.T.C. commitments.

Fourteen of the graduates who do not expect to be called for military service (or who have already served) are associated with law firms; these arrangements cover all forms of practice, from Wall Street to solo practitioners, from New York to California. Three other graduates are employed by corporate legal departments and two are in government legal service. One of these last, Mr. Robert A. Murphy of Massachusetts, has been assigned to the Civil Rights Division of the Department of Justice under the Attorney General's Recruitment Program for Honor Law Graduates.

Six of the graduates have been appointed to Federal judicial clerkships, four in the United States Courts of Appeal. Mr. James E. Hakes of Illinois will clerk for Circuit Judge Marion C. Matthes of St. Louis; Mr. Joseph P. Della Maria, Jr., of Illinois for Circuit Judge Roger Kiley of Chicago; Mr. Ross W. Peterson, Jr., of California for Circuit Judge Stanley Barnes of Los Angeles; and Mr. Francis M. Gregory, Jr., of Missouri for Circuit Judge Carl McGowan of Washington, D.C. In addition, two of the graduates will clerk for United States District Judges, Mr. John J. Haugh of Missouri for Judge John J. Kilkenney in Portland, Oregon, and Mr. Alvin J. McKenna of New York for Judge Joseph P. Kinneary in Columbus.

BAR EXAMINATION RESULTS

Eighty-six percent of the members of the Class of 1965 passed the bar examination on the first try in the State of intended practice. For the life of me, I cannot see why any of our graduates should fail. To be sure, there will be an occasional failure induced by illness or some other untoward circumstance. Beyond that, I repeat, it seems to me our graduates should all pass on the first try. It follows that the performance of the Class of 1965 was definitely unsatisfactory.

HOUSING

For years a substantial number of young undergraduates (sophomores in particular) have had to live off campus, due to a shortage of residence halls. The extreme undesirability of this arrangement led the University (after years of soul-searching and debate) to a major policy decision: Beginning with the academic year 1966-67 law students will not be accommodated in Fisher Hall or elsewhere on the campus, thus making room for an equivalent number of undergraduates. I did not oppose this new policy, since I recognized the force of the arguments which dictated it. The fact is, nevertheless, that it deprived us of something of great value; and I am confident the damage will be repaired by setting aside for our use an appropriate number of rooms in one of the graduate residence halls to be built in the near future.

Meanwhile, the loss of Fisher precipitated a crisis for us, since we feel an obligation to our students, particularly the new students, to help them find suitable living quarters. Mrs. Cordia Bender, my administrative assistant, undertook this task and has been working at it assiduously seven days a week all summer. She has done a magnificent job, and I deeply appreciate what she has accomplished and the dedication which made it possible. It seems appropriate to add that the students should be grateful, too.

PROGRAM OF INSTRUCTION

NEW ACADEMIC CALENDAR

A major change in the calendar was adopted for 1966-67. For years we have been dissatisfied with our calendar and have talked about changing it. What triggered the change was a petition by the Class of 1966 for the shortening, by one week, of the spring semester. A similar petition had been filed by each of the two preceding classes. These petitions grew out of the serious disadvantage suffered by our third-year students in that their counterparts in eastern law schools,

for the most part, finished their final examinations two or three weeks earlier than our seniors. The graduates of eastern law schools, therefore, have and have had plenty of time to go to the city of their choice and start at the beginning of the bar review course selected by them. This competitive disadvantage (that is, being two or more weeks late for the bar review) seemed intolerable both to our third-year students and to the Faculty. Our experience had proved, moreover, that shortening the spring semester by one week was a thoroughly unsatisfactory and only partial corrective; it indicated, in short, the urgency of adopting a rational calendar without further delay.

The new calendar, set out below, resulted from consultation with members of the Faculty, recent graduates, members of the Class of '66 and the Acting Dean of the University of Michigan Law School, which had previously adopted a similar calendar.

FALL SEMESTER 1966

Aug. 20	Registration
Aug. 22	Classes begin at 8:30 a.m.
Oct. 15	Midsemester vacation after last class
Oct. 20	Classes resume at 8:30 a.m.
Nov. 1	Feast of All Saints. No classes
Nov. 24	Thanksgiving Day. No classes
Dec. 8	Feast of the Immaculate Conception. No classes
Dec. 12 to Dec. 22	Examinations

SPRING SEMESTER 1967

Jan. 16	Registration; classes begin at 8:30 a.m.
March 11	Midsemester vacation after last class
March 16	Classes resume at 8:30 a.m.
March 24	Good Friday. No classes
March 25	Holy Saturday. No classes
May 4	Ascension Thursday. No classes
May 8 to May 18	Examinations
June 4	Commencement Exercises

The three weeks at Christmas, in addition to giving students a needed breather, will afford them an opportunity for much fruitful work. This period will be a boon, for instance, to the law review at a time when its schedule is extremely tight. Obviously, too, Moot Court contestants will be able to use the time to advantage. Simi-

larly, this period between semesters will be useful to the Legislative Bureau and the Legal Aid and Defender Association. In short, it will be a busy period, I anticipate, during which students will be free to devote themselves fully to these and other co-curricular activities.

