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Notre Dame Law School Annual Report for Academic Year 1988–1989

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Notre Dame Law School
Notre Dame, Indiana 46556

David T. Link
The Joseph A. Watson Dean
and Professor of Law

September 21, 1989

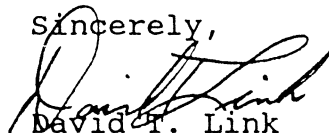
Direct Dial: (219) 239-7015
Fax Number: (219) 239-6371

Reverend Edward A. Malloy, C.S.C.
President
Professor Timothy O'Meara
Provost
University of Notre Dame

Dear Father Malloy and Professor O'Meara:

Enclosed is the academic year 1988-89 Annual Report for the Law School along with supplementary reports for the Law Library, the White Center, the Notre Dame Law Review, the Journal of College and University Law, the Journal of Legislation, and the London Law Programme. I will be pleased to provide further information or elaboration as you may desire.

Sincerely,



David T. Link
Dean

DTL:ck

NOTRE DAME LAW SCHOOL ANNUAL REPORT
FOR ACADEMIC YEAR 1988-89

I. INTRODUCTION

Notre Dame Law School began Academic Year 1988-89 from a solid foundation with a full complement of top-quality faculty, a strong student body selected from the greatest number of applicants in the history of the Law School, and the full use of the recently expanded Law School facilities including the major new addition, a state-of-the-art video-audio system and personal computers to enhance teaching and research for each member of the faculty and supporting staff. We had recently undergone an intensive reaccreditation inspection conducted by the American Bar Association and the American Association of Law Schools and received notification of full reaccreditation during the summer of 1988. With this good beginning, the year continued on a high note. A major focus was the securing of new faculty. Three regular teaching and research members plus two visitors from foreign countries and one library faculty were appointed to begin next year. A highlight of the year was the dedication of the new Judge Norman C. Barry Courtroom with United States Supreme Court Justice John Paul Stevens giving the featured address.

II. IMPORTANT DEVELOPMENTS

The retirement of Professor Thomas Broden, the departure of Professor Michael Durst, and the addition of one new faculty position resulted in a major search to further strengthen the Law School faculty. This goal proved successful. Professor Alan Gunn was hired to teach in the areas of tax and law and economics. He is a widely-recognized authority in these fields and had held a chaired position at Cornell Law School. This

significant accomplishment was made possible by the strong support and financial assistance of the University Provost. Jimmy Gurule, of Hispanic origin, was hired to teach in the criminal and trial areas of the law. He is an experienced prosecutor with significant trial experience in the Los Angeles U.S. Attorney's Office, and is President-elect of the Hispanic National Bar Association. His appointment will provide a much-needed role model for the Hispanic students in the Law School. The third addition is Jay Tidmarsh, who most recently served as a trial attorney with the Torts Branch of the United States Department of Justice where he participated in major civil litigation. Further, we were able to attract two notable visitors for the new year. Professor Fritz Raber, former dean of the law school in Innsbruck, Austria, is a specialist in the areas of comparative torts and contracts law. Professor Christopher Gane has taught in the Notre Dame London Law Programme for the past several years and will spend part of the 1989-90 Academic Year here at the home campus teaching human rights law. Assistant Librarian Joseph Thomas, with substantial experience at the General Electric legal staff library and the Indiana University Law School Library, was also added to serve as the Catalogue Librarian of the Kresge Law Library.

Two of our regular faculty have been on leave this current Academic Year. Professor Douglas Kmiec was granted a leave of absence to serve as Assistant Attorney General, United States Justice Department, the fourth ranking position in that Department. Professor Teresa Phelps won a Lilly Fellowship for use in a year-long law program at Yale University Law School. Both will return to the home campus for Academic Year 1989-90.

The National Institute for Trial Advocacy (NITA) completed its consolidation at the University of Notre Dame. The academic portion of NITA continues to be located within Notre Dame Law School. The other operating elements (publications

and audio-visual materials production) are functioning in a leased building off campus while efforts continue to secure adequate facilities on the campus of the University of Notre Dame. This consolidation of NITA at Notre Dame is a significant development because the Institute is a nationally recognized and well-regarded program within the legal profession.

A Visitation Team consisting of the head of the American Bar Association Legal Education Section and the former dean of Harvard Law School inspected the J.D. program in London. They offered highly favorable comments on the program in their site report and have asked for further elaboration on future plans.

The Law School hosted four continuing legal education programs this year. A national conference on architecture and law libraries, jointly sponsored by the American Bar Association Section on Legal Education and Admissions to the Bar, and the Law School's Kresge Law Library, attracted over 125 deans, law library directors and architects. The Annual Notre Dame Law School Estate Planning Institute was conducted at the Century Center with attendance approximating 400 practitioners in the fields of tax and estate planning. An ethics-related program entitled, "The Moral Lawyer" was hosted within the Law School. The papers presented at this conference constitute the symposium issue of the Notre Dame Law Review. The Law School, in combination with the Notre Dame Alumni Association, hosted a summer conference on ethical issues. Its main purpose was to provide a continuing education opportunity for Notre Dame alumni. Presentations were made by Dean Link and other members of the Law School faculty, and by Father Malloy.

