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## The Hoynes Era 1883-1919

THE LETTER OF FATHER THOMAS WALSH TO WILLIAM Hoynes inviting him to become the head of the Notre Dame Law Department, with title of dean, and Hoynes's reply of acceptance have suffered the fate of countless historical records: they have been lost or destroyed. However, a brief note from Father Walsh, written after the appointment had been made, has survived. He wrote, "Classes will be resumed January 2nd. I need not tell you that there is a room here waiting for you and a hearty welcome besides, whenever you come."<sup>1</sup> And so Dean Hoynes arrived at Notre Dame in January

1883, and as dean and dean emeritus he was to remain until his death fifty years later, half the lifetime of the law school in this centennial year of 1969. During those fifty years he not only developed and strengthened what was then called the Law Department,<sup>2</sup> but also became perhaps the best known and best loved professor ever to serve on the faculty of the university. He was at once a strong personality, a master teacher, and a "character" whose little foibles and vanities charmed colleagues and students alike.

William J. Hoynes was born in Kilkenny, Ireland in 1846. Seven years later his parents emigrated to the United States and settled in LaCrosse, Wisconsin. In 1858, at age twelve, William quit school and became apprentice in a LaCrosse printing shop. Shortly after the outbreak of the Civil War he enlisted, at age fifteen, in the 20th Wisconsin Infantry. This was no wild, youthful adventure but an act of a deep and conscious patriotism which was to reveal itself in various ways throughout his life. Severely wounded at Prairie Grove, Arkansas in December 1862, he refused honorable discharge, fought through the battle of Vicksburg on July 4, 1863, and was finally mustered out in November 1863. Almost immediately he re-enlisted in the Second Wisconsin Cavalry, in which he served until the end of the war. This pertinacity was characteristic of his strong personality, and his years in army service also enkindled in him a lifelong love of the military.

After his return to civilian life, Hoynes went back to the printing trade and to three years of self-education.<sup>3</sup> But he soon realized the need for formal education and

in 1868 he enrolled as a student at Notre Dame. He apparently spent one or two years here and then entered the University of Michigan Law School from which he received the bachelor of laws degree in 1872. He was admitted to the Michigan Bar in that same year, to practice before the Supreme Court of the United States in 1875 and before the Supreme Court of Illinois in 1877. He returned to Notre Dame to work for the master of arts degree which he received in 1878.

When he finished law at Michigan, young Hoynes wavered between journalism and law as choice of a professional career, and it seems that journalism might have been his choice had not Notre Dame offered him the position of dean of law in late 1882. From 1873 to 1878 he was editor of *The Daily Times* of New Brunswick, New Jersey; then he set up law practice in Chicago, but in 1881 he again went into journalism as editor of the *Daily Transcript* of Peoria, Illinois.<sup>4</sup>

Before recounting his work as dean for the next thirty-six years,<sup>5</sup> something should be said about two other facets of his rich, colorful personality—his posturing as an expert on things military and his involvement in matters political.

In reviewing his years of military service, it was remarked that "his years in army service . . . enkindled in him a lifelong love of the military." This love led him to make the study of military tactics and strategy a passionate hobby, and though there was much of pose and delightful vanity in this facet of his life, he did become very knowledgeable on the tactics of Civil War battles and the strategy of campaigns.<sup>6</sup> A most striking

example of this posing is that to generations of students and to everybody else at Notre Dame he was known as "Colonel" Hoynes. The students, at least (among whom was the writer), who knew he had been a Union soldier, assumed that he had risen to this rank in military service, and the Colonel seldom bothered to correct this assumption. The young soldier had been mustered out of service as a private and the origin of his title had nothing to do with his valiant contribution to the victory of the North. Sometime in the 1880s he formed and drilled a company of student cadets which came to be called the Hoynes Light Guards, and it was these cadets who dubbed him "colonel," a title which became a term of affection. What few knew was that the colonel once became a general for a day. The occasion was a visit to Gettysburg in company with the Reverend James Burns, who later became ninth president of the university. As they toured the battlefield with other visitors, Hoynes described at length the course of the battle, with plentiful criticism of tactical mistakes on the field and strategic errors of those who had mapped the campaign, much to the awe of his audience. At the end of this harangue, Father Burns, who knew his companion's foibles and who was master of the subtle joke, introduced him to these listeners as "General Hoynes, late of the Union Army," and that gentleman is said to have accepted the new title without blinking an eye.<sup>7</sup>

The Hoynes papers in the University of Notre Dame Archives reveal that he was a powerful figure in Republican politics of St. Joseph County and the thirteenth congressional district of Indiana. In 1888 he was nomi-

nated to represent his district in the United States Congress. He was defeated, but only after he had waged a campaign which drew this praise in a *South Bend Tribune* editorial:

The congressional canvas made by Colonel William Hoynes . . . was the most brilliant and aggressive ever known in this district. His campaign showed tact, brilliancy, courage, and above all it was clean. His line of battle was always formed on principles and never once descended to personalities. . . . The brilliant campaign of Colonel William Hoynes will not soon be forgotten.<sup>8</sup>

This ended his running for elective office, but not his political influence, which showed itself in numerous ways. Mention should be made of two important appointments he accepted. In 1890 President Benjamin Harrison appointed him to head a commission to negotiate with the Turtle Mountain Chippewa Indians on the delicate matter of moving from their lands in South Dakota to a reservation in Red Lake, Minnesota—a negotiation he carried out with eminent success.<sup>9</sup> In 1895 Governor Claude Matthews of Indiana appointed him to a commission, authorized by the 59th General Assembly, to plan the centennial celebration of the establishment of the Indiana Territory.<sup>10</sup>

In 1883, then, Dean Hoynes took over the direction of the Notre Dame Law School.<sup>11</sup> Excellence in any field of endeavor is in a sense relative, that is it must be judged in the context of time and circumstances. Thus, what was considered excellent a century or even fifty years ago might not be considered excellent today.