For the Faculty, too, the advantage of a full three weeks at Christmas will be immense. No longer will it be necessary to grade examinations with an eye not only on the calendar but on the clock as well. The three-week period will give the Faculty a bit of relaxation, which they surely are entitled to, and a little time to review, revise and thus improve their courses for the spring semester. These are very substantial advantages, matching the benefits the students will enjoy.

The new calendar is pedagogically sound. It will solve many problems for us and create none for the University. One law school recently has adopted a similar calendar. Other law schools and universities, in my opinion, will follow.

CHANGE IN THE COMPREHENSIVE EXAMINATION

A companion and closely related reform alters the examination schedule. In the first place, the comprehensive examination will be given first, preceded by three days for final preparation for it. After the comprehensive there will be four days to make a last review for the current-course examinations. The importance of the comprehensive will be emphasized by putting it first. This new arrangement, therefore, should help to raise the comprehensive to the status it was intended, from the beginning, to occupy. Moreover, every comprehensive examination will cover all courses taken in every semester, from the beginning, except only the semester just concluded.

This exclusion of current-course material will not apply, however, in the case of two-semester (or year-long) courses such as Contracts and Torts, which are taught as a unit. To illustrate this exception, the comprehensive examination at the end of the first year will cover both Contracts I and II and Torts I and II as well as the courses taught only in the first semester; the comprehensive at the end of the first semester of the second year will cover, and be restricted to, all material taught in the first year, and the comprehensive at the end of the second year will cover the first three semesters in their entirety. Thereafter, each comprehensive will cover, and be restricted to, all courses previously taken, that is, all material covered in all semesters preceding that at the end of which the particular comprehensive is given.

CHANGE IN CURRENT-COURSE EXAMINATIONS

After further deliberation it was decided to give current-course examinations on a course basis. In a communication to the students I described this change as follows:

Current-course examinations will be given during a period of three consecutive days, both morning and afternoon, with a break for lunch between the morning and afternoon sessions. This will make our examinations even more like the bar examinations, which they have always resembled.

Each current-course examination will be given in its entirety at a single sitting, within a designated time period devoted only to that course.

In conformity with present practice, no announcement will be made in advance as to when a particular course will appear in the examination schedule.

These changes, we are confident, will enable students to demonstrate much more fully the extent of their understanding of the subject matter of the examination.

JUSTICE FOR THE NEEDY

The Law School joined in setting up a neighborhood law office in South Bend to provide legal services for persons unable to pay private counsel. The office is a joint venture with the St. Joseph County Bar Association, the St. Joseph County Legal Aid Society, the local Office of Economic Opportunity (OEO) Community Action Agency and the local United Fund. It is financed by a grant from OEO; Adjunct Professor Conrad Kellenberg is in charge.

While the primary and controlling purpose of this undertaking is to provide legal counsel to indigents, we see in it valuable educational features which make substantial Law School involvement appropriate. Law students will assist in the research and investigation of office matters under the supervision of the Faculty and paid, full-time staff attorneys. Faculty participation in the work of the office, moreover, will promote a more sensitive awareness of the neglected areas of the legal problems of the poor. In short, this activity not only will provide opportunity for valuable legal training but, more importantly, will demonstrate to our students, as nothing else could, that the poor have complex legal problems and that the Bar has a duty to assist in their solution.

We take some pride in the fact that the Notre Dame Law School was one of the first in the Nation to establish an OEO Legal Services Program. Other major national law schools now are similarly involved.

THE FACULTY

Following is part of an illuminating interview.

Q. Specifically, what are some examples of the Center's work?

A. Well, the Center staff members have resolved the conflict between teaching and research.

Q. How?

A. By doing neither.

Q. I see. Then what do they do?

A. They confer, they comment on each other's past papers, they travel a good deal. There is no shortage of activity. In fact, the pace is cruel. It is just that our people don't want to get into the classic dilemma of having to choose between the classroom and the laboratory or library.²

Nothing could make plainer what our Faculty is NOT. Our men enjoy teaching and are productive scholars at the same time. *There is no better faculty in any law school anywhere.*

Professor Edward F. Barrett observed his 25th year as a law teacher, a quarter of a century of devoted service. For 17 of these years he has taught law at Notre Dame. His greatest achievement, in my opinion, is our Practice Court, which is almost solely his creation. It generates more intense interest than any other feature of our program of instruction, and far surpasses any other practice court anywhere.

Professor G. Robert Blakey participated, with Professors Rodes and Noonan, in a month-long series of lectures on "Christianity and Government" at the First Presbyterian Church in South Bend.³ He was appointed to the Advisory Board of the Organized Crime Project of the President's Commission on Law Enforcement and the Administration of Justice and, in addition, Special Consultant to the Commission on Problems of Organized Crime. He has spent the summer in Washington in the latter capacity.

