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## Report of the Dean 1975–1976

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Notre Dame Law School

Notre Dame, Indiana 46556

Office of the Dean

August 4, 1976

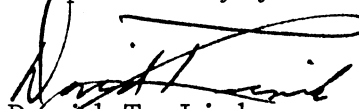
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To the Chairman of the Board of Trustees, the President,  
the Provost, and the Associate Provost of the University  
of Notre Dame.

Gentlemen:

This is my first annual report as Dean of Notre Dame Law School. I am very enthusiastic about the Law School's future. As stated throughout this report, I sincerely believe that Notre Dame can be recognized as one of the leading law schools in the country within the next four years. Surprisingly the dollar cost of this will be relatively low but it will require a substantial non-economic commitment by all who have a responsibility for this school. Because this nation and the world badly need a great Catholic law school, such commitment will be worthwhile.

Respectfully yours in Notre Dame,



David T. Link  
Dean

## INTRODUCTION

In order to evaluate this year's progress, it is first necessary to recall three events which have had a direct bearing on the Law School's activities and objectives. During my interviews for the deanship, both Father Hesburgh and Mr. Stephan asked whether it was possible to bring the Law School's reputation up to that enjoyed by schools such as Harvard and Yale. During that same process, Fathers Hesburgh and Burtchaeil stated that one of the Dean's main tasks would be to improve the Law School faculty and expand their endeavors. The President also expressed the need to reorganize the Law alumni and revitalize their interest in the school.

Not long after I was appointed Dean, I had occasion to meet with one of the most respected American law deans. When I asked his opinion of the Notre Dame Law School, he answered that he thought it was a very good law school but not a great one. This was most regrettable, he stated, because there had never been a great Catholic law school. Yet Notre Dame appeared to be the only Catholic law school that presently had the potential for greatness. The distinction between very good and great appears to be that the very good law schools do a superior job in training lawyers, while the great schools (in addition to the impact they have through their graduates) take a direct leadership role in the legal profession and in legal education. People think of Harvard and Yale as great law schools not only because of the quality of their graduates but additionally because of the contributions made to the profession through the initiatives of the institutions themselves.

The third event centers around newspaper articles which printed an allegation that a partner of a prominent Wall Street law firm referred to Catholic law schools as inferior, with specific reference to Notre Dame. At lunch with Father Hesburgh on the subject of these newspaper articles, I noted that if such a statement had reference to training law students it would be completely without foundation since in that area Notre Dame is second to none. I also admitted, however, that we have never had the resources to be among the leaders in the sense reflected above. Father Hesburgh told me at that time that I should outline what it would take to bring Notre Dame Law School among the leadership schools and that after I had prepared such an outline a meeting of the Chairman, President, Provost and Dean would take place.

I have spent much of this year preparing that requested outline. After reading most of the works on legal education, consulting with both academic and practicing lawyers and completely analyzing present programs at Notre Dame and elsewhere, I have come to the conclusion that to be a great law school, a school must attain distinction in each of the following eight categories:

1. goals
2. students
3. faculty
4. administration
5. curriculum
6. physical facility
7. alumni support
8. resources

I am convinced that Notre Dame can reach greatness in these eight elements and that within four more years can number itself among the five or six best law schools of the nation.

The eight categories listed above are to some extent overlapping and the classification of an item as an important element rather than a sub-category is necessarily arbitrary. These eight elements will, however, be sufficient both for the planning purposes and for reporting in this and other annual reports.

## GOALS

Pre 1975-76. The traditional goal of this Law School has been to train attorneys who have both competence and compassion. The necessity for a program which emphasizes both competence and compassion was best expressed in Father Hesburgh's remarks at the dedication of the renovated law building:

"May there be here a hunger for justice. May our students seek competence in the law, since compassion without competence would be a cruel hoax upon those they serve. May they also realize that competence in the law without compassion leads the lawyer to use the law for other purposes than the works of justice, blinds him to the sad plight of persons who suffer injustice for want of a lawyer champion."

I believe that we have achieved this balance in our program as well as any law school in the country. This accomplishment is continually verified by those who have hired recent Notre Dame graduates.

1975-1976. Without in any way diminishing our efforts toward our traditional goal, we have taken up the challenge of leadership in legal education and in the legal profession.