Academic Year 1988-89 witnessed a further marked increase in applications for admission to Notre Dame Law School. Beginning some five years ago, there was a sharp decline

throughout the country in the number of law school aspirants, and Notre Dame shared in this experience albeit to a lesser degree than the national decline. With extensive recruiting activity and with the growing reputation of Notre Dame Law School, applications to our law school rebounded beginning in 1986-87 and again in 1987-88, and finally still again this year with a further increase of more than 35%. There were more than 2,700 candidates for the 170 positions in the 1989 entering class.

III. STRENGTHS

Notre Dame Law School is blessed with many strengths.

The faculty is made up of a healthy blend of senior teachers, professors in the middle years of their professional careers, and a number of young people in their early years of teaching. The Accreditation Team reported that they were completely satisfied with the depth and clarity of the faculty's instruction and noted the students' overall satisfaction with the faculty effectiveness as teachers. They further observed that faculty research and writing appeared to be on a solid track, noting a steady increase in production across the faculty as a whole, and also that the breadth and challenge of the faculty scholarship are increasing.

A great strength of Notre Dame Law School is the continuing quality and diversity of the student body. The Visitation Team described the student body as "attractive, enthusiastic, proud of their school, and generally, pleased with their experience at Notre Dame." They noted that the students are "basically motivated to a healthy concern for the common weal, and this contributes to a generally attractive group of students with a breadth of geographic origin probably unique among American law schools." The Team noted that they had met

with a group of student leaders who "spoke enthusiastically about their affection for the school--apparently unrehearsed and quite genuine, a stronger endorsement than would emerge from many student bodies."

The Law School's recently expanded and renovated facilities are a unique strength. There are adequate classrooms for a realistic class schedule. There is sufficient office space for faculty, staff and student activities. The new and recently dedicated courtroom permits the conduct of practice court activities in a realistic environment while using the latest in video-audio teaching techniques. There is carrel or table space within the library for 100% of the student body.

Library support for faculty and students, surveyed more fully in the accompanying report, continues to expand. Of particular note were the inauguration of a student computer laboratory and the addition of nearly 24,000 volumes and volume equivalents. This collection growth places the Law Library among the fastest growing libraries in the country and represents a 10% expansion of total collection resources in one year.

IV. NEEDS

The Law School conducted an in-depth self study preparatory to the re-accreditation inspection and as a foundation for a new strategic plan. The Law School concluded and the Visitation Team acknowledged three main areas that impede achievement of the ambitious goals Notre Dame Law School has established for itself. They are:

- Serious deficiencies in student financial aid.
- A library budget which is still inadequate to developing a genuine research library.

-- A need for enhanced faculty support including increases in faculty size, faculty salaries, and research funding.

With regard to financial aid, scholarship funds available to the Law School cover only about 10% of the total tuition costs. This is very low in comparison to our peer institutions. Each year we lose top level students to competing private or state law schools because of the realities of costs and scholarship assistance.

With regard to the library, we now have a first class facility and with present personnel, are in position to provide quality service for faculty and students. However, even the outstanding growth of the past year was the result of "one-time" gifts, and cannot be maintained with a regular budget far below that of peer institutions and clearly insufficient to close the gap created by past deficiencies. The Visitation Team concluded that "major needs remain for the library. The University must accept the need for a multi-year development effort in the law library. This effort will take significant resources, but there are few better long-term investments to stimulate advanced research and scholarship in the Law School."

There is a need to improve the Law School faculty salary structure. Progress has been made, but unlike the rest of the faculty at Notre Dame, law faculty salaries are not in the top rank nationally. The Visitation Team noted that, in comparison with six peer institutions which have law schools, institutions to which Notre Dame University frequently makes comparisons, each of the six reports higher faculty salaries than exist at Notre Dame Law School.

V. CONCLUSION

Notre Dame Law School has a long and distinguished history of educating members of the legal profession. It is developing a reputation as a research institution. This reputation is being realized because of a strong student body, a dedicated and hard working faculty, a law school administrative team which provides valuable leadership and guidance, and a supportive University administration which has evidenced a commitment to excellence in the Law School. While there remains much to be done, there is growing recognition that Notre Dame can continue to enhance its position as a leadership law school.

BUDGET

We succeeded in operating the program within the budget this year. That success was the result of careful management and a favorable exchange rate. Budgetary problems remain, however, because the Concannon Endowment does not support the full cost of the program. The gap between income and expenditure will be even greater if the Arts & Letters program moves to a separate facility.