Assistant Dean Thomas F. Broden, Jr., was appointed a consultant to the Legal Services Program of the Office of Economic Opportunity (OEO). In that capacity he has addressed the Elkhart County (Indiana) Bar Association, the Iowa State Bar Association, the Mahoning County Bar Association (Youngstown), the Oklahoma State Bar Association, the Salt Lake County Bar Association and the Wayne County Bar Association (Detroit), the University of Mississippi School of Law and an AFL-CIO conference held in the University

² *Scholarly Books in America*, July, 1966, pp. 4-5, quoting from Daniel Greenberg in the March 11 issue of *Science*.

³ This should have been noted last year, since the lectures were given in February of 1965.

of Chicago's Center for Continuing Education. He was the prime mover in setting up a Neighborhood Law Office in South Bend. This enterprise, whose function is to provide legal services for the needy, is financed by OEO, which looks upon it as a model. At the request of the Council on Education and Professional Responsibility, Dean Broden recently visited a number of West Coast law schools to encourage expansion of their professional responsibility programs. Dean Broden is a member of the South Bend Human Relations and Fair Employment Practices Commission and Chairman of the Legislation Committee of the St. Joseph County United Community Services. For a long time he has been active in matters affecting the University as a whole. He is a member of (1) the Academic Council and of its advisory committee on the University Honor Code, (2) the Interdepartmental Group on University-Congressional Affairs, (3) the University-wide committee to develop a cooperative program with a Negro college or university and (4) the University-wide Advisory Committee for the Computing Center. He is chairman of the University Committee to Improve the Indiana Correctional Program, and participated in the development of a program of urban studies at the University (in which several members of our Faculty are involved). The range of his interests is indicated by the fact that he has served as a director of the University Club and is a member of the Faculty Board in Control of Athletics. Much of this summer he has spent reworking his materials on Administrative Law, and a new edition of his casebook on that subject will be ready for use in the spring semester.

Professor John J. Broderick was Co-chairman of the 14th Annual Union-Management Conference held at the University on February 25 under the joint sponsorship of The Law School and the Department of Economics.

Professor William M. Lewers, C.S.C., was appointed to membership on the Indiana Advisory Committee to the United States Commission on Civil Rights. He addressed the Catholic Forum in South Bend on the war on poverty in Mississippi. This summer he has been working in the Jackson office of the Lawyers Committee for Civil Rights under Law.

The *New York Law Journal* reprinted Professor Edward J. Murphy's outstanding article on the Uniform Commercial Code, which appeared in the June issue of the *Notre Dame Lawyer*. During the year he served as one of the moderators of "The Professors," a weekly television program featuring members of the University faculty. He made numerous appearances throughout the State, under the auspices of Citizens for Educational Freedom, in support of legislation which would provide financial assistance for all students on an equal basis.

Professor John T. Noonan, Jr., as I mentioned last year, is a consultant to the Papal Commission on Problems of the Family, Population and Natality. Since the publication of his great book, *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists*, he has been much in demand as a lecturer. Colleges and universities where he has lectured on the history of the Church's teaching on contraception include the following:

Barat College	St. Mary's College, Notre Dame
College of New Rochelle	St. Thomas Seminary
Harvard University	University of Chicago
Holy Cross College	University of Chicago Medical
North American College, Rome	School
Purdue University	Webster College
University of Notre Dame	St. Mary of the Lake Seminary,
Seattle University	Chicago

On the same subject he has addressed:

The Irish Theological Association, Maynooth
 Radcliffe Alumnae Club
 St. Luke's Guild, Boston

and participated in the Cape Breton Lecture Series in Sydney, Nova Scotia, and in a Symposium on Population Problems at Georgetown University. In addition, on the personal invitation of Cardinal Suenens, Professor Noonan made the opening address at the Colloque de Louvain at the University of Louvain in May. His subject on that occasion was "Correlations between Conceptions of Feminine Sexuality and Christian Rules of Marriage." As noted in my last Report, Professor Noonan is at work on a new study, whose purpose is to ascertain how the ecclesiastical courts of the Roman Catholic Church actually function. Like his study of the history of the Church's position on contraception, this new investigation, we believe, is an absolutely original undertaking. Much of the research must be done at the Vatican and Professor Noonan has made two trips to Rome for that purpose. He was there during April and May and expects to return next June. This summer he has been writing up the notes he has made thus far. Before leaving for Rome at the end of March, Professor Noonan served on a committee of the American Association of University Professors to investigate the summary dismissal of a group of faculty members by St. John's University in New York.

Professor Roger Paul Peters was one of the participants in a seminar on "Pornography and Law." The program was jointly sponsored by the Academic Commission of the University's undergraduate

Student Government and the South Bend Chapter of the Indiana Civil Liberties Union. He was one of the panelists who discussed the federal income tax on the weekly television show "The Professors."