Strengths and Weaknesses. Our goals are our strength. They are reflected in each of the other seven elements reviewed in this report. They reflect the answer to the questions raised during the three events recalled in the introduction.

## STUDENTS

Pre 1975-76. For a number of years now, we have been selecting superior students for the entering class. The selectees are primarily from the top ten percent of their graduation classes, have achieved better than 3.5 grade point averages, and have high Law School Aptitude Test scores. We have maintained one of the most individualized selection systems in the country and have sought to insure diversity of residence and undergraduate education. The admission policy provides equal opportunity for people of all races and ethnic backgrounds and of both sexes. Applications to this law school have continued on the rise despite a reversal of this trend at other law schools. We discontinued a formal system of recruiting students a few years ago because of the lack of available funds for this purpose.

The student scholarship and grant program has been well below our needs although resources for scholarships have slowly increased year by year and the distribution of scholarship funds is being brought under control. We are far from our goal of having everyone who is accepted into the law school able to attend regardless of financial capability.

On a comparative basis, placement of Notre Dame graduates has gone quite well. In the last few years the job market for lawyers has dramatically tightened and placement has become a major problem for almost every law school. While our students are no longer securing the number of job offers formerly enjoyed by our graduates, almost all of them are getting good offers and are satisfactorily placed. Our record is excellent and among the best in the country. This success is largely attributable to the well-organized system through which our alumni assist in the placement effort.

1975-1976. Applications to this law school continued to rise despite a decided decline nationally. We have completely remodeled our admission process establishing a highly organized system of rolling acceptances. This procedure tends to be more humane towards the applicants, has fewer frustrations for those recommending candidates and gives us a better opportunity to secure top notch students. The improvement is not without its price however, in that it is much more time-consuming and the personalized attentions of the Admissions Committee and Dean are spread over a much longer period of time. There are greater frustrations for those who are desperate for admission and more time for them to petition for reconsideration. Our initial evaluation of this system, this year under the able leadership of Professor Frank Booker, is that its advantages far outweigh its disadvantages and we believe that it has resulted in the finest class ever to be admitted to this law school. We will be able to further evaluate the new procedures after the entering class has begun its studies.

Through a special fund provided by the Provost, a recruiting program directed toward attracting minorities was established. On a budget of \$2500 eighty schools were visited. This program, under the general supervision of Dr. Kathleen Farmann and the direction of Mr. Granville Cleveland, not only resulted in attracting a well-qualified group of minority applicants but other candidates as well.

The scholarship picture has been most encouraging. The law scholarship fund, which is sustained solely through contributions of alumni and other friends of the school, increased such that we were able to provide five more scholarships for next year while continuing the principle of the capture concept (i.e., putting aside some funds toward the eventual goal of being able to spend last year's income rather than expending current and prospective scholarship donations). The program for the Montgomery Challenge Grant was worked out during the year. Mr. Kenneth Montgomery, a Chicago attorney who has been funding the Kiley Fellowships on a year by year basis has agreed to match endowment funds for these fellowships up to \$500,000.

The alumni placement system continued to function well and the services of our on-campus interviewing program were increased. As a result our graduates have had good success in placement despite the fact that the placement problem has intensified at most other law schools.

Strengths and Weaknesses. The student body is a real strength of the Law School. Its quality and diversity is outstanding and increasing year by year. Our upgraded and systematized rolling admissions procedure is classed as a distinct improvement, pending a fuller evaluation that must necessarily await the performance of the incoming class.

The recruiting program is adequate but in the face of levelling off enrollments nationwide should be expanded and provided for as a permanent part of the budget. While we presently have sufficient applicants, if we expect to continue to attract superior students to Notre Dame a well-defined recruiting system is essential. It is also most important that resources be provided to restore the once existing program of inviting pre-law undergraduate counsellors from other schools to Notre Dame. Demonstrating our operations to pre-law counsellors is a primary way to convince student prospects to apply to Notre Dame.

The endowing of the Kiley Fellowship Program will fulfill our need for a prestige fellowship program and assure us of such level fellowships in perpetuity. The importance of such a program to our plan to be among the leadership schools within five years is inestimable. Our general scholarship program, however, must continue to grow. Too many superior law candidates are still turned away from Notre Dame because of lack of funds.

