

1930

History of the Notre Dame College of Law

Thomas Frank Konop
Notre Dame Law School

Follow this and additional works at: https://scholarship.law.nd.edu/law_faculty_scholarship



Part of the [Legal Education Commons](#), and the [Legal History Commons](#)

Recommended Citation

Thomas F. Konop, *History of the Notre Dame College of Law*, 6 *Notre Dame L. J.* 5 (1930-1931).
Available at: https://scholarship.law.nd.edu/law_faculty_scholarship/1038

This Article is brought to you for free and open access by the Publications at NDLScholarship. It has been accepted for inclusion in Journal Articles by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.

NOTRE DAME LAWYER

"Law is the perfection of human reason"

VOL. VI

NOVEMBER, 1930

NO. 1

HISTORY OF THE NOTRE DAME COLLEGE OF LAW

For over sixty years law courses have been offered at the University of Notre Dame. In the summer of 1868 the Board of Trustees of the University passed a resolution "for



WILLIAM JAMES HOYNES
Dean Emeritus

the opening of a course in law at Notre Dame." At that time there were very few law schools in the country and the profession was almost wholly recruited from the law-offices. As a matter of fact there was great doubt among the lawyers at that time as to the advisability and the possibility of acquiring training for the bar at a university. There were even prejudices at that time against the study of law at law schools. It was during such doubts and prejudices that the then President, the Very Rev. William Corby, C. S. C., of Gettysburg fame, proposed to organize a law department at the University of Notre Dame. In the Scholastic of December 12, 1868, announcement was made that courses in law would

begin on the first day of February, 1869, and that a prospectus of legal studies was being prepared by a resident professor. The announcement stated: "We are aware that we labor under some disadvantage at the start, and that it will take a few years to form a large class of legal students: for the course has to be created, young men have to be prepared for it. . . . On our part, we may say that it will always be a pleasure to us to afford our students every opportunity of improving themselves, well persuaded as we are, that in so doing we not only save the individual interests of our students, but also that we contribute so much to the general welfare of that great American society in whose ranks they may be hereafter called upon to perform various and important duties. It is our intention to have a special care over the Law Department, and to contribute by every means in our power to its perfection, so as to place it on a footing



HON. THOMAS F. KONOP
Dean

with the best law-schools, in either Europe or America. For success, we must only await the developments of time, and the patronage of an enlightened public, whose generous encouragement has so often heralded success to many more arduous undertakings at Notre Dame."

In January, 1869, a "prospectus of the law faculty" stated the aim, gave an outline of the courses, and announced the degrees to be awarded. The aim was "to prepare young gentlemen for the practice of the legal profession by a full and comprehensive course of instruction in the principles of the science of law." The "prospectus" provided for the granting of the degrees of LL.B., LL.M., and LL.D. Only students who had a good

liberal education were to be matriculated in the law courses, and opportunities were given to students who had not completed their studies in the College of Arts and Letters to pursue such studies while law students without extra charge. In the "prospectus" there was outlined a two-year program of study including the following courses: First Year:—Political Economy, Introduction to the Study of Roman Law, Institutes of Justinian, Common Law of England, Principles of Obligations, Criminal Law and Procedure, and Medical Jurisprudence. Second Year:—Constitutional Law, Principles of Civil Jurisprudence as contained in the Pandects, Code and Novels, Jurisprudence of the United States, the Law of Contracts Civil and Commercial, The Law of Evidence, and Practice at Law and in Equity.

The first organized faculty of the Law Department consisted of Professor P. Foote, A. M., Principal of the Department, Rev. E. P. Battista, Professor of Ethics and Civil Law, T. A. Moran, Professor of Constitutional and Criminal Law, and L. G. Tong, Professor of Commercial Law. The first examination in law was given on June 10, 1869, in the courses of Common Law, Law of Obligations and Contracts, and Criminal Law.

As early as 1869 the teaching of law by the lecture method was disapproved at Notre Dame. In the announcement for the scholastic year 1869-1870 the following comment was made on this method: "The usual, and it may be added unprofitable system of lecturing is discarded, and in its stead is adopted the use of such text-books as are universally admitted to be the standard authorities on the principles of law." In addition to the study of text-books, the drawing-up of pleadings, conducting law-suits, arguing cases, was a part of the work of the law student of that day. The advantages of studying law at a school located outside of a metropolitan center were pointed out in these words: "Again being entirely separated from the distraction incident to cities and to large communities, the student is free to devote his time and energies to the solid attainment of the knowledge of the profession which while it is the most honorable is also in

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

point of study the most exacting into which a young man can enter." There are some who will not agree with us as to the best environment for the study of law. Some of the universities outside of metropolitan centers have moved their professional schools to these centers. But Notre Dame in the construction of its present \$400,000 law building on the campus, still adheres to the policy and wisdom of Father Corby in keeping the Law School away from the distractions and humdrum of a large city. A somewhat unique and happy situation exists at Notre Dame. The Law School is located two miles from the State and Federal Court Houses at South Bend, Indiana, a city of 104,000 people. Law students have every opportunity to visit the courts and associate with judges and lawyers. At the same time there is a close relationship existing between the law students and students in the other colleges of the University. They lodge together in the College halls, dine in common at the new dining hall, attend together the church services, lectures, and entertainments and games. At Notre Dame we are, as it were, a great family—academics, professionals, post graduates, and the faculty; no castes, no classes, no fraternities—all of a common fold. After all, have not the great discoveries in science, the great advances in philosophy and the great progress in education been made in the solitude of the laboratory and the quietude of the library?