Professor Robert E. Rodes, Jr., was one of three members of the Faculty who participated in a month-long series of lectures on "Christianity and Government" at the First Presbyterian Church in South Bend, referred to on page 23. The other participants were Professors Blakey and Noonan. He and Professor Shaffer represented a Negro real estate broker in a suit in the Superior Court here to compel the local Board of Realtors to admit him to membership. Within the last few weeks the Court handed down an opinion favorable to their contention — the first, it is believed, in this country. Professor Rodes made good progress this summer on the second volume of his projected three-volume history of the relationship between the Government and the Anglican Church in England. The English experience, it is hoped, will provide some clues that will be helpful in dealing with our own Church-State problem.

Assistant Professor Thomas L. Shaffer was promoted to the rank of full professor, thereby establishing what Father Hesburgh described as "probably . . . the course record from graduation to full professorship." He was a delegate from Indiana to the annual meeting of the Young Lawyers Section of the American Bar Association. Professor Shaffer is first vice-president of the Notre Dame Federal Credit Union, and a member of the executive council of the Notre Dame chapter of the American Association of University Professors. He spoke on estate planning to groups in South Bend and Fort Wayne, and on medical malpractice to the annual convention of the Indiana Association of Osteopathic Physicians and Surgeons. He is counsel for the South Bend Chapter of the Indiana Civil Liberties Union and spoke on civil liberties to groups on and off the campus, and on television and radio programs. As noted above, he and Professor Rodes served as counsel for a Negro real estate broker in South Bend who has been excluded from membership in the local Real Estate Board. This summer Professor Shaffer prepared a supplement to his two-volume, loose-leaf casebook *Problems and Readings in Property Settlement*. The supplement, which will be used in the 1966-67 academic year, updates and revises the material in the original volumes.

Chief Justice Warren reappointed Professor Bernard J. Ward to the post of Reporter for the Advisory Committee on Appellate Rules. Professor Ward completed and the Advisory Committee approved uniform appellate rules for the Federal courts. These rules now go to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. If approved by that Committee,

they will be submitted to the Supreme Court of the United States for promulgation. This summer Professor Ward is Visiting Professor at the University of Texas Law School.

SPECIAL EVENTS

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

Violence in the Streets

In keeping with the tradition thus established a symposium on Poverty and Justice was held on April 16. It was time and past time to consider this somber topic.

[A]n English judge . . . in the old days before the divorce court, was called on to sentence a workingman convicted of bigamy. On being asked what he had to say why sentence should not be pronounced, the accused told a moving story of how his wife had run away with another man and left him with a number of small children to look after while barely earning a living by hard labor. After waiting several years he remarried in order to provide a proper home for the children. Mr. Justice Maule shook his head. "My good man," said he, "the law did not in any wise leave you without a sufficient remedy. You should first have brought an action in Her Majesty's Court of Common Pleas against this man with whom, as you say, your wife went away. In that action after two or three years and the expenditure of two or three hundred pounds you would have obtained a judgment against him which very likely would have been uncollectible. You should then have brought a suit against your wife in the ecclesiastical court for a divorce from bed and board, which you might have obtained in two or three years after expenditure of two or three hundred pounds. You would then have been able to apply to Parliament for an absolute divorce, which you might have obtained in four

or five years more after spending four or five hundred pounds. And," he continued, for he saw the accused impatiently seeking to interpose and to say something, "if you tell me that you never had and never in your life expect to have so many pennies at one time, my answer must be that it hath ever been the glory of England not to have one law for the rich and another for the poor."⁴

The unhappy fact, however, is that there was then and still is "one law for the rich and another for the poor." Various aspects of this melancholy situation, to which we have been too long insensitive, were discussed by the following:

Mr. Orison S. Marden, President of the American Bar Association,
 who presided
 United States Senator Birch Bayh
 Mr. E. Clinton Bamberger, at that time Director of the Legal
 Services Program of the Office of Economic Opportunity
 Assistant Dean Thomas F. Broden
 Mrs. Jean Cahn, a Washington lawyer
 Mr. William Pincus of the Ford Foundation
 Associate Dean A. Kenneth Pye of the Georgetown University Law
 Center

The Symposium was the responsibility of Assistant Dean Broden, and all arrangements were made by him. The addresses made at the Symposium will be published in a special issue of the *Notre Dame Lawyer* in the near future.

Distinguished men have participated in the symposia listed in the first paragraph of this section, including:

United States Senator Birch Bayh of Indiana
 United States Senator John Sherman Cooper of Kentucky
 Dean Joe E. Covington of the School of Law of the University
 of Missouri
 Professor Archibald Cox of the Harvard Law School, later Solicitor
 General of the United States, now back at Harvard
 Mr. Justice Fortas of the Supreme Court of the United States,
 then a Washington practitioner
 Mr. William T. Gossett, then Vice President and General Counsel
 of the Ford Motor Company, now practicing law in Detroit
 Professor Charles O. Gregory of the University of Virginia School
 of Law

⁴ Pound, *The Spirit of the Common Law* 211-12.