The placement program is very strong but needs to be continually supplemented by providing better communications with the alumni. Our

only significant placement problem has to do with December graduates. While it would be possible to increase our placement efforts for the December graduates, since I believe that 2½ year law school programs are not academically sound, we will consider the possibility of eliminating mid-year graduations.



## FACULTY

Pre 1975-76. I would rate our faculty as better than average. Approximately one-third of the faculty could teach at any law school in the country and several would be prized teachers at the most prestigious schools. Approximately another third are developing very strongly and have the potential to be excellent teachers and scholars. The final third is in serious need of redirection and redevelopment. On a comparative basis this situation would not be considered a bad one but certainly there is much room for improvement.

1975-1976. During the course of this year we had two resignations of faculty members who became Deans at other law schools, a faculty member resigned to transfer to another law school and there were an age retirement and a disability retirement. That many faculty changes in the course of a year for a small faculty such as ours had all of the earmarks of disaster. Those of us remaining, however, decided to make faculty recruiting a major project and as a result I believe not only avoided that potential disaster but greatly strengthened our faculty ranks for the years ahead. Determined not to simply fill the vacancies we made offers only to our top choices. Despite heavy competition, we are proud to report that the following people will join us in the fall:

Peter W. Thornton rejoins our faculty as a Full Professor. Peter has thirty years of teaching experience, five of these at Notre Dame where he was one of our most popular and respected Professors. He left the Notre Dame faculty to become Dean of a new law school in Florida. He has been appointed Director of our London Centre for Legal Studies. This program will be served well by his extensive teaching and administrative experiences.

Philip F. Postlewaite as an Associate Professor. Phil has his law degree from Berkeley School of Law, University of California and an LL.M. in taxation from N.Y.U. He also studied at the University of Vienna, Austria and the graduate School of Business Administration at the University of California at Berkeley. Among his professional appointments have been two years of private practice with the well-known Seattle law firm of Bogle and Gates.

Larry D. Soderquist as an Associate Professor. He has a law degree from the Harvard Law School and has practiced law for five years with the prominent New York law firm of Milbank, Tweed, Hadley and McCloy. He has broad experience in the fields of corporate and securities law.

Rodolpho Sandoval as an Assistant Professor. Rudy has taught for two years at the University of San Diego School of Law during which time he also served as a Visiting Professor of Law in Guadalajara, Mexico. His scholarship potential is evident not only by the thesis work he did for the LL.M. from Harvard but the fact that he has completed **several publications** in his first two years of teaching (including the preparation of his own materials for two courses).

We have also made an offer for a Visiting Associate Professorship to Bernard Dobranski who is now teaching at Creighton University Law School. He has his law degree from the University of Virginia Law School and his professional experience is outstanding in the fields of labor and administrative law. He has served as general counsel of the Washington Metropolitan Area Transit Commission, as an Administrative Assistant to a United States Congressman, as a staff member of the President's Advisory Commission on Civil Disorders and as a legal advisor to the National Labor Relations Board.

Thomas L. Shaffer returns to the faculty after a one year visitorship at the University of Virginia School of Law. Having Tom as a full time member of the faculty is most important to the curricular changes proposed later in this document.

Strengths and Weaknesses. I believe that our faculty has been greatly strengthened by the changes that will take effect this September. Each person was selected with special needs of the law program in mind. We have attracted people with a variety of excellent professional experience and with teaching experience ranging from two to thirty years. I believe that we have hired the best people available for each of the positions we needed to fill. These people were attracted here despite the fact that we were not able to compete with other schools on the basis of compensation. I believe the attraction to Notre Dame was the challenge of the program outlined in this document but it is important to note that the faculty candidates were also given the commitment that we are in the first year of a three year program to make Notre Dame Law faculty salaries competitive.