The prospects are good for an even more favorable exchange rate during the 1989-1990 academic year. If the exchange rate does remain favorable (better than 1.70), the Law Centre should invest in much needed library resources. For the longer term, the University should accept responsibility for fluctuations in exchange rate so that the budget of the Law Centre is not so dependent upon the relationship between the Dollar and the Pound.

FACULTY & STAFF

We have a strong faculty who are uniformly praised by the students. The majority of the faculty will be willing to teach again next year, with attrition no more than to be expected from a group of twenty.

We found a replacement for the secretary who left after almost three years with the program. The new secretary, who was hired at a significant increase in salary should be able to provide more administrative help to the directors. To ensure that the needed administrative support is available, the Law Centre should remain committed to paying a salary which is competitive with salaries in London for senior secretaries, which are substantially higher than in South Bend.

The one lingering problem is the investigation by the Inland Revenue into the University's participation in the British program of taxation (PAYE). The inquiry, which is in its second year, will continue for some months and is likely to continue to occupy substantial amounts of the Director's time. To minimize future liabilities and to reduce the amount of time taken from the Director's primary responsibilities, the University should retain an expert in British tax law to examine the tax liabilities of all London programs.

CURRICULUM

We have the best curriculum we can afford. If more resources become available, we should add courses outside the Anglo-European tradition, specifically the Pacific Basin, Africa, and South America.

For J.D. students, we have a good mix between required and elective courses. LL.M. students, especially those writing a four-credit thesis, also find the curriculum to be adequate. LL.M. students from the United States are exceptions; their choices are restricted, in some cases severely, because they are not permitted to take a course which substantially duplicates a course they took for their J.D. degree. For so long as the curriculum remains limited, the LL.M. program should be directed primarily toward non-American students.

The one significant remaining problem is whether to require a thesis of

all LL.M. students. At present the non-American students lack the requisite ability in English to write a substantial thesis. In the absence of a reliable measure of English ability, we should have the thesis as only an optional part of the requirements for the LL.M. degree.

ALBEMARLE FACILITY

The limited space at Albemarle Street continues to be a severe problem. Other than the obvious constraints on any academic goals, the limitation is a continuing source of potential friction between the programs.

The University's estate agent is searching for new facilities. That search cannot, however, succeed until the University first determines how much it is prepared to spend and whether it wants to purchase or lease the new facility.

LIBRARY

The Institute of Advanced Legal Studies is the primary research facility for the students. After some initial "teething" problems, the students adapted well to the Institute. Other than the continuing cost of the IALS, the only significant library problems are associated with the collection at Albemarle Street.

Because there can be no uninterrupted supervision by the student librarians, the library at the Centre should be only a browsing library. We tried this year to rationalize the subscriptions, eliminating duplicates and cancelling those that were not used. The library now has a computer-based catalogue which can easily be up-dated in future years.

LEXIS services cost \$1300 per month at their peak, but the average monthly cost seems likely to be \$1000 or less. The cost is very high when compared with the home campus; nevertheless, the service is an essential supplement to the otherwise meager library resources.

The Centre has only two computers for students, both Zenith eaZy PCs (IBM-compatible). As more students become computer "literate," there will be an increasing demand for computer services.

PUB (Common Room)

The liquor license is now in Aubrey Diamond's name, which should eliminate the need for costly and time-consuming renewals each year.

We had one pubkeeper whose only service was a small lunch-time menu. A pubkeeper cannot earn enough money from that limited service to make the job worthwhile. To allow the service to continue, the pubkeeper should be paid like all other student assistants, for ten hours a week. That payment will allow the continuation of the minimal service which will ensure that the "pub" continues to provide its valuable function as a common room.

CARETAKERS

The caretakers provide a valuable service which is at risk if the local authorities discover that the University does not have planning permission to allow anyone to sleep in the building.

PLACEMENT

All but three of this year's J.D. students have jobs for the summer of 1989. Their success is due to the students' efforts last summer to find a job before they came to London.

Twelve of the J.D. students had internships during the academic year. All seem profited greatly from their experiences. The supervising lawyers were so pleased with the students' work that they have uniformly indicated that they would like to participate in the internship program again next year.

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A N N U A L R E P O R T

THOMAS J. WHITE CENTER

During the 1988-89 academic year, the White Center sponsored three series of lectures on pressing domestic policy questions and hosted a major conference on a significant constitutional issue. The policy questions related to AIDS, homelessness, and serious juvenile crime. The constitutional issue was the appropriate understanding of the Religion Clauses of the First Amendment to the Federal Constitution. Both the three lecture series and the conference gave rise to articles--in the latter case to a large number of them--that will appear in future issues of the Notre Dame Journal of Law, Ethics & Public Policy. (For more information on these events, I refer the reader to pp 1-5 of the attached report to the Board of Governors of the Center.)