Mr. William G. Hundley, Chief of the Organized Crime and Racketeering Section of the Criminal Division of the United States Department of Justice

Former United States Senator Kenneth B. Keating of New York, now a member of the New York Court of Appeals

Professor Robert A. Leflar, who teaches law at the University of Arkansas and at New York University and was a member of the Supreme Court of Arkansas before entering upon his academic career

Dean Joseph Lohman of the School of Criminology at the University of California, Berkeley

Mr. Orison S. Marden of New York, President of the American Bar Association

Mr. David F. Maxwell of Philadelphia, former President of the American Bar Association

Judge Carl McGowan of the United States Court of Appeals in Washington, D.C., then practicing law in Chicago

Former Governor Theodore R. McKeldin of Maryland

Professor Monrad G. Paulsen of Columbia University School of Law

Mr. William Pincus of the Ford Foundation

Associate Dean A. Kenneth Pye of the Georgetown University Law Center

Former Dean Eugene V. Rostow of the Yale Law School

Mr. Charles S. Rhyne of Washington, D.C., former President of the American Bar Association

Bishop Vincent S. Waters of Raleigh

Mr. Howard C. Westwood of the Washington law firm of Covington & Burling

Mr. Roy Wilkins, Executive Director of the National Association for the Advancement of Colored People

NEEDED CIVIL RIGHTS LEGISLATION

A three-day, off-the-record conference on legislation necessary to protect the civil rights of all Americans was held in 1963. See my Report for 1962-63, pp. 16-17.

A similar conference was held at the School on February 17-20. The conferees participated as individuals, not as representatives of any organization. Their names follow:

Mr. Paul Anthony, Southern Regional Council

Mr. Arnold Aronson, Leadership Conference on Civil Rights

Professor Carl Auerbach, University of Minnesota Law School

Mr. Berl Bernhard, Attorney, Washington, D.C.

Mr. Wiley Branton, United States Department of Justice
 Assistant Dean Thomas F. Broden
 Mr. Leslie Dunbar, The Field Foundation
 Mr. Vernon Eagle, The New World Foundation
 Mr. John Feild, United States Conference of Mayors
 Mr. Harold Fleming, The Potomac Institute
 Professor G. W. Foster, Jr., University of Wisconsin Law School
 Professor Eli Ginzberg, Columbia University
 Professor Robert Harris, University of Michigan Law School
 Mr. Vivian Henderson, President of Clark College, Atlanta
 Mr. Frank Horne, New York City Housing and Redevelopment
 Board
 Reverend William M. Lewers, C.S.C., Notre Dame Law School
 Mr. Melvin Mister, United States Conference of Mayors
 Mr. George Nesbitt, Low Income Housing Demonstrations, Department
 of Housing and Urban Development
 Dean Joseph O'Meara
 Mr. John de J. Pemberton, American Civil Liberties Union
 Professor Daniel Pollitt, University of North Carolina Law School
 Mr. John Silard, Attorney, Washington, D.C.
 Mr. William Taylor, United States Commission on Civil Rights
 A report on the Conference will be published in a forthcoming
 issue of the *Notre Dame Lawyer*.

ATTRACTION AND EMPLOYMENT OF MINORITY GROUP TALENT

This was the subject of an executive seminar held March 28-31 under the joint auspices of The Law School, the United States Civil Service Commission (Chicago Region) and the University. The following participated in the discussion:

Mr. Howard Bain, Coordinator, Career Development Program,
 Chicago Region, United States Civil Service Commission
 Dean Thomas P. Bergin of Continuing Education at Notre Dame
 Mr. Seymour S. Berlin, Director of the Bureau of Inspections of
 the United States Civil Service Commission
 Mr. Harold Baron, Director of Research of the Chicago Chapter
 of the Urban League
 Assistant Dean Broden
 Dr. R. W. Chamblee, President of the South Bend Chapter,
 NAACP
 Mr. Joseph A. Connor, Regional Director for Chicago of the
 United States Civil Service Commission

- Mr. Robert Drummond, Jr., Deputy Director for the Chicago Region of the United States Civil Service Commission
Professor Peter P. Grande, Guidance and Testing Department at Notre Dame
Mr. Wilfred V. Gill, Assistant to the Chairman, United States Civil Service Commission
Rev. Theodore M. Hesburgh, C.S.C., President of The University of Notre Dame
Professor Richard A. Lamanna of the Department of Sociology at Notre Dame
Mr. Charles B. Markham, Director of Research, Equal Employment Opportunity Commission
Mr. Ara Parseghian, Head Football Coach at Notre Dame
Professor Nathaniel Pallone, Educational Psychologist at Notre Dame
Mr. Anthony M. Rachal, Jr., Special Assistant for Equal Employment Opportunity of the United States Civil Service Commission
Mr. Robert C. Sampson, Behavioral Sciences Consultant, Chicago
Mr. Leonard J. Sherry, Recruiting and College Relations Officer of the Chicago Region of the United States Civil Service Commission

The Planning Committee consisted of Messrs. Drummond, Sherry and Bain. Deans Broden and Bergin served as cochairmen.