The weaknesses of our faculty program (and indeed the basis for weaknesses in the law program in general) are the facts that our faculty salaries are not competitive and our faculty's time is over-committed. In his last annual report, Dean Shaffer stated that "Salary has been a serious problem for us (we fell from 28th to 81st among the 147 accredited schools reporting, in median salary, between 1970 and 1974)." The final report for the academic year 1974-75 listed Notre Dame in 87th position and despite increases for the academic year just passed we are still listed as 87th among 156 accredited schools reporting. Our median total compensation was more than \$6,000 below that of Fordham, more than \$7,000 below that of Georgetown and more than \$11,000 below that of Yale. The median faculty salary at Harvard is higher than the salary paid to our

endowed professor in the law school. I believe the result of the past compensation situation in the Law School has been that for years we have not been able to attract the highest quality faculty (this past year being a notable exception because of the commitment noted above). A good salary increase has been awarded for academic year 1976-77 and leads me to believe that within **two more years** we can again be competitive. While we need not match dollar for dollar the pay scales of other law schools, it is essential to our plan to be among the leadership schools that we again bring faculty compensation within the top 20% of the nation's law schools.

The over commitment of our faculty time has seriously affected law school research and scholarship. I believe it has also affected to some degree the quality of instruction. This problem has resulted from three circumstances: a serious imbalance of course loads, an over-commitment to seminars some of which attract very few students, and the extensive summer school session at Notre Dame. The problems of teaching loads and seminars will be corrected by adoption of the new curriculum outlined herein. The summer school is a much more complex problem. It has been considered necessary as one means by which some members of the faculty could supplement their salaries, yet summer school is both academically and economically unsound. Because of our "open door" policy on advising and consulting with students throughout the school year, our faculty should use the summer for research and scholarship. It is not suprising that the Law School's scholarship record deteriorated in direct proportion to increased emphasis on the summer program. For both faculty and student scholarship considerations, the summer program on this campus should be eliminated (not the foreign summer programs) and students should be eligible to graduate only after three full years.

Our student-faculty ratio continues to indicate a serious problem. In the 1972-73 Report of the Dean it was recommended that the total student population be 400 with a full-time faculty of 20. We presently have 430 students and a full-time faculty of 16 plus a teaching Dean. While I believe that it is necessary to maximize the number of students that we can accommodate within the law school program, I also believe it is essential to use some of the additional tuition income to hire faculty and finally reach a ratio of 20:1.

## ADMINISTRATION

Pre 1975-76. The Law School has for a number of years had a structure of Dean, Associate Dean, Assistant Dean, Librarian, and Administrator with a number of supporting administrative positions thereunder. There had been an extensive faculty committee system which during the academic year 1974-75 was done away with in favor of a structure having only a few standing committees supplemented by ad hoc committees for specific matters.

1975-1976. The year began as an administrative nightmare. When I was appointed Dean there was no Associate or Assistant Dean. The faculty was so short handed I could not afford to appoint anyone from its ranks to these positions. The Law School Administrator resigned and the position of Assistant Administrator was eliminated. As a result of all this, I began the year performing all major administrative functions except those of Librarian. At the beginning of the school year, the Provost secured the services of Mr. William McLean for the position of Assistant to the Dean for Administrative Affairs and the Law School Librarian agreed to take on additional duties as Assistant to the Dean for Academic Affairs. These two appointments somewhat relieved the administrative crisis. During the year a study was completed of the administrative needs of the Law School and although personnel have not been designated to fill each of the suggested positions the ideal administrative structure has been determined.

Strengths and Weaknesses. Bill McLean has been an effective administrator handling many of the responsibilities formerly assigned to the Assistant Dean and some of those within the functions of the Associate Dean. There is a continuing major need for an Associate or Assistant Dean to handle student matters. Student affairs is the single most time consuming administrative task in the Law School.

A law school administration cannot be fully effective without a good working relationship with the University administration. One of the reasons for the successes of this past academic year clearly has been the cooperation received from the offices of the President, Provost, Vice President for Advanced Studies, Vice President for Public Relations and Development, and many other administrative offices. The relationship of the Law School administration and the University administration has become a source of great strength.

## CURRICULUM

Pre 1975-76. Our curriculum has been very similar to that of most other major law schools. We have a required first year followed by two years in which the students can elect other basic courses, specialty courses, specialty seminars and co-curricular programs for credit. Our program differs from others in its unusually heavy first year and the availability of a wide variety of jurisprudence courses. We have made several attempts to make humanistic legal education a reality through the curriculum and most of the experiments have had positive results. This has, however, caused some fluctuation in the curriculum over the past few years.