In 1989 the Center made several significant adjustments in our program. We realized that we had annually been taking on more issues than we could do justice to; so we decided to limit ourselves to two (as opposed to four) research areas per year and to make a commensurate reduction in the number of issues of our journal that we publish annually. We added first year law students to our program, and we developed a first year legal ethics seminar for those students. We also worked with Mr. White on the development of a loan assistance program, which, when operational, should make it financially possible for law students who have substantial education-related loans to pursue the career in public service for which we have been preparing them. (For

details on all three of these changes, I refer the reader to pp 6 and 7 of the attached letter.)

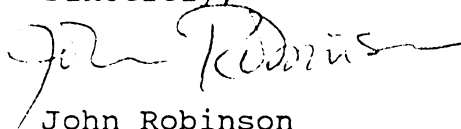
The fundamental achievement of the Center during the past year was, I believe, to reach what we hope to be a definitive accord with Mr. White on the nature of enterprise in which the Center is engaged. The Center is not purely a research institute, although it does have a substantial research component. Neither is it in any sense a lobbying organization; we make every effort to attract both law students and outside speakers from across a broad spectrum of political orientation. What we are up to is the worthy task of preparing those law students who have an interest in a public service legal career for that kind of legal work. We help them to become unself-consciously articulate about the normative bases for their policy preferences and to unearth the normative presuppositions that usually lie beneath the surface of others' policy proposals. We encourage them to invest time in an internship with a federal agency or non-governmental organization in Washington, D.C., in a restructured internship program. We put them in contact with the best academicians and with the best political figures that we can lure to our campus, and we hope soon to be able to help them with the financial downside of a career in public service.

Our hope is that in structuring our program in this way we will help to make Notre Dame one of the few national law schools known for its effective commitment to public service. This cannot but help to attract to this law school talented,

idealistic students who, but for the School's reputation for providing a legal education with a public service dimension, would be lost to some other law school.

At some point in the near future the Center should expand its funding base by seeking foundation assistance for our annual research projects and it should enter into more formal and effective collaborative relationships with related centers at other universities and with entities like the Hesburgh Program in Public Service on this campus. To do this, however, will require the presence on our staff of an associate director. As things stand the demands on the time and resources of the current director make these improvements in our program impossible. I look forward to the day when an adequately staffed White Center solidifies Notre Dame's reputation as a university where the Christian commitment to service functions in harmony with our academic commitment to scholarly excellence.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Robinson", written in a cursive style.

John Robinson
Director

MEMORANDUM

TO: WILLIAM O. MCLEAN, ASSISTANT DEAN
DATE: August 28, 1989
FROM: John D. LaDue
RE: Notre Dame Law Review Annual Report

The Notre Dame Law Review is a student operated organization comprised of 38 students. The Law Review seeks to publish timely and interesting legal scholarship and to enhance the legal education of its members. Further, the Law Review recognizes its unique role as a representative of the Notre Dame community.

Each year, the Law Review publishes five issues, including one Symposium Issue. These five issues total approximately 1200 pages. Each issue contains articles and book reviews submitted by law professors and practitioners as well as student notes and case comments written primarily by Law Review members.¹

The Law Review has continued to observe an increase in the quality of the unsolicited articles submitted for publication. Like Volume 63, Volume 64 contained a number of unsolicited manuscripts authored by leading scholars in their respective fields of the law. The list of unsolicited contributors to Issue One through Issue Four include: William B. Gould, Charles A. Beardsley Professor of Law at Stanford Law School; Richard Wilkins, Associate Professor of Law, Brigham Young University;

¹See Appendix A for a list of authors published in the last five issues.

and Edward L. Pittman, Assistant Chief Counsel, Division of Market Regulation, United States Securities and Exchange Commission. The Law Review's success in attracting prominent authors is due partly to our continued use of the "fast track" system to ensure that manuscripts submitted by the most prominent authors get expedited review which allows us to extend an offer to publish these manuscripts before the authors hear from our competitors.

A second, and probably the key factor contributing to the rising quality of unsolicited articles is the favorable exposure the Law Review has gained from our live symposiums. Volume 63, Issue Five, published last fall, contained papers presented by leading scholars at our live symposium commemorating the fiftieth anniversary of the Federal Rules of Civil Procedure. Volume 64, Issue Five will be published this fall and will contain papers presented at last year's symposium entitled "The Moral Lawyer: Ethical Underpinnings of Contemporary Legal Thought." The symposium advisor is Professor John Attanasio. The symposium features leading scholars from institutions such as Yale and Columbia.² The participants and all involved with the past two symposiums have indicated that their experience at Notre Dame was very rewarding and continue to speak favorably about Notre Dame

²See Appendix B for a list of scholars who presented papers at the "Moral Lawyer" symposium.