LAW HONORS BANQUET

The President of the American Bar Association, Mr. Edward W. Kuhn of Memphis, was the featured speaker at the Law Honors Banquet on May 2. This annual affair affords an opportunity to salute the members of the student body who have distinguished themselves in one way or another. In addition, as in each of the last several years, it was the occasion for a joint observance of LAW DAY USA by the Notre Dame Law School and the St. Joseph County Bar Association. Mr. Kuhn's predecessor as president of the American Bar Association, Mr. Lewis F. Powell, Jr., of Richmond, addressed last year's Law Honors Banquet; and his successor, Mr. Orison S. Marden of New York, will be the featured speaker in 1967. Mr. Marden's visit will mark the tenth consecutive year in which the Law Honors Banquet has been addressed by the President of the American Bar Association.

LAW LIBRARY

On September 1 Miss Marie K. Lawrence, long-time Librarian at our School will become Law Librarian Emeritus. At the same time she will return to the Memorial Library, where she was employed before being transferred to the Law Library. She will be head of the Social Sciences and Business Administration Department, an important post which has been vacant since 1963 and one for which Miss Lawrence is especially well qualified. She will continue to serve the Law Library as Special Consultant.

I join the entire Faculty in deep appreciation of Miss Lawrence's dedicated service for so many years. She has taken with her the best of all good wishes from all of us.

Mrs. Kathleen Farmann was appointed Law Librarian effective July 1. She is a graduate of Trinity College, Washington, D.C., and holds an LL.B. from the Catholic University of America, where she was first in her class. For seven years after being graduated by the Catholic University, Mrs. Farmann practiced law in Washington with one of the top firms of the country. She was awarded an M.L.L. in Law Librarianship in 1957 by the University of Washington. From 1957 to 1961 she was Assistant Law Librarian at Ohio State University. In 1961 and 1962 Mrs. Farmann was Law Librarian for the Supreme Court of Hawaii. Since 1962 she has been Assistant Director of Research Services at the Ohio State University Law Library.

Mr. Stanley L. Farmann was appointed Assistant Law Librarian. He holds a B.A. degree from the University of Washington and in 1957 the same University awarded him an M.L.S. (with distinction) in Librarianship. It was at the University of Washington that he met his wife Kathleen, with whom he will now serve the Notre Dame Law School as a husband-wife team. He was Senior Bibliographer and Instructor in Library Administration at Ohio State University at the time of his appointment.

We welcome Mr. and Mrs. Farmann most warmly.

LAW BUILDING

As a result of modifications made last summer, I said in my Report for 1964-65 that our physical plant was no longer a serious problem. I did point out, however, that it remained inadequate. I called attention to the fact, moreover, that some minor modernizing was still required and expressed the hope that it would be done this summer. Unhappily, we must wait a little longer — a very little longer, I trust.

I have said again and again since 1954, and I repeat, that the Law Building is inadequate. To be specific, there is need for additional room in the stacks and for Faculty offices. The building has two wings, both on the east side, one at the north and the other at the south end. According to the University's architect, the simplest and most economical way to obtain the necessary additional space is to extend the building by running a wall south from the eastern end of the northern wing. This would substantially increase our stack space. And an additional office or two could be obtained by extending the southern wing somewhat further to the east. The University is in the midst of an explosion of building, and I can perceive no reason why this modest enlargement of our physical plant should not receive a very high priority.

NATURAL LAW INSTITUTE

The tenth issue of the *Natural Law Forum* came off the press on October 22, 1965, having been somewhat 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 represent eight nations and twelve universities in this country and abroad.

The annual meeting of the Editorial Board, to be held on September 30 and October 1, will be addressed by Professor John Fried of the Harvard Law School.

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
Mr. George W. Constable, Baltimore
Professor David Daube, Oxford University
Professor A. P. d'Entrèves, Turin University
Professor Carl J. Friedrich, Harvard University
Professor Lon L. Fuller, Law School of Harvard University
Rev. Bernard Haring, C.Ss.R., Pontifical University in Rome
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

NOTRE DAME LAW ASSOCIATION

Under the leadership — the extremely effective leadership — of its President, Mr. Raymond J. Broderick, '35, of Philadelphia, the Association raised \$100,587.19 for the Law Scholarship Fund. This amount exceeds by 39% the largest sum collected in any prior year — a tremendous achievement.

Mr. Philip J. Faccenda, '51, of Chicago was elected president at the annual meeting and I have every confidence that he will exceed the accomplishment, great as it was, of his predecessor, Mr. Broderick.