In this perspective, it can be said that during the long years of his tenure, Hoynes put the law school on a firm foundation and built it to an excellence of which we can still be proud. Graduates of the law school during Hoynes's last years as dean are still living, and are recognized to be fine lawyers.

Although Dean Hoynes arrived at Notre Dame in the midst of the school year 1882-1883, changes in the law program are announced in the *Annual Catalogue* of that year: "Numerous changes have been made in this Department. Chief among them may be mentioned the extending of the course to a period of three years, the raising of standards of studies to the most approved plane, and the partial substitution of the lecture system for the compulsory use of text-books . . ." The statement then announces that "It may now be confidently claimed that no law school in the country offers superior facilities for acquiring a thorough and practical knowledge of the law."<sup>12</sup>

Raising the standard of studies was of major importance. Two other important changes were the extension of the law course to three years and the "partial substitution of the lecture system for the compulsory use of text-books." This must mean that emphasis was shifted from textbooks to lectures in the method of instruction, because there had been some lecturing previously. This is borne out by the further remark that "the lectures are so full and comprehensive that they cover all subjects likely to arise in connection with even the most thorough examination." In the complete statement the students are advised to consult the standard textbooks,

and then seemingly are told that the study of textbooks is superfluous, because by taking copious notes on the lectures they can acquire complete theoretical knowledge of the subject matter covered.<sup>13</sup>

The reason given for extending the law course from two to three years was recognition "that the standing of the profession had been lowered by a too indiscriminate admission to them [the law schools] of persons of limited education and technical education of a narrow and circumscribed range."<sup>14</sup> Although the additional year of law broadened the technical education, it is odd that, in view of the "limited education," the original requirement for entering upon the law, a "fairly liberal education" which in context had to mean some years of college work, was dropped. Not even a high school education was a strict requirement; the applicant had only to be seventeen years of age and to have had a fair English education. In 1889 the admission requirement was modified somewhat and the statement reads: "The regular course of study comprises three years. The student in it must be at least 17 years of age. He must have a fair general education and be able accurately to write the English language. A preliminary examination may be resorted to as a means of ascertaining his educational studies."<sup>15</sup> This minimal requirement perdured until 1917, when one year of college was added. This was increased to two years in 1926 and to three years in 1928. Also in 1889 the two-year course was revived and made alternate to the three-year course. The only variant in the admission requirement for the two-year course was that the student must be at least eighteen

years of age. Then, what seems surprising, it is recommended "that only collegiate graduates should attempt the two-year program."<sup>16</sup>

To return to 1883, no definite program of courses by years is given. It is simply announced that the courses would cover the various branches of International, Constitutional, Commercial, Maritime and Criminal Law, together with Medical Jurisprudence, Common Law and Equity Pleading, Practice, Evidence, et cetera. The practice of law or practical law was still imparted through the moot court in which cases were tried once a week, the professor presiding as judge. This court was regularly organized, having its clerk, prosecuting attorney, sheriff, bailiff, reporters and other officers. Pleadings were prepared and filed, issues were joined, juries impaneled and cases tried in as close accordance as practicable with the procedures of regular county, state and federal courts. This functioning of the moot court continued pretty much unchanged down to the end of the Hoynes era.<sup>17</sup> Some changes in later years will be noted when we treat other eras in the history of law at Notre Dame. Worthy of attention here is that although some cases cited in the textbooks were analyzed and discussed in addition to the cases tried in the moot court, no strictly case method of instruction was employed in the 1880s.

It has been said that Dean Hoynes was a "one-man law school" during his first years at Notre Dame. This is an exaggeration, but throughout these years he did carry the brunt of the work, lecturing four periods a day and presiding over the moot court in addition to



his administrative duties. Other faculty members during the 1880s and 1890s were Timothy Howard, A. C. Unsworth, John Gibbons, Andrew Egbert, John Ewing, Lucius Hubbard, Abraham Brick, William Breen, George Clarke and two or three lecturers. Nevertheless, by present-day standards, the law school was understaffed and the teachers overloaded.

The increase in enrollment was relatively rapid, due at least in part to the lowered admissions requirement, and averaged thirty-five to forty in the 1880s,<sup>18</sup> reaching up to seventy by 1900.<sup>19</sup> Few received degrees throughout the 1880s, the highest number being ten in 1889. From 1883 to 1886 inclusive there were only fifteen, and yet in the October 1886 issue the *Chicago Law Journal* paid Notre Dame the following tribute:

Within the past three or four years the Law Department of the University of Notre Dame . . . has taken rank among the very best law schools in the country. Not one of its graduates during that time failed to pass a creditable examination for the Bar in any of the States. . . . It is worthy of note that the graduates of Notre Dame have not only passed the test in every case but also have, on several occasions, been highly complimented by the examiners.<sup>20</sup>

The twentieth year of law at Notre Dame was very important; it was a turning point, and several significant things happened during it and the year that followed. Before recounting these events, mention must be made of the first of what today are called "student activities,"<sup>21</sup> co-curricular activities not actually part of the regular program of studies but closely associated

with it. Early in 1885 a Debating Society was formed and continued to function for many years. The *Scholastic* gave notice of its formation and purpose: "The Law Class has formed itself into a 'quizzing' club which meets regularly to discuss questions given in the lectures and such others as may be presented."<sup>22</sup> The questions debated were primarily legal questions but not limited to them. At a meeting in 1887 "The Debating Society considered the following question . . . : Resolved that clergymen are more beneficial to society than lawyers." The article continues, "Strange to say, the question was decided in favor of the negative. There must be something wrong with the Law Society."<sup>23</sup> Later in the same year the subject was "Protection versus Free Trade." The *Scholastic* observed that the Society "displayed good judgment by ignoring a long list of stereotyped subjects that usually catch the average debating society, and grappled with one of the questions of the day," which has a current ring to it, and concluded, "The debate was highly entertaining and thoroughly instructive, and we trust the example of the Society will be followed by our other societies."<sup>24</sup> We can presume that the debates continued to be both entertaining and instructive down through the years and added much to the formation of the young lawyers in poise and quick thinking in the heat of the argument.