In June, 1870, the following qualifications were announced for entrance to the Law Department: "Every applicant for admission to the Law Department must have at least a good English Education, and a fair knowledge of the sciences. Graduates of classical institutions are preferred." The courses announced were: Ethics, Constitutional and International Law, Common Law, Law of Contracts, Equity, Criminal Law, Evidence, Pleading and Practice. Let us compare this with the law courses of today. Our observation of the many changes in the entrance requirements in the past thirty years and the subdividing and the fanciful naming of multifarious courses in our curricula, leads to some doubt of a real progress in legal education.

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

The first graduates of the Law Department were J. A. O'Reilly, Reading, Pennsylvania, A. J. Reilly, Ft. Dodge, Iowa, and L. G. Tong, South Bend, Indiana. They were awarded the degree of LL.B. at the commencement in June 1871. The Law Department made slow progress and after the fire of 1879, which destroyed the main building of the University, there was a marked decrease in enrollment.

A new beginning was necessary. Fortunate indeed was the University when at that time it was able to secure the services of a man who as its Dean piloted the College of Law for nearly forty years, and continues to be its beacon, as Dean Emeritus, to this day. No history of Notre Dame for the period from 1883 to date could be written, wherein on its brightest pages would not appear the name of Dean Hoynes, or Colonel Hoynes, as he is popularly known. Soldier, editor, lawyer, he brought to the College of Law an unequalled experience. The Chicago Evening Journal had this to say of his selection. "Mr. William Hoynes, one of the very ablest young men of the Chicago bar, has just accepted the Professor's chair in the law department of Notre Dame University. The University authorities are to be congratulated on their selection. Mr. Hoynes as a speaker, writer, thinker, and lawyer, has no superior of his own age in the Northwest." Let the Colonel himself speak as to how he happened to come to Notre Dame. "One afternoon in the Autumn of that year the Rev. Dr. John A. Zahm, Vice-President of the University, called at my office and stated, greatly to my surprise, that he and the Rev. Thomas E. Walsh, who was singularly gifted and erudite and linguist, scholar and president, desired to have me give up my practice, move to Notre Dame, take charge of the Law Department and seek to build it up. I entertained then, as I do now, a feeling of deep affection for Notre Dame, its officials, and the devoted community so basically and essentially identified with it. But it was no easy matter to decide at once on giving up my satisfactorily lucrative and growing law practice, not to mention suggestions of certain friendly politicians as to a place on the bench. On reflection, however,

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

I found no difficulty in dismissing such thoughts as unworthily selfish. I had not been so long in the practice as to feel deeply rooted in it. I was single, though not unconscious of the obligation of cherished family ties. Early in the new year, in January, 1883, I came to Notre Dame and entered on the discharge of my new duties. The start was from the very bottom. There was no law room, no law library, not even a single law book. As there was but one regular law student, however, my own room served adequately for recitation uses, and the few law books brought with me from Chicago answered as a library. I undertook to follow in general outlines the system of teaching with which I had become familiar at the University of Michigan."

It might be interesting at this point to note something about Colonel Hoynes before he came to take charge of the Law School. Early in life he learned the printing trade in the office of the La Crosse (Wis.) Republican. In 1862, while still a mere boy he enlisted in the 20th Wisconsin Volunteers and served through the war. While at the front he was twice wounded. After the war, he returned to his trade and did editorial work on the Daily Times of New Brunswick, N. J., and later in Chicago, Denver, and Peoria. In 1868 he entered the University of Notre Dame and was graduated in 1872. Later he studied law at the University of Michigan, under Justices Thomas M. Cooley, James Campbell, and Charles A. Kent. His classmate and associate and life-long friend was the late Justice of the U. S. Supreme Court, William R. Day. After receiving his law degree, Colonel Hoynes practiced law at Chicago until he went to Notre Dame.

From one student in 1883 the College of Law made progress so that in 1890 the average attendance was twenty-five, and as the Colonel says "the hope expressed by the able and far-seeing Father Walsh was that the Law Department would ultimately have an attendance of twenty-five was more than realized by 1890." To us twenty-five may appear to be a small number but at that time Notre Dame was classed as one of the large law schools of the country. In 1892 there were thirty-five students and the following mem-

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

bers of the faculty assisted Dean Hoynes: Hon. Lucius Hubbard, a widely know lawyer of Indiana, Hon. A. L. Brick, later Congressman, Hon. John Gibbons, L. L. Mills of Chicago, and Hon. William Breen of Ft. Wayne. In 1902, ten years later, the attendance at the Law School increased to eighty. At the commencement in June, 1902, at which Hon. William Breen delivered the Commencement address and was honored with the degree of Doctor of Laws, there were fourteen graduates among whom was Hon. Francis Earl Hering of South Bend, who recently delivered the address dedicating the new stadium. By 1910 the enrollment reached 112 and in June, 1911, the degree of Bachelor of Laws was conferred on 22 graduates, as many graduates as Father Walsh had hoped there would be students. The faculty at that time consisted of Dean Hoynes, Judges T. E. Howard, Gallitzin Farabaugh, and Professor Calahan. It was about this time that the Notre Dame Law School adopted the three year course of study leading to the degree of LL. B. and one extra year for the degree of LL. M.