Other officers elected at the annual meeting last spring are:

Honorary President, Mr. Raymond J. Broderick of Philadelphia
 First Vice-President, Mr. Joseph A. Tracy of New York
 Second Vice-President, Mr. George B. Morris, Jr. of Detroit
 Third Vice-President, Honorable Victor H. Fall of Helena,
 Montana

Directors of the Association, including the officers, follow:

Term expires spring, 1967

Mr. Raymond J. Broderick of Philadelphia
 Mr. Richard P. Byrne of Los Angeles
 Mr. John M. Crimmins of Pittsburgh
 Mr. Dana C. Devoe of Bangor, Maine
 Mr. Philip J. Faccenda of Chicago
 Mr. Thomas W. Flynn of Honolulu
 Mr. Burton M. Greenberg of St. Louis
 Mr. Francis M. Gregory, Jr. of Washington, D.C.
 Honorable John F. Kilkenny of Portland, Oregon
 Mr. George B. Morris, Jr. of Detroit
 Honorable J. Gilbert Prendergast of Baltimore
 Mr. William F. Spalding of Los Angeles
 Mr. Joseph P. Summers of St. Paul
 Mr. Martin P. Torborg of Fort Wayne
 Mr. Joseph A. Tracy of New York

Term expires spring, 1968

Mr. William E. Brown of Milwaukee
Mr. Robert T. Burke, Jr. of Louisville
Honorable Victor H. Fall of Helena
Mr. E. Milton Farley III of Richmond
Mr. James C. Higgins of Beckley, West Virginia
Mr. Gerald J. McGinley of Ogallala, Nebraska
Mr. William F. Mahoney, Jr. of Phoenix
Mr. George E. Pletcher of Houston
Mr. William H. Schroder of Atlanta
Mr. David M. Thornton of Tulsa
Mr. George W. Vander Vennet of Davenport
Mr. Lawrence Weigand of Wichita
Mr. James W. Wrape of Memphis

Term expires spring, 1969

Mr. John I. Bradshaw, Jr. of Indianapolis
Honorable John R. Coryn of Rock Island
Mr. William B. Dreux of New Orleans
Mr. James L. Ferstel of Chicago
Mr. Hugh F. Fitzgerald of New York
Mr. Edward J. Gray of South Bend
Mr. Lawrence A. Kane, Jr. of Cincinnati
Mr. Graham McGowan of Washington, D.C.
Mr. Hugh J. McGuire of Detroit
Mr. Ronald P. Mealey of Wayne, New Jersey
Mr. George F. Meister of Miami
Mr. Alphonse A. Sommer, Jr. of Cleveland
Mr. Joseph Spalding of Denver

A note of sadness must be recorded here. Mr. Leo B. Ward, '20L, of Los Angeles resigned because of health problems. His resignation was accepted with genuine regret. In addition, a widely known, loyal and well-loved member and former director of the Association, Mr. Francis X. Fallon, '33, of Grand Rapids died on July 14, 1966. We mourn his passing. *R.I.P.*

I said last year that the Association's Executive Secretary, Mrs. Jeannette Allsop, had done a superb job. Her work since then has continued on the same high level of dedication and effectiveness.

LAW ADVISORY COUNCIL

A grievous loss was suffered by the School when Mr. Roger P. Brennan, '33, died of a heart attack at his desk in Cleveland on July 13. *R.I.P.*

The present membership of the 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, Buffalo
Mr. John W. Dorgan, '29, Chicago
Mr. Oscar John Dorwin, '17, New York
Honorable Charles Fahy, Washington, D.C.
Mr. James T. Finlen, Fort Lauderdale
Mr. Thomas P. Ford, '40, New York
Mr. George H. Gore, '48L, Fort Lauderdale
Mr. Paul F. Hellmuth, '40, Boston
Mr. John T. Higgins, '22, Detroit
Mr. Henry M. Hogan, Birmingham, Michigan
Mr. H. Clay Johnson, '32, '34L, New York
Honorable Robert F. Kennedy, New York
Honorable Roger J. Kiley, '23L, Chicago
Honorable William B. Lawless, '44L, Buffalo
Mr. J. W. Mullin, Jr., Los Angeles
Honorable Walter V. Schaefer, Chicago
Mr. Ross D. Siragusa, Chicago
Mr. Edmund A. Stephan, '33, Chicago
Mr. Bernard J. Voll, '17, South Bend
Mr. A. Harold Weber, '22, South Bend

CONCLUSION

The very fact that we have achieved excellence demands fresh endeavors to achieve *greater* and constantly *increasing* excellence. One cannot stand still; like it or not there is movement — movement up or down, forward or backward. There is no third choice. With all our will and strength, therefore, we must push forward to greater and greater heights.