In 1889 the official statement on admission requirements to the study of law were somewhat modified, although not greatly strengthened. In regard to the curriculum the *Annual Catalogue* of 1882-1883 listed no definite program of courses, but announced only the

general areas covered, International, Constitutional, Commercial, Maritime and Criminal Law, et cetera; in 1889 the statement fails to mention even these general areas and reads simply: "These [the lectures] cover the whole domain of the law." On the other hand, the schedule of classes was given: three classes daily, two hours of lectures and one of quizzes and recitations, later increased to four classes daily, three hours of lectures and one of quizzes. Moreover, "Wednesday and Saturday evenings are devoted [respectively] to the Debating Society and Moot Court proceedings." The quizzes were said to be exceptionally instructive and interesting, designed "to make everything clear and intelligible." Finally, the thesis, required since 1884, was lengthened from thirty to forty folio pages.<sup>25</sup>

There is nothing remarkable in these changes, but a noteworthy change did occur: the case method of instruction was adopted. The students were drilled in both adjudicated and hypothetical cases. Today, the objective of such drill would be to sharpen the students' skill in analysis of legal matters; then it was to ground them in the principles of the law. The objective was to give students the answers—or at least the principles involved—to any and every question that could be legitimately asked in the bar examinations.<sup>26</sup> These principles were those of the Common Law; "the whole domain of the law" referred to above meant the Common Law. Statutes of individual states were excluded from all formal course work and the students were personally responsible for informing themselves on these.<sup>27</sup>

Adoption of the case method was an advance in the teaching of law, but how much it was used at first is impossible to determine. What seems to have happened was an evolutionary process in methodology with the case method finally becoming predominant. This conjecture is based on subsequent statements on the method of teaching law at Notre Dame. The first of these statements dates from 1895:

The method of instruction may be called, for the sake of brevity, the eclectic system. It aims to combine the best features of the distinctive courses of other law schools, together with such additional and original means of imparting legal knowledge as to the Dean may seem proper. Two lectures are delivered daily, copious notes of which are taken by the students. They are also advised to read . . . the most important cases cited in the lectures. Instructive illustrations or actual cases, briefly stated, are given in explanation and support of such principles as may seem at all obscure to the learners. Text books on the subjects treated in the lectures are read collaterally by the students. The notes and text books are thus found to be reciprocally aidful and the principles are thus firmly fixed in the mind, as firmly as can be expected."<sup>8</sup>

A second statement occurs for 1898–1899, in which the method of instruction was explained at some length:

Referring briefly to the prevailing methods of instruction in the different law schools, it may be stated that in some of them the text-book system is exclusively followed and the students read and recite daily an assigned lesson . . . ; in others the lecture system

obtains, as in European universities, and students study notes to answer examination questions; in a few others, taking as guide a noted Eastern university, case reading is the favored system and students study books of selected cases . . . with a view to reciting them in outline or writing a brief digest of the points involved; in certain other schools an effort has been made to combine the distinctive features of case reading and text-book work or lecturing. . . . At Notre Dame none of these systems is exclusively followed. And yet the best features of all are comprised in the curriculum here preferred. It is believed, in short, that nowhere in the country is the course in law more comprehensive, thorough and practical than at this university.

The statement then continues:

The lecture or dictation system alone may be pronounced antiquated and impractical . . . but in combination with text-book work, case reading and daily examination its great value and practical utility cannot be impugned. At Notre Dame it forms an important factor in the law curriculum. Each subject is fully covered by lectures, text-book work, daily and bi-monthly examinations, monthly theses, and the reading of pertinent cases and weekly trials in the Moot and other courts of the Law Department.<sup>29</sup>

One more statement on the methodology will suffice for the Hoynes era, that which appeared in the *University Bulletin*<sup>30</sup> for 1905–1906:

The study of cases is usually begun in September and continues long enough to enable students to under-

stand, analyze and criticize the decisions assigned to them for study and recitation. Lectures and explanations supplement this work. After thus familiarizing themselves with cases, they are expected to read the authorities cited daily in class, whether in the text books, lectures or quizzes. In the preparation also of theses from month to month . . . they must necessarily consult and cite them. In Moot Court work likewise, they are prepared for actual practice by making careful study not only of the cases in the reports but also of those cited in text books and digests.<sup>31</sup>

By 1905 the case method had won the day.

In 1890 a post-graduate course leading to the degree of master of laws was launched. The course required a year of study beyond the bachelor's degree, devoted to the work prescribed, the passing of examinations, and the writing of a thesis of forty folios on a legal topic selected by the student.<sup>32</sup> Although no specific courses are listed in the *Annual Catalogue* for that year, we can deduce from what is announced and from later listings of courses that for many years "the course of instruction" comprised practical exercises in the writing of pleadings, the examination of witnesses, the taking of depositions, the practical applications of the rules of evidence, preparation of briefs and arguments, the duties of certain persons, the examination of abstracts of title and the making of deeds, mortgages, leases, et cetera. Moot Court was also required.<sup>33</sup>

By 1904–1905 the course requirement for the degree of master of laws had changed considerably and included more substantive law: The State and Federal Courts