among their colleagues.³

Currently, the Law Review is planning another live symposium to be held February 8-10, 1990. This year's symposium will center on the current controversy and proposed legislative reforms targeted at the Racketeer Influenced and Corrupt Organizations Act of 1970 (RICO). The symposium advisor is Professor G. Robert Blakey, the principal drafter of the statute. Professor Blakey will be presenting a paper, along with the following experts in the field: Professor Gerard Lynch, Columbia University School of Law; Mr. Graeme Bush of Caplin & Drysdale, Ltd., Washington, D.C.; Mr. L. Gordon Crovitz of the Wall Street Journal; Mr. Paul E. Coffey, Deputy Director, Organized Crime and Racketeering Section, U.S. Department of Justice; Judge Susan Getzendanner now with Skadden, Arps, Slate, Meagher & Flom, Chicago, Ill.; Professor Michael Goldsmith, Brigham Young University Law School; Mr. Arthur Matthews of Wilmer, Cutler & Pickering; Washington, D.C.; Mr. William W. Taylor, III of Zuckerman, Spaeder, Goldstein, Taylor & Kolker, Washington, D.C.; and Mr. Jay Kelly Wright of Arnold & Porter, Washington, D.C. The Law Review is also in the process of reaching agreements with several other outstanding scholars. The RICO Symposium promises to draw the attention of scholars,

³ We have received letters from participants from both symposiums expressing appreciation for inviting them to participate and several professors have mentioned their participation in important publications. See, e.g., Faculty and Staff Notes, The Yale Law Report, 71 (Fall 1988) (Professor Geoffrey Hazzard, Jr. notes his participation in the Federal Rules of Civil Procedure Symposium).

judges, and a large number of practitioners.

Financing for the past two symposiums has been derived from funds raised by Dean David Link. The Law Review has also made arrangements with the Law School Administration to fund the RICO symposium. As for the future, the Law Review is eager to continue to host live symposiums. As mentioned, they have played an important role in improving the quality of unsolicited articles that the Law Review receives. Furthermore, the popularity of the one symposium issue now in print has generated numerous orders from judges, practitioners, scholars and institutions well beyond our list of regular subscribers.

Also, we have already received a large number of orders from nonsubscribers for the "Moral Lawyer" symposium issue which will be in print this fall. Given the prestige and notoriety that the symposiums can continue to bring to the Law Review and Notre Dame Law School, they are worth the effort and the money. Accordingly, the Law Review thinks that it would be appropriate to increase our annual budget to provide additional funds to be dedicated to sponsoring annual live symposiums.

The Law Review has also recently been fortunate to have had the opportunity to publish the work of internationally renowned legal scholars. Volume 64, Issue One contained an article addressing Austrian contract law written by Fritz Raber,

Professor of Law, University of Innsbruck, Austria. And, in Volume 64, Issue Three, the Law Review published an essay focusing on the philosophy of law authored by Igor N. Grazin, Chair of General Theory and History of Law, University of Tartu, Deputy to the Supreme Soviet (U.S.S.R.), and Chief of the Department of Law and the Institute of Philosophy, Sociology and Law, Estonian Academy of Sciences. The Law Review is also pleased that, through our faculty advisor Professor John Attanasio, we have established a continuing relationship with Professor Grazin and will receive some of his work on Estonian governmental reforms in the near future.

Finally, in Volume 64, we published book reviews written by three major scholars: Johnathan Macey, Professor of Law, Cornell University; Linda Mullenix, Associate Professor of Law, Catholic University; and H. Jefferson Powell, Visiting Professor of Law, Duke Law School.

In the last two years, the Law Review's major difficulty has been adhering to a publication schedule. The Volume 63 Editorial Board implemented many of the new ideas that account for the Law Review's recent success. However, as a result of their innovative efforts, the Law Review fell behind in publication of its issues. The Volume 64 Editorial Board worked very hard to help the current Editorial Board to start off the new school year on schedule. The primary goal of the present Editorial Board is

to ensure that the Law Review remains on schedule and continues to improve the quality of our publication.

Appendix A: List of Authors Published in Last Five Issues

Volume 63, Issue No. 5 (Civil Procedure Symposium Issue)

Arthur Taylor von Mehren, Story Professor of Law, Harvard University

Geoffrey C. Hazard, Jr., Sterling Professor of Law, Yale University

Edward H. Cooper, Associate Dean and Thomas M. Cooley Professor of Law, University of Michigan Law School

Mary Kay Kane, Professor of Law, University of California, Hastings College of Law

Stephen B. Burbank, Professor of Law, University of Pennsylvania

Joseph P. Bauer, Associate Dean and Professor of Law, Notre Dame Law School

Paul D. Carrington, Professor of Law and former Dean, Duke University; Reporter, Federal Rules Advisory Committee

Joseph M. McLaughlin, Judge, United States District Court for the Eastern District of New York; former Dean of Fordham Law School

Jack H. Friedenthal, Dean, The National Law Center, George Washington University; former George F. Osborne Professor of Law, Stanford University

Kenneth F. Ripple, Judge, United States Court of Appeals for the Seventh Circuit; Professor of Law, Notre Dame Law School