1975-1976. The curriculum was left mainly intact while plans were being developed for a complete curriculum change. We had excellent performances within a number of our co-curricular activities during the year. The Notre Dame Moot Court team, under the tutelage of Professors Fernand Dutile and Francis Beytagh, ended in a tie for third out of 256 teams entered in the national competition (this is Notre Dame's highest finish ever.) We entered the National Mock Trial Competition for the first time this year with a team under the direction of Professor James Seckinger. This team ended second in the country losing to a team from Harvard Law School in the finals. An article in the student publication "The Journal of Legislation" was cited in Time Magazine, partially reprinted in the Washington Post and will be fully reprinted in Fortune Magazine.

We now have under consideration a substantial modification to the curriculum which in its finally adopted form will be effective for the class entering in the Fall of 1976. That proposal is attached hereto and I invite those who read this annual report to carefully review the proposed curriculum and provide the Law School with criticism and suggestions. Those who have already reviewed this have been enthusiastic, and there have even been suggestions that the implementation of such a program may completely change the direction of legal education in this country. Even if it does not have such dramatic effect, the faculty seems convinced that the modifications will solve a number of present curriculum problems.

In addition to our regular curriculum, we initiated a national program of continuing legal education. The major undertaking was an Estate Planning Conference directed by Professor Regis Campfield. Although we expected an attendance of approximately 100, the outstanding array of speakers attracted more than 350 and the program was adjudged a great success. The Center for Civil Rights continued its Annual Lecture Series. The Center also hosted a symposium in commemoration of the Supreme Court landmark decision of Pierce v. Society of Sisters.

A third undertaking was an eight-session series of Civil Rights Seminars with distinguished guest speakers from other schools. Each of these events was well-attended and judged successful. The Civil Rights Center is the subject of a separate annual report.

Strengths and Weaknesses. I do not believe that there is a strong law curriculum at any law school in the United States. I believe that many of the current problems within the legal profession stem from the deficiencies in legal education. Concentration on highly specialized and technical courses has had a tendency to produce skilled mechanics. There is very little effective training in problem analysis, problem solution techniques, counselling and negotiating skills, legal writing and legal ethics. Our curriculum proposal is a dramatic one directed at these deficiencies. It will get better as we begin to implement it and if it works half as well as we expect, it will greatly enhance the reputation of this school.

The ambition to contribute to the development of the legal profession should be partially fulfilled by expanding the continuing education program. Another estate planning conference along with one on charitable giving is planned for the fall. We also hope to present programs on subject which may not attract large audiences but on which speakers at Notre Dame can present important views and reflect fundamental values (e.g., the Karen Quinlan case; legal ethics).

## PHYSICAL FACILITY

Pre 1975-76. Notre Dame is already at the greatness level with regard to one aspect of its physical facility. This is one of the finest small law school buildings in the United States and we can be justly proud of the recognition it has received. On the other hand, our library collection is woefully inadequate.

1975-1976. A donation was received and plans were drawn for a new court room to be built in one of the existing classrooms. This room will not only enhance our program for teaching trial skills but we expect that it will be a dramatic example of how to build a modern court facility (with full video capability and modern evidence display techniques) while retaining the appearance of a traditional court room.

Strengths and Weaknesses. The law building is a great strength to the program. It helps attract faculty, students, guest lecturers and others to this campus. It needs a few minor improvements which have been requested and we have been assured they will be made. The major deficiency in the law building is its size. If additional programs such as the Center for Civil Rights are added (and such programs are highly desirable) and the size of the faculty is increased to handle the increasing enrollment some additional planning will be necessary in order to have proper accommodations.

Greater resources must be found for the library. Continuations have become so expensive that even with the Murphy Library Endowment only \$7,909.11 was available for new book purchases. The aspiration to be among the best law schools requires building toward a library of at least 150,000 volumes.

## RESOURCES

Pre 1975-76. Resources are a serious problem for all aspects of higher education and much has been written on the precarious future of privately funded schools. The effect of inadequate resources has been more damaging to the Law School than to any other unit of Notre Dame University. At a time when this Law School has so matured that it can aspire to be among the leadership schools, the lack of sufficient operating capital continues to force it towards mediocrity. A national publication recently carried a study including a tabulation and rating of law school resources (no attempt was made to rate quality of schools). Notre Dame, unfortunately, was rated in the lowest level of group four along with schools like Akron, Brooklyn, and Mississippi. There were 76 schools with higher ratings and 10 schools at the same level as Notre Dame.