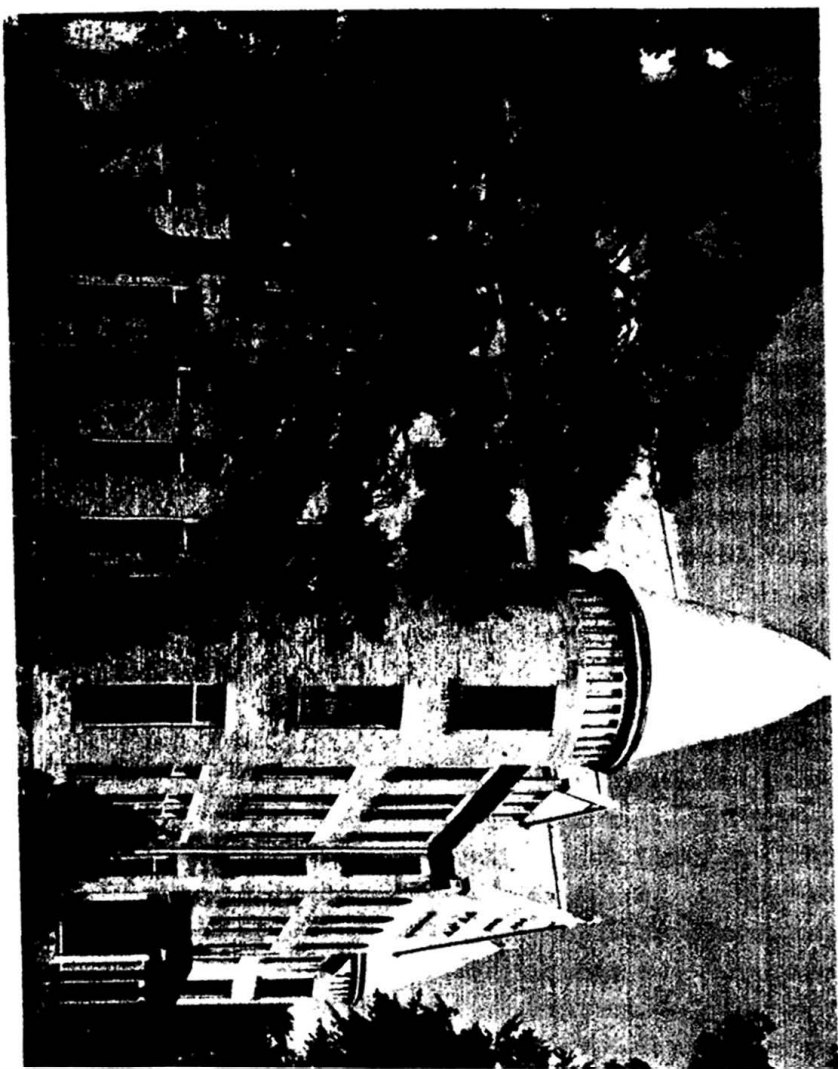
and their Respective Functions, The Roman Law, The Law of Admiralty, Mines, Mining and Water Rights, Copyright, Patents and Trademarks, Trusts and Trustees, Interpretation and Construction of Statutes of State of Domicile and Federal Statutes, Powers and Functions of Masters-in-Chancery, Referees, Sheriffs, Coroners, Justices of the Peace, United States Commissioners, Arbitrators and Receivers.<sup>34</sup> After disappearing for a few years, the announcement of the "course of instruction" reappeared in the 1908–1909 *Bulletin* and continued to 1914–1915 in this form: "Graduate courses cover the entire field [of law] by way of review, together with Moot Court practice, office work, etc." Optional courses were made available in Roman Law, Admiralty, Mining and Water Rights, Copyrights, Patents, Trademarks, State and Federal Statutes.<sup>35</sup> If there was a rationale for these options and for the 1904–1905 program of courses, it is difficult to see. A complete change of program was introduced in 1915–1916, and courses for the master's degree were taken from Jurisprudence, Roman Law and Modern Codes, International Law, Admiralty, Administration Law, Legislative Bill Drafting, Statutory Construction, Medical Jurisprudence, General Review of Substantive Law and Procedure, and Practice in the University Courts.<sup>36</sup> The final change appeared in 1923–1924, when the course requirement was stated to be twenty-four semester hours in elective courses and in Anglo-American Legal History, History of European Law, and Modern Civil Law.<sup>37</sup> The master's degree program was dropped in 1928.

The inauguration of a program leading to the degree

of master of laws in the Notre Dame of 1890 might be considered somewhat adventuresome. The question arises, could there have been any connection between this and the providing of new, more spacious quarters for law the preceding year? In 1869 the nascent law department was housed in the third college building, erected in 1865. There was no place else to put it. No record remains of what space was allotted to it; perhaps a single classroom, at most two. Then came the fire of 1879 which destroyed this building, and when the decision was made to continue the law program despite this catastrophe, law was located in the new college building, the present administration building. Again, there is no record of the quarters it occupied. Whatever they may have been, they were, with a steady increase in students, cramped and overcrowded by the end of a decade. The entire university had become in need of more space, and these needs were met by the building in 1888–1889 of venerable Sorin Hall, the first private room residence facility at an American Catholic college. The south end of the first floor was to be the home of the law school for thirty years, and of Dean Hoynes until his death.

We have had occasion to remark earlier on the relativity of excellence considered as a subjective judgment of quality. This same relativity holds for physical facilities, which depends on a comparison, or contrast, of the new with the old. It is not surprising, therefore, that the new law quarters in Sorin Hall were described in glowing terms by contemporary writers. One description appeared in the *Columbia Law Times* for March