Robert B. McKay, Professor of Law and former Dean, New York University Law School

John F. Grady, Chief Judge, United States District Court, Northern District of Illinois; Chair of the Federal Rules Advisory Committee

Volume 64, Issue No. 1

Richard G. Wilkins, Associate Professor of Law, Brigham Young University School of Law

A Samuel Oddi, Professor of Law, Northern Illinois University College of Law

Volume 64, Issue No. 2

Fritz Raber, Professor of Law, University of Innsbruck, Austria

Joseph W. deFuria, Jr. Associate Professor of Law, Widener University School of Law (formerly Delaware Law School)

Volume 64, Issue No. 3

Igor N. Grazin, Chair Professor of General Theory and History of Law, University of Tartu; Deputy to the Supreme Soviet (U.S.S.R.); Chief of the Department of Law and the Institute of Philosophy, Sociology and Law Estonian Academy of Sciences

James D. Gordon III, Associate Professor of Law, Brigham Young University School of Law and David B. Magleby, Associate Professor, Department of Political Science, Brigham Young University

Nancy Levit, Assistant Professor of Law, University of Missouri-Kansas City School of Law

Volume 64, Issue No. 4

William B. Gould IV, Charles A. Beardsley Professor of Law, Stanford Law School

Edward L. Pittman, Assistant Chief Counsel, Division of Market Regulation, United States Securities and Exchange Commission

Appendix B: List of Scholars from the "Moral Lawyer" Symposium

Stephen Carter, Professor of Law, Yale Law School

Robert Cooter, Professor of Law, University of California at Berkeley

Lucinda Finley, Professor of Law, SUNY Buffalo School of Law

George Fletcher, Professor of Law, Columbia University

Thomas Franck, Murry & Ida Becker Professor of Law, New York University

William Nelson, Professor of Law, New York University

Thomas Shaffer, Robert and Marion Short Professor of Law, Notre Dame Law School

Calvin Woodard, Doherty Professor of Law, University of Virginia



THE JOURNAL OF COLLEGE AND UNIVERSITY LAW

NOTRE DAME LAW SCHOOL
NOTRE DAME INDIANA 46556
219-239-5668



TO: Assistant Dean William O. McLean

FR: Professor Fernand N. Dutile

DA: August 15, 1989

RE: Report on THE JOURNAL OF COLLEGE AND UNIVERSITY LAW, 1988-89

This is in response to your memo of May 31, 1989, concerning Annual Reports. THE JOURNAL OF COLLEGE AND UNIVERSITY LAW came to the Notre Dame Law School on May 8, 1986. The JOURNAL is co-published by the Notre Dame Law School and the National Association of College and University Attorneys (NACUA). The Faculty Editor, Professor Fernand N. Dutile, responds to a 13-member Editorial Board, chaired by Thomas P. Hustoles of Miller, Canfield Paddock & Stone, of Michigan. Three members of that Board are at Notre Dame: Professor Dutile, Dean Link and Philip J. Faccenda, General Counsel of the University.

During the 1988-89 academic year, the Student Editorial Staff included 13 third-year students and 16 second-year students. The Student Editor was Donald J. Manderfeld, who was graduated in May of 1988.

During the 1988-89 academic year, the JOURNAL published four issues, all on schedule. Those issues, from Fall 1988 through Summer 1989, totaling 576 pages, include 9 lead articles, 2 "Commentaries," 3 Book Reviews, 6 Student Case Comments, 7 Student Notes and a Cumulative Index. The press run for each issue was approximately 3500 copies. A copy of the 1988-89 budget is attached.

The JOURNAL is especially proud of its timely publication; of the diversity of views reflected in its pages; of the supervised writing experience the JOURNAL provides student staff members; and of the quality of student contributions to the JOURNAL.

Budget Academic Year 1988-89

Salaries and Wages:

Secretary.....	\$ 4,935
Student Assistant - Summer	2,600
Student Research Assistant - Academic Year.....	1,820
Faculty Editor (Summer Stipend).....	<u>3,928</u>
Subtotal	\$13,283

Benefits:

Secretary.....	<u>1,050</u>	
Subtotal		<u>14,333</u>

<u>Supplies and Expenses:</u>	2,184
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<u>Duplicating and Copying:</u>	1,040
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<u>Entertainment:</u>	500
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<u>Memberships:</u>	200
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<u>Postage:</u>	2,000
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<u>Printing:</u>	25,000
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Telephone:

Line.....	700
Toll.....	1,500

<u>Distributed Charges:</u>	<u>(18,000)</u>	
Subtotal		<u>15,124</u>

Travel:

NACUA Convention.....	2,000	
Mid-Year Meeting.....	<u>1,000</u>	
Subtotal		3,000

<u>Repairs and Maintenance</u>	1,000
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Capital:

Laser Printer.....	<u>2,000</u>	
Subtotal		<u>3,000</u>

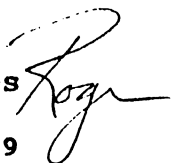
TOTAL		\$35,457
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Kresge Library
Notre Dame Law School
Box 535
Notre Dame, Indiana 46556

Office of the Director

(219) 239-5916

MEMORANDUM

TO: Dean Link
FROM: Roger F. Jacobs 
DATE: August 17, 1989
SUBJECT: Annual Report

Please find attached the Kresge Law Library Annual Report, 1988-89. I would be pleased to respond to any questions or receive any comments.