1975-1976. The budget for 1975-76 was very tight and inadequate in many respects but by careful management the Law School operated within it. Increases in the budget for the year 1976-77 will provide some relief in several essential areas. While that budget still will not support the type of program Notre Dame ought to conduct, it represents a very hopeful sign that the resources problem will be solved.

Income attributable to the Law School has dramatically increased during the year. Increased enrollment combined with higher tuition has substantially raised income from operations. The funding of the White Chair, the Montgomery Challenge Grant, the Barry Courtroom gift (including sufficient funds for maintenance) and the increasing alumni fund provide hope for an adequate Law School endowment.

Strengths and Weaknesses. The resource problem is serious and perhaps the most difficult to solve. However, if we expect to be successful in the other aspects of the program outlined in this report we must aspire to have Notre Dame within the group one law schools listed in the above mentioned survey.

Notre Dame's resource crisis seems to have come from both bad planning and bad management. I believe that within the last year the Law School has proven itself capable of good budget management. Correcting the deficiencies resulting from inadequate planning will require more time and the concerted efforts of all of those responsible for the Law School.

Three conclusions seem quite clear after a year of analyzing the resource question. The old system of the Law School separately planning its fund raising had worked to the detriment of the school, while the new system of operating through the University Development



Office has been most effective. Secondly, a higher percentage of the increased income from the Law School must be allocated to the law budget to make up for present deficiencies. Finally the Law School will have to be a major participant in the University's next fund raising campaign.

## ALUMNI SUPPORT

Pre 1975-76. The Law School has always enjoyed a loyal and supportive alumni. While many other law schools express the complaint that their graduates have greater loyalties toward the institution from which they received a baccalaureate degree, Notre Dame has enjoyed much the opposite situation. Surprisingly, some of our most loyal supporters are graduates of one of the undergraduate colleges at Notre Dame who went to law school elsewhere and having been either dissatisfied or unimpressed by their legal education desire to help Notre Dame in its Law School developments.

Many alumni have been most generous with their time for the Law School. I doubt that many other schools have so effective an advisory council or alumni association board. As stated above, the effectiveness of our placement program is largely attributable to the organization given to it by our alumni. For years the annual alumni scholarship fund was quite good and sufficient for Notre Dame's needs. When alumni donations were diverted for a building fund, however, the annual fund was greatly reduced and not sufficiently revitalized when the building fund was complete. Although it has been on a steady rise in the last three years the alumni fund is still well below that of comparable schools.

1975-1976. Pursuant to Father Hesburgh's instructions a major effort was made this year to reorganize the alumni and stimulate their interest in the law school. I visited with alumni in fifteen cities this summer explaining the eight elements of our program for upgrading the Law School as outlined in this report and the five year plan to be among the leadership law schools in the United States. My impression and that of those who participated with me (these meetings were planned and well organized by the Development Office) was that our program and plans were enthusiastically received.

Strengths and Weaknesses. The lawyer alumni of the University are a vast and yet underutilized resource for the Law School. If sufficient funding is available to maintain adequate communication with the alumni and we continue to utilize the talents within the Development Office, we will realize great dividends from the lawyer alumni.

## CONCLUSION

Aspiring to be among the five or six great law schools in the United States within the next four years is not a wild pipe dream. The programs at most law schools have stagnated and are uninspiring. The profession and legal education cry out for new leadership. The ideas developed at Notre Dame and outlined in this report have generated enthusiastic interest, and therefore this law school is at its watershed. It can slide back and assure itself of mediocrity or take a position among the great schools. It seems to me that at a time when the cause of justice throughout the world is in such great need, Notre Dame must accept the challenge to be among the leadership.

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## Report of the Dean



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Current Frequency	Annual.
Local Notes	Title on 1973-74; 1974-75: Dean's report. Binder's title on 1953-56: Annual report of the dean.
Subject	<a href="#">University of Notre Dame. Law School -- Periodicals.</a> <a href="#">Law schools -- Indiana -- Periodicals.</a>
Added Title	Dean's report
Spine Title	Annual report of the dean