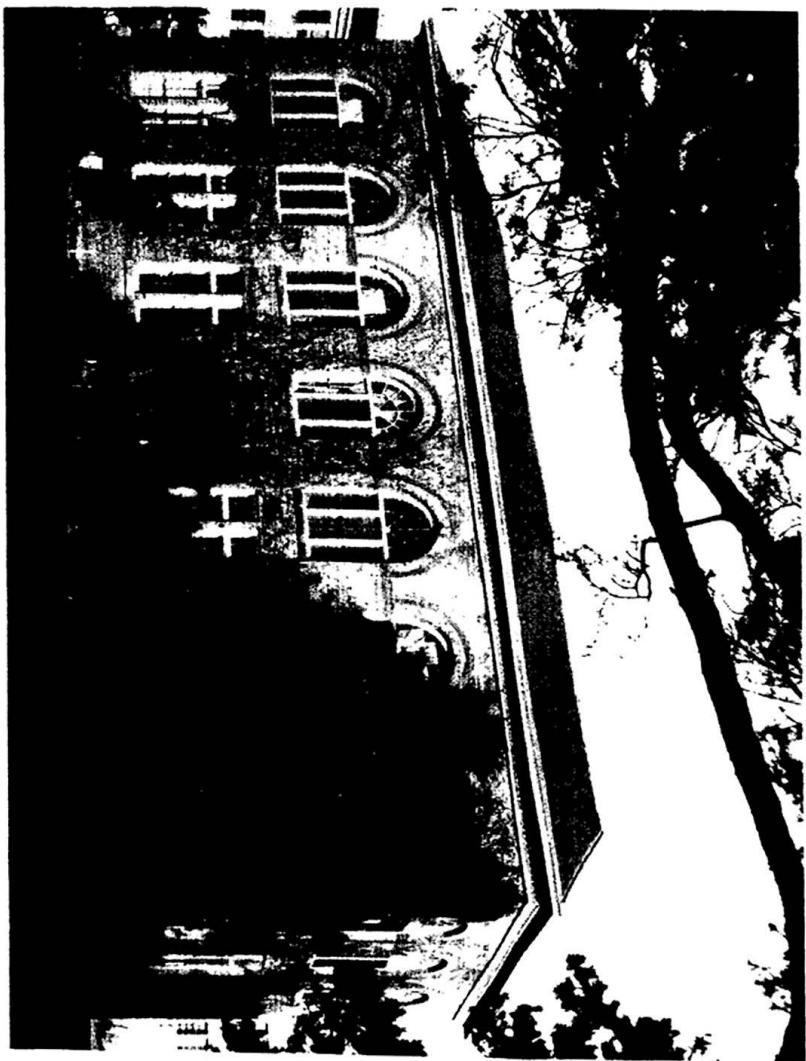


*Sorin Hall*

1889. The writer referred to the new building as a "magnificent structure" and continued, "The Moot Court library and lecture rooms are spacious, well lighted, well ventilated and exceptionally comfortable rooms and afford pleasant quarters for the students of the law course."<sup>38</sup>

Although the law quarters in Sorin Hall served their purpose for thirty years, they in turn became cramped and overcrowded and in June 1919 law moved to a new location, the first building of its own. It was erected in 1889 and named the Institute of Technology. Originally a three-story structure, it was "devoted to the exclusive use of the students of Civil, Mechanical and Electrical Engineering."<sup>39</sup> Later it housed the chemistry department. Then in September 1916 all but the outside walls was destroyed by a spectacular fire. This burned-out shell was converted into a two-story building as a new location for law. It provided several times more room than the quarters in Sorin Hall—a large courtroom, two large classrooms, a library and faculty offices—and it was hailed with great enthusiasm. The *University Bulletin* announcement of it reads:

With the year 1919–1920 the College of Law of the University of Notre Dame began a new era. This year for the first time in the history of the school, the law men are afforded a distinctive law building all their own, and a law atmosphere separate and apart from the other schools and colleges. The splendid new and modern equipment and facilities lend dignity to the college, offer singular advantages to the law students and stimulates in them a zest for studying, under-



*Hoynes College of Law*

standing and learning the law. Nowhere in the country are these conditions better. . . . The handsome building . . . is called the Hoynes College of Law. . . .<sup>40</sup>

And a later *Bulletin* states that "The courtroom is located on the first floor opposite the law library. In equipment, arrangement and compliance with the requisites of the actual court, it is superior to many real court chambers."<sup>41</sup> Hoynes's last act as dean was his participation in the dedication of this building named in his honor.

Library room is mentioned in the descriptions of both the Sorin Hall law quarters and the Hoynes College of Law. Looking back to the year 1869 and for many years thereafter we must wonder about the library materials available for the teaching of the bachelor of law program, and our wonder increases when we think of the master of laws course introduced in 1890. There is no mention of library in the *Annual Catalogue* for the early years nor mention elsewhere that has been found, but whatever library holdings there were must have been destroyed in the fire of 1879. The first mention found is in the history of the university written for the golden jubilee in 1892: "An excellent library comprising the standard text books and reports was purchased [sometime after Hoynes became dean], and was placed in the Moot Court, so as to be accessible to students at all reasonable hours."<sup>42</sup> The article in the *Columbia Law Times* cited in this history says, ". . . an excellent library comprising about twenty-five hundred volumes has been procured."<sup>43</sup> The next mention of the law library occurs in a special *Law Department*

*Bulletin* put out in 1904–1905, and its very smallness is said to be a possible advantage:

There are undoubtedly in the country several law school libraries considerably larger than the library at Notre Dame, but it may well be questioned whether any of them shows more care in the choice of books or is better adapted for the use of students. All the latest reports of State and Federal courts are in its shelves, and no difficulty is experienced at any time in finding cases needed for reference, thesis writing, and Moot Court work. A great library, with crowdingly large attendance of students—too many to be personally known by or have personal attention from the Faculty—may be less available for use or accessible than a comparatively small one. The books used as the basis for recitation in class are chosen to a considerable extent from the Hornbook series. . . . As a rule, however, they are narrower than the range of study . . . [and] text books of merit are used outside that series.<sup>44</sup>

The *University Bulletin* of 1918–1919 (p. 125) states that the library contained more than five thousand volumes, “which are adequate for the present needs. . . .” In the *Bulletin* for the following year a more detailed statement on the library is published:

The law library, quite extensive and adequate for the needs of our large and growing law school, is continually augmented by the arrival of new volumes. There are the U.S. Supreme Court Reports complete; Federal Cases; Federal Reporters; U.S. Statutes and Digests; Meyer’s Federal Decisions; The National Re-

porter System, complete with Digests; Lawyers' Reports Annotated, both old and new series; American Reporter System, American Decisions, American Reports; American State Reports; English Ruling Cases; British Ruling Cases; American and English Annotated Cases; Moak's English Reports; Petersdorf Abridgement; American and English Corporation Cases; Moore's International Law Digest; American and English Encyclopedia of Law; Encyclopedias of Pleading and Practices of Evidence; Standard Encyclopedia of Pleading and Practice; hundreds of text books of the old and modern writers. There are the Indiana Supreme and Appellate Court Reports, complete; New York Common-law Reports; New York Court of Appeals Reports; Vermont Reports. There are now coming the state reports of Ohio, Illinois, Iowa, Michigan, Wisconsin, Minnesota, Pennsylvania, Massachusetts, Missouri, California and Connecticut. The library has a capacity of twenty thousand volumes, is admirably equipped . . . perfectly lighted . . . and like the court room and classrooms, is so arranged and cared for as to afford the most commodious, convenient and cheerful accommodations for efficient use.<sup>45</sup>

This was the library and its holdings at the end of the Hoynes era. In the statements cited, attention is called twice to the care given it, but there was no law librarian appointed until 1925.

We have noted what can be called definite stages in the development of law at Notre Dame—the early years from 1869 to 1883, and the periods from 1883 to 1889 and 1889 to 1898. A fourth stage began in 1898–1899, and a final one for the Hoynes era in 1904–1905. The

principal delineator of each stage was the program of courses prescribed, although methods of instruction and other factors also played their roles. As in the past, one reason for the greatly revised program in 1898 was the dissatisfaction of the legal profession with the quality of those being admitted to the bar. Not a few schools were derelict in raising their standard of professional learning and ethics, and though Notre Dame was not to be numbered among these schools, the need was felt to restate her system of instruction, standard of proficiency and course of studies.

The period of study for the bachelor of laws degree was set at three years, as it had been in 1882, and the two-year course introduced as alternate in 1888 was dropped. The three years were designated Elementary, Junior and Senior. Students who had completed a collegiate course or who were judged to have achieved its equivalent through experience were eligible to enter immediately into the junior class.

In the elementary class only one daily hour of instruction was given, so that students whose general education was deficient could remedy their deficiency. This daily hour of instruction was based on the *Commentaries* of Blackstone and Kent, but other works on elementary law were also used: Walker's *American Law*, Smith's *Elementary Law*, Munson's *Elementary Practice*, Keener's *Selections on Jurisprudence*, Holland's *Elements of Jurisprudence* and Fishback's *Manual of Elementary Law*. If extensive assignments were given in these works, the students most likely considered one daily hour of instruction plenty.

In the junior year the prescribed courses were The Common and Statutory Laws, Persons and Domestic Relations, Contracts, Torts, Criminal Law and Procedure, Medical Jurisprudence, Common Law Pleadings, Code Pleading and Practice, Evidence, Sales, Insurance, Agency and Partnership; and in the Senior year, Equity Jurisprudence, Equity Pleadings and Practice, International Law, Constitutional Law, Private and Municipal Corporations, Personal Property and Real Property. We can agree with at least the first part of an evaluation statement that declared, "This course of instruction is comprehensive, thorough and practical. It is not and cannot be excelled."<sup>46</sup>

The next notable revision of the curriculum occurred in 1904-1905. The designations Elementary, Junior and Senior Classes were still used for the three years but they were also called First, Second and Third years. There were several changes in program: First Year: Personal Domestic Relations, Law of Contracts, Torts or Private Wrongs, Criminal Law or Public Wrongs, Forensic Medicine or Medical Jurisprudence and Toxicology, Property, Real and Personal; Second Year: Criminal Procedure, Corporations, Private and Public or Municipal, Partnership, Agency, Sales, Bailments and Carriers, Insurance: Fire, Life, Accident, Marine, Common Law Pleadings and Practice; Third Year: Equity Pleading and Practice, Code Pleading, Evidence, Damages, Bills, Notes and Checks, with Suretyship and Guaranty, Equity Jurisprudence, Wills, Executors and Administrators, Constitutional Law and International Law.<sup>47</sup>



The case method became the principal method of instruction around 1905 and remained so until the end of the Hoynes era, and the moot court also fulfilled substantially the same functions down through the years. The program of courses underwent almost continuous change, and one innovation occurred which was of great importance—the inauguration of the combination course. This course was first announced briefly in the *University Bulletin* for 1913–1914: “Students who desire can so arrange their studies as to complete any of the programs in the College of Arts and Letters and the Law program in six years. This will entitle them to two degrees.”<sup>48</sup> This announcement was enlarged upon and the combination arrangement extended to the other colleges. Thus in the *University Bulletin* for 1921–1922, the statement, after pointing out that the better law schools of the country were beginning to require a bachelor’s degree or at least three years of college work for admission to law, continued: “Although one year of college work suffices at present to admit a student to the College of Law as candidate for the degree of Bachelor of Laws, the law faculty, as well as the general faculty of the University, strongly urges upon the prospective law student that he pursue the six year program combining a course in the College of Arts and Letters, the College of Science or the College of Commerce with the course in law as candidate for two degrees, which otherwise required seven years of study.”<sup>49</sup> The program provided that the bachelor’s degree in any of the colleges be conferred at the end of the first year of law and the bachelor of laws at the end of the third. This com-

bination course continued until its elimination in 1969, the only changes in it being the colleges with which the combination course was permitted, ranged back and forth from only the College of Arts and Letters to all four of the undergraduate colleges. It is impossible to say how many students availed themselves of the combination course in the years immediately following its introduction, but it seems reasonable to suppose that they were few until three years of college study was made mandatory for admission to the Law School in 1928. From that date until fairly recently the majority of law students at Notre Dame were following the combination program.