In 1917, the College of Law opened with a new and advanced program requiring four years for the degree of Bachelor of Laws. To the faculty were added as lecturers Messrs. A. L. Hubbard, William McInerny, and Samuel Pettengill. For the first year there was offered a combination of academic and law courses. Elements of Law, Contracts, Persons and Domestic Relations, Criminal Law and Procedure were the law courses offered. The three years following were devoted entirely to law, and two years later the law courses were dropped from the first year and the program then remained, one year of college work and three years of law for the degree of LL. B. In 1919, owing to his advanced age, our beloved Dean Hoynes was made Dean Emeritus and Judge Francis J. Vurpillat was appointed Dean. In addition to Dean Vurpillat the faculty consisted of Judge Farabaugh, Professors Tiernan, Farrell, Costello, Fredrickson, Jones, and Judge Parker. Dean Vurpillat resigned at the end of the scholastic year of 1922-1923 and at the beginning of the year 1923-1924 the author of this article was

chosen Dean. There were then three other full-time teachers; Professors Fredrickson, Waters, and Burby. Judge Farabaugh was a part-time lecturer and Judge Montgomery had charge of the Practice Court. Professor Heilman another full-time teacher was added to the faculty later in the year. During that same year, new courses were added to the curriculum, and announcement was made that in September, 1925, two years of college work would be required for entrance to the Law School. In the fall of 1924 Professors Clarence Manion, Edwin Hadley, and Judge Dudley G. Wooten joined the faculty. During that year the qualitative average for graduation was adopted. This had a great effect in raising the standard of work done in the Law School. In December, 1925, the College of Law was admitted to membership in the Association of American Law Schools and received an approved rating from the Section on Legal Education of the American Bar Association.

The raising of the requirements for admission reduced the entering class in September, 1925, to 37, but the following year, 1926, the number of the entering class rose to 90. Because of the limited quarters and the desire to raise the standards, in the bulletin of March, 1927, announcement was made that "beginning September, 1928, a minimum of three years of work in an approved college or university will be required of all candidates for degrees." This was not to be retroactive. In September, 1929, only those with three years of college work were admitted and the entering class again dropped, this time to 50. However in September, 1930, the entering class increased to 72, thus indicating that even with these advanced requirements, the law school attendance will increase in the future.

In the fall of 1927 Professor James Kirby succeeded Professor Hadley, and Professor Richter was made full-time teacher. Upon the death of Judge Wooten in the spring of 1929 Professors McCabe, Earl, and Huguenard were added as part-time teachers and Hon. Orlo Deahl, Judge of the Superior Court of South Bend, took charge of the Practice Court. The faculty this fall consists of the following full-

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.

time teachers: Dean Thomas F. Konop, LL. B., Clarence Manion, A. M., Ph. M., J. D., William M. Cain, LL. B., Elton E. Richter, A. M., J. D., Homer I. Earl, A. B., J. D., William D. Rollison, A. M., LL. M., and the following lecturers and part-time teachers: Aaron H. Huguenard, LL. B., Rev. Paul D. Doherty, C. S. C., LL. B., Marcellus M. Oshe, LL. B., Orlo Deahl, LL. B., and John H. A. Whitman, A. M., J. D.

The library of the College of Law has grown with the progress of the Law School. From a few text books it grew to 2500 volumes by 1900, and it now numbers 11,000 volumes. At times it was augmented by substantial gifts of friends of the University. Among these may be mentioned the Hon. Timothy E. Howard of South Bend, Indiana, the Hon. Jeremiah Gilman Fennessey of Boston, Massachusetts, the Hon. John O'Hara of Peru, Indiana, and the Hon. Edward J. McDermott, of Louisville, Kentucky. These generous givers donated practically their entire libraries to the College of Law.

The year 1930 marks the beginning of a new era in the history of the College of Law of the University of Notre Dame. In April after the death of the Hon. William P. Breen, '77, of Ft. Wayne, Indiana, a lay-trustee of the University and one of Notre Dame's most devoted friends, announcement was made that the College of Law, was, through his generosity, the beneficiary of its first substantial endowment amounting to about \$250,000. In September the law school moved into its new \$400,000 building, a beautiful Gothic structure with every convenience for the study of law. These, with a faculty of six full-time and five part-time professors and an interested and co-operating student body of 140 young men, auger well for the success of our Law School.

Hon. Thomas F. Konop.

UNIVERSITY OF NOTRE DAME, COLLEGE OF LAW.

The picture appearing on this page in the original,
from which this book was reprinted, was not suitable
for reproduction.