RFJ:tw

cc: Associate Dean Dutile
Assistant Dean McLean
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KRESGE LAW LIBRARY ANNUAL REPORT
1988 - 1989

It is a pleasure to offer here an overview of the library's progress toward providing legal research and information services to the students and faculty of the law school, as well as the greater university community.

STAFF:

Rebecca Carlton and Edward Huff completed their first full year in the circulation and technical services area respectively. This continued experience added to the productivity in each department. On the other hand, productivity was hindered because of the extended sick leaves of technical services support staff members.

Resignations of library faculty also resulted in lost productivity. Nannette Moegerle resigned in February to take a position at the Ohio State University, and it wasn't until the 1st of June that Joseph Thomas was engaged to replace her as chief cataloger. Research Librarian David Boeck departed in July to be replaced a month later by Professional Specialist Lucy Payne.

The law library faculty made continuing contributions to the life of the school and the university by offering formal and informal instruction in legal research, and by contributing to law school and university committee work. Through scholarly publications and active involvement in professional activities on a regional and national basis, the library faculty continued their commitment to the intellectual life of the school and law librarianship.

The support staff continued to develop new competencies and to undertake longstanding remedial work. With their developing experience in the application of new processes and procedures, they surpassed every previously established benchmark of productivity.

ADMINISTRATION:

The administration of the library was largely involved in the overall development, coordination, and review of ongoing library activities. The long-range plan, requested by the American Bar Association Accreditation Committee was prepared for the university. It called for an infusion of funds which would in five years bring law library resources to parity with the highest quartile in legal education. While the long-range plan has not formally been adopted, the combined resources of the university budget and the gifts of law school friends supported a year of steady progress.

The secretary to the director, Terri Welty, continued her substantial advising and support functions as an administrative assistant to the entire library staff.

Assistant Director for Student Employment, Granville Cleveland, played an active role in locating and hiring the students who provide thousands of hours of student work used by the library. Moreover, as supervisor of law school audio/visual activities, he continued to supply significant contributions to the affective use of this technology.

COLLECTION DEVELOPMENT AND TECHNICAL SERVICES:

Janis Johnston, Associate Director for Technical Services, notwithstanding three extended sick leaves by support staff and a several month hiatus between the departure of one catalog librarian and the engagement of another, led the department to its most productive year.

During the year acquisitions processes were "tuned" so that the online catalog UNLOC now indicates when a book is "on order." Not only is this information valuable to the researcher, it also has eliminated several steps in the ordering process. Tamara Chapman again produced more orders than the previous year. 1,600 purchase orders were placed, an increase of over 200. These orders resulted in the receipt of 5,653 hard bound volumes, 2,016 titles, and 120,000 microforms, representing nearly 18,000 volumes. Overall the library added 23,747 volumes and volume equivalents, a figure that should rank Notre Dame among the country's top ten law schools. This growth, of course, could only be achieved through the generous support of many Notre Dame law school friends. Major gifts from the Murphy Foundation, an anonymous donor, and the combined effort of the law school alumni, were major sources of the funds necessary to reach this impressive growth level.

Notwithstanding the hiatus in catalog librarians during the year, Nannette Moegerle in the first seven months and Joseph Thomas in June, assisted by Barbara Ritty and Edward Huff, maintained regular cataloging output equal to the rate of acquisitions -- cataloging over 2000 titles. Moreover, an additional 2,000 microform titles were added to the UNLOC database as well as the entire backlog of Government Documents monographs. These were major contributions to bringing bibliographic control to the collection, enhancing the automated catalog, and increasing the public's access to the library's resources.

In September the library underwent its first inspection as part of the U.S. Government Depository Program. The library received the highest mark of "excellent" for maintenance of the depository collection and cooperation with other depository libraries. In all other categories of evaluation the library was judged well above the minimum standards.

Over 3,200 invoices were processed by Phyllis Strom as she continued to record the receipt of new monographic supplementation and prepare the detailed bookkeeping of the library's several accounts. While preparation was also made for converting to a modified process allowing more prompt invoice payment and assurance that a copy of the invoice accompanies each check, that effort had to be postponed because of an injury which kept Phyllis away from her desk for an extended period.

This year over 39,000 serial items were received by the library, exceeding last year's receipts by 11%. Esther Batten, assisted by Kenneth Kreps, checked in this material and routed or photocopied 12,400 items to law school faculty thus providing one of the library's more valuable patron services.