In the second decade of the twentieth century it was charged that law schools concentrated on teaching only the substantive law and failed to prepare students for the practice of law through treatment of the law of procedure. However, this charge did not apply to Notre Dame, where a thorough course in the law of procedure was given and plenty of practice provided, practice necessary for the development of the skills a courtroom lawyer must have.

This assertion that the Notre Dame Law School had not neglected to prepare students in practical law or the practice of law led the author of the announcement to list the university courts in which this practical education was given. The names and number of these courts had changed over the years<sup>50</sup> and in 1919-1920 were the Criminal Practice Court, the University Moot Court, the Notre Dame Circuit Court and the Supreme Court of Notre Dame.<sup>51</sup>

Until rather recently law students were not distinguished from undergraduate students in lists of students attending Notre Dame or in other statistical reports so it is impossible to state the annual increase in number of students in law. There were approximately seventy at the turn of the century and there was a steady increase in this number until the outbreak of World War I. In 1915–1916 the number was given as approximately two hundred.<sup>52</sup> A similar number is indicated in a letter of Francis J. Vurpillat, who was to replace William Hoynes as dean in 1919. In this letter Vurpillat says that there were ninety entering students in law in 1915 and that most of them enrolled for the second year in 1916.<sup>53</sup> The number of degrees conferred each year also gives some gauge of the total number of students. Thus there were thirteen bachelor of law degrees granted in 1900, and thirty-four in 1916. The outbreak of war in 1917 greatly reduced the number of students but it had built up again to well over two hundred by 1922.<sup>54</sup> Counted in these numbers were no doubt “special students” who were admitted to the law school for many years.<sup>55</sup>

As for the faculty from 1900 to 1919, the number varied from year to year and the turnover was great, as a brief study of Appendix IA will reveal. For some reason, the greatest number of both full-time and part-time members was highest from 1904 to 1907.

In bringing this chapter to a close, we return briefly to the man whose name it bears. After retiring from the office of dean and from the active faculty, Dean Emeritus Hoynes, who never married, continued to live in the Sorin Hall room into which he moved in 1889. He kept

relatively active, writing legal and political articles, filling speaking engagements and carrying on a limited legal practice and heavy correspondence. Many of his visitors were former students who came to express their esteem and affection. Many too were the written expressions of these sentiments; representative of these is taken from a letter written by Terrence B. Cosgrove, one of the most distinguished of Notre Dame law alumni: "I entertain for you, Colonel, a feeling of pronounced esteem and admiration."<sup>56</sup>

Sorrow gripped the university community when his death was announced on March 28, 1933. Telegrams of condolence poured in and in a last tribute to their old teacher and beloved friend, law graduates came from near and far to attend his solemn military funeral.<sup>57</sup> The *Notre Dame Lawyer* obituary said in part: "The life story of Colonel Hoynes stands as both a challenge and an inspiration to every law student. It is a challenge in that the goal it sets is a lofty one; an inspiration because it points out how that goal can be attained."<sup>58</sup> And the *Scholastic* commented: "Continually for fifty years he was a familiar and beloved figure at the University of Notre Dame. Lawyer, educator, soldier and Catholic gentleman, his brilliant career was marked by toil, accomplishment and devoted service."<sup>59</sup> But it was for Father John W. Cavanaugh, president of the university for a long span of the Hoynes years, to sum up in the funeral eulogy the thoughts and feelings of those who had known and worked with him:

He was widely and deeply learned in his ponderous, polysyllabic way. He was one of the great figures in

the long succession of Notre Dame professors. He bore his own great part in the making of our Alma Mater. Colonel Hoynes will be remembered in love and reverence on this campus until the last who knew him follow him to eternity. His life will be an example and inspiration for generations to come.<sup>60</sup>

## NOTES

1. T. E. Walsh to Hoynes, December 23, 1882. UNDA, Hoynes Papers.
2. The name Law Department was used from 1869 until 1898 when it was changed to School of Law. Then in 1905 a second change of name to College of Law occurred, a name which lasted until 1955 when a third change brought the present name, the Law School. This present title, or law at Notre Dame, will be used except in quotations where College of Law occurs.
3. That he worked at self-education is the point of an anecdote related by the Rev. Thomas A. Lahey, C.S.C., *Colonel Hoynes of Notre Dame* (Notre Dame: Ave Maria Press, 1948), p. 36: Father John Zahm once remarked that the first time he saw Hoynes as a student, he was carrying a *Webster's Unabridged Dictionary* under his arm. In recalling this years later, Father John W. Cavanaugh said that he was still carrying the dictionary, but in his head, not under his arm.
4. For these biographical data, cf. *Who's Who in Jurisprudence*, 1928-1929.
5. Hoynes retired from the deanship of the law school in June 1919. His last official act was his part in the dedication of the Hoynes' College of Law. His fourteen years spent on campus as Dean Emeritus rounded out the fifty years mentioned earlier.

6. Hoynes received and accepted many invitations to talk on military matters. One such invitation came from the principal of a South Bend high school who asked him to lecture before the students on "An Army, Its Organization, Tactics and Strategy." Stuart McKibbin to Hoynes, October 1, 1894. UNDA, Hoynes Papers.
7. Lahey, *Colonel Hoynes*, 33-34.
8. *South Bend Tribune* Nov. 17, 1888, 4. Cited by *Scholastic* XXII (1888-89), 235.
9. *South Bend Tribune* Oct. 6, 1890, cited by *Scholastic* XXIV (1890-91), 93; Lahey, *Colonel Hoynes*, 20-21; Statement of Disbursing Account of Expenses of the Commission, Office of the Assistant Treasurer of the United States, March 31, 1891. UNDA, Hoynes Papers.
10. Claude Matthews, Governor of Indiana, and William D. Owen, Secretary of State, to Hoynes; October 7, 1895. UNDA, Hoynes Papers.
11. At the time of Hoynes' appointment, this tribute appeared in the *Chicago Evening Journal*: "The University [of Notre Dame] authorities are to be congratulated in their selection. Mr. Hoynes as a speaker, writer, thinker and lawyer has no superior of his own age in the Northwest." Cited by Lahey, *Colonel Hoynes*, 13.
12. *Annual Catalogue* (1882-83), 37.
13. For the complete statement of changes, etc., cf. *ibid.*, 37-40.
14. *Ibid.*, 40.
15. *Ibid.* (1889-90), 108. A reason, or perhaps better a rationalization, for the lowered admission requirements was given in a special *Law Department Bulletin* for 1904-05, 9-10. The requirement of some law schools that applicants have a college degree or at least have completed two years of college work excluded from the law many young men with bright minds and superior endowments who might outstrip those with more formal education. In view of this, Notre Dame