When one is committed to excellence, which, of necessity, means *increasing* excellence, “satisfaction” and “contentment” are words that do not exist. Miss Masuko Ushiodo, young Tokyo-born violinist, one of the winners in the Third International Tchaikovsky Competition held recently in Moscow, was one of two soloists with the Boston Symphony Orchestra at the Berkshire Music Festival at Tanglewood on August 14. A few days before her Tanglewood performance she was interviewed on television. The interviewer found her studying the score of the concerto she was to play. He began by observing, in effect, that surely she already knew the score. She nodded, saying:

I know it but I want to know it better.

The same point is made, and very well made, in the following paragraph of Helen Hayes' rewarding book *A Gift of Joy* at page 242:

Actors are incurable seekers. They are always searching after some perfection in their roles that rarely can be attained. I remember an interview that Lynn Fontanne once gave in which she described how she and her husband, Alfred Lunt, go home after a performance and continue to work, becoming more and more acquainted with the roles they are playing, studying every inflection, every intonation. “This,” she said, “is a process that goes on all through the run of the play.”

Notre Dame is not just a school where law is taught and lawyers 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 Alfred North Whitehead called “the habitual vision of greatness.” *The Aims of Education* 77 (Mentor).

What has been accomplished since I took over the Deanship in the fall of 1952 has been the result of the devoted support and un-failing loyalty of many extremely able people, both on and off campus. To every one of them I express warm personal gratitude.

Respectfully submitted,

JOSEPH O'MEARA

Dean

August 15, 1966

FACULTY PUBLICATIONS

1965-66

G. ROBERT BLAKEY

Article:

Can Indiana Constitutionally Aid All Students? *Res Gestae*, December, 1965, p. 5. Co-author.

Book Review:

Albert B. Gerber, *Sex, Pornography & Justice* (New York: Lyle Stuart, Inc., 1965) accepted for publication in the *Notre Dame Lawyer*.

THOMAS F. BRODEN

Book:

Background of the Civil Rights Movement, in *Report of Executive Seminar on the Attraction and Employment of Minority Group Talent* 23 (U.S. Civil Service Commission, 1966).

Articles:

How Economic Opportunity Act Can Supplement Present Efforts to Extend Legal Services to Indigents, 46 *Oklahoma Bar Association Journal* 2367 (1965).

A Role for Law Schools in OEO's Legal Services Program, accepted for publication in the *Notre Dame Lawyer*.

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Fourteenth Annual Union-Management Conference on Recent Trends in Industrial Relations (University of Notre Dame, 1966). Co-editor.

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Facilitation and Regulation in the Uniform Commercial Code, 41 *Notre Dame Lawyer* 625 (1966).

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The Purposes of Advocacy and the Limits on Confidentiality, 64 *Michigan Law Review* 1485 (1966).

Das Konzil und die Empfängnisverhütung, 65 *Schweizer Rundschau* 470 (1966).

Naturgesetz und Ehe, 9 *Theologie der Gegenwart* 14 (1966).

Book Review:

Maynard E. Pirsig, *Cases and Materials on Professional Responsibility* (St. Paul: American Casebooks Series, 1965) 50 *Minnesota Law Review* 415 (1965).

ROGER PAUL PETERS

Book Review:

Herbert Marcuse, *One-Dimensional Man* (Boston: Beacon Press, 1964) 41 *Notre Dame Lawyer* 622 (1966).

ROBERT E. RODES, JR.

Article:

A Supplementary State Civil Rights Act, 3 *Harvard Journal on Legislation* 103 (1965).

Book Review:

E. A. Goerner, *Peter and Caesar: Political Authority and the Catholic Church* (New York: Herder and Herder, 1965) 28 *The Review of Politics* 384 (1966).

THOMAS L. SHAFFER

Book:

1966 *Supplement to Problems and Readings in Property Settlement* (Temp. ed., 1965).

Articles:

Fiduciary Power to Compromise Claims, 41 *New York University Law Review* 528 (1966).

Life Insurance Proceeds in Trust, *Res Gestae*, July, 1966, p. 9.

The Doctor's Exposure to Lawsuits for Medical Malpractice, accepted for publication in the *Journal of the American Osteopathic Association*.

Book Reviews:

Anton-Hermann Chroust, *The Rise of the Legal Profession in America* (Norman, Oklahoma: University of Oklahoma Press, 1965, two volumes) 41 *Notre Dame Lawyer* 122 (1965).

Mishkin and Morris, *On Law in Courts* (Brooklyn: The Foundation Press, Inc., 1965) 18 *Journal of Legal Education* 492 (1966).

BERNARD J. WARD

Book:

Part IX, Appeals, in *Moore's Federal Practice* (New York: Matthew Bender & Company, 1966).

“[T]here stands the inexorable law that apart from some transcendent aim the civilized life either wallows in pleasure or relapses slowly into a barren repetition with waning intensities of feeling.” Alfred North Whitehead, *Adventures of Ideas* 92 (Mentor)

"[S]ensitiveness to ideas means curiosity, adventure, change. Civilized order survives on its merits, and is transformed by its power of recognizing its imperfections." Alfred North Whitehead, *Adventures of Ideas* 90 (Mentor)