avored lower admission requirements, because "it is not disposed to shut its doors to honest worth and promising manhood, even though the general education of the applicant brings him only to the threshold of the collegiate courses."

16. *Annual Catalogue*, 109.
17. [Timothy E. Howard], *A Brief History of the University of Notre Dame du Lac, Indiana, 1842-1892* (Chicago: The Warner Co., 1895), 124-125. Cf. also the *Annual Catalogue* (1893-94), 70, and following years; *The University Bulletin* (1913-14), 110.
18. *A Brief History*, 123.
19. Hope, *One Hundred Years*, 271.
20. Cited by *A Brief History*, 123-124.
21. Recently the moot court has been included under student activities, but for many years it was a prescribed part of the legal curriculum; hence the Debating Society may rightly be called the *first* student activity.
22. *Scholastic*, XVIII (1884-85), 337. It was several years later that the Debating Society found mention in the *Annual Catalogue*.
23. *Scholastic*, XXI (1887-88), 204.
24. *Ibid.*, 509.
25. *Annual Catalogue* (1889-90), 110-111.
26. *Ibid.*, 111.
27. *Ibid.*, 112.
28. *A Brief History*, 123.
29. *Annual Catalogue* (1898-99), 129-130; 132. The "other courts" in the 1890s were Court of Chancery, Probate Court, Justice's Court, University Court of Appeals, United States District Court and United States Commissioners' Court. Nothing is said about how often these courts functioned, but many of the cases selected for instruction may have been dealt with in them.
30. The title *Annual Catalogue* was changed to *University Bulletin* in 1904-05.

31. *University Bulletin* (1905-06), 86.
32. *Annual Catalogue* (1889-90), 114: "The writer is expected to read the thesis at a special meeting of the class and to defend the propositions set forth in it." It also had to be approved by the dean.
33. In the *Annual Catalogue* for 1898-99, 145-146, is found the following list of postgraduate courses: Study of Statutes and System of Pleading of home state; Practice in Taking Depositions, Frequent Participation in Moot Court Trials, Arguments on Motions for New Trials, Preparation of Bills, Exceptions, Briefs, Records, and Abstracts of Records in Appeals, Framing of Arguments for a Rehearing, Duties of Masters-in-Chancery, Referees and Arbitrators, Duties of Assignees, Receivers and Public Officers, Examination of Abstracts of Title, and the Making of Deeds, Mortgages, Leases, etc., Conveyancing, A Critical Study of Pleadings, with Reference to Forms and Substances, Jurisdiction of the Federal Courts, the Roman Law, Comparative Constitutional Law and Jurisprudence.
34. *University Bulletin* (1904-05), 28-33.
35. *Ibid.* (1908-09), 110.
36. *Ibid.* (1915-16), 116.
37. *Ibid.* (1923-24), 301.
38. Cited by *A Brief History*, 125.
39. *Annual Catalogue* (1889-90), 12.
40. *University Bulletin* (1919-20), 144.
41. *Ibid.* (1922-23), 289.
42. *A Brief History*, 123.
43. *Ibid.*, 125. The complete citation taken from the *Columbia Law Times* for March 1889 reads: "He [Dean Hoynes] introduced a system of instruction somewhat elective in its general features in that it combined the most approved methods of teaching followed in other schools. . . . The number of students has steadily increased. The average ratio of increase has been from



eight to ten a year. Professor Hoynes has labored so assiduously and effectively to promote the interests of the school that it now ranks favorably with the best law schools in the country. . . . studies have been raised to the highest and most approved plane and an excellent library comprising about 2,500 volumes has been procured."

44. *Law Department Bulletin* (1904-05), 38 and 40.
45. *University Bulletin* (1919-20), 144-145.
46. For the full announcement of the "course of instruction," cf. *Annual Catalogue* (1898-99), 127 ff.
47. *Law Department Bulletin* (1904-05), 15-28.
48. *University Bulletin* (1913-14), 107.
49. *Ibid.* (1921-22), 286-287.
50. Cf. *supra*, note 29.
51. *University Bulletin* (1919-20), 150-151.
52. *Ibid.* (1915-16), 106.
53. Vurpillat to Rev. James A. Burns, C.S.C., July 26, 1919. UNDA, Vurpillat Papers.
54. James A. Burns to Harry L. Thompson, May 21, 1922. UNDA. *University Bulletin* (1922-23), 287.
55. "Students who do not intend to become candidates for the degree of Bachelor of Laws, but wish simply to add to their educational acquirements a knowledge of the fundamental principles of law, may at any time in the year have their names enrolled on the list of special students." This announcement taken from the *University Bulletin* of 1914-15 is substantially the same as that published year after year.
56. Terrence B. Cosgrove to Hoynes, January 19, 1925. UNDA, Hoynes Papers.
57. Cf. Lahey, *Colonel Hoynes*, 83.
58. *Notre Dame Lawyer*, VIII (May, 1933), 391.
59. *Scholastic*, LXVI (1932-33), 6.
60. Cited by Lahey, *Colonel Hoynes*, 85.