Finally, in August, working cooperatively with a team provided by the Hesburgh Library and with the total involvement of law library staff, the entire 30,000 volume treatise collection was bar coded in anticipation of the ultimate implementation of an automated circulation system.

PUBLIC SERVICES:

Under the overall leadership of Michael Slinger, Associate Director for Public Services, the department successfully continued its mission of providing direct research, information and circulation services to the law school and its extended patron base. Chevelle Hillman provided assistance in all aspects of the department's work attending to a host of special tasks in addition to her regular assignments. Research librarian Dwight King and Professional Specialist Lucy Payne responded to over 1,200 reference questions, an increase of 29% over the previous year. Notre Dame law students and faculty accounted for 57% of all requests, down from 69% the previous year. Questions from students in other colleges, members of the bar, and faculty and staff of other university units remained relatively constant at 9%, 8%, and 4% respectively. The number of questions received from members of the public did, however, increase 7%, representing 16% of all questions received by the research department. It should be noted, however, that while Notre Dame is looked upon by many as the regional "public" source for legal information, assistance to these patrons often demands more time and effort than similar questions from law students and faculty. This growing effort has the potential of negatively affecting library service to university patrons. It is also interesting to note that of 288 requests received from faculty, 75% came from nine faculty members. It is apparent that any substantial increases in faculty requests would require a similar increase in the number of librarian hours assigned to research.

LEXIS and WESTLAW usage continued its rising curve increasing to just over 4,700 hours, an increase of 23% over the previous year. The very high per capita use of computer assisted legal research will again place the law school among the top 20 in the nation in this category. WESTLAW and LEXIS proved to be almost equally popular databases in 1988-89. LEXIS accounted for 49% of the total use while WESTLAW provided 51%.

This year a student computer lab was initiated in February with seven Zenith PC's, one IBM, one Apple, one MacIntosh, and four assorted printers. While the lab has been very well received, serious concern is expressed about the additional service and financial requirements this lab places on a small library staff.

Circulation statistics also increased markedly during the past year. General circulation was up 34% with law students and faculty accounting for 73% of all general circulation. It should be noted that our circulation has doubled since 1986-87 in large measure because of the quantitative and qualitative growth of the collection and the bibliographic control provided by UNLOC. Reserve circulation also increased by 32% to 9,758 items. Substantial increases in book use within the library were again noted. Overall, volumes reshelfed increased 16.3% to 78,238 volumes. While reshelfing of legal treatises decreased by 12% and non-law treatises and English materials decreased by 38%, these declines were more than offset by the increased use of state legal material, 28%; law reviews, 20%; and the core collection, 46%. Microform usage also increased dramatically (114%) to over 2,621 microforms used.

Interlibrary loan transactions plateaued this year, rising only 2% to 1,375 transactions. Borrowing increased 10% to 637 items while loans decreased by 4% to 735 items. Over 95% of all interlibrary loan requests sent out were successfully filled. 87% of all the requests received from other libraries were also filled. Interviews with faculty confirm perceptions that interlibrary loan is one of the library's more important services. It will continue to receive priority attention by library staff.

Other services continued apace during the year. Faculty document delivery from Hesburgh library increased markedly from 115 to 510 items. Faculty photocopying of 31,752 pages was within a few pages of the previous year. Sales of Savin photocopy cards to our patrons increased 3% to \$20,141. This sale of photocopy cards is becoming a major burden at the circulation desk. The installation of a vending machine to sell these cards would be a major advantage to library staff and is being investigated.

Video transmission from the circulation desk to classrooms and conference rooms increased 230% representing 284 transmissions. 87 requests were received from faculty and 197 requests came from students. Transmissions to conference rooms accounted for 68% of

all transmissions, while transmissions to classrooms accounted for 32%.

Telefax activity has blossomed into a whole new area of responsibility for circulation staff. From a slow beginning of 20 messages in 1987-88, over 1,572 messages were sent or received in 1988-89. Ironically, interlibrary loan activity, the primary reason for the library obtaining the fax machine, represented only 4.4% of the total volume. Other major users have been the law journals, 7%; law school admission, 13%; Peace Institute, 13%; NITA, 17%; and law school faculty, 44%. While telefax has proven to be a most popular service, it has thrust circulation staff into a law school communications function that has detracted from the performance of more traditional library activities. Notwithstanding these challenges, Carmela Kinslow, Ken Kinslow, and Rebecca Carlton have maintained their efforts to provide that collage of services that represent the library to a great majority of patrons.

GOALS:

The technical services department must continue to acquire and organize materials so that they may be subsequently identified and located by all the patrons of the law library and, via UNLOC, the university's automated catalog, by all university patrons. During the past year much progress was made in obtaining bibliographic control of parts of our microform and government documents collections. However, current estimate of uncataloged microform titles exceeds 10,000 titles. The library owns an estimated additional 8,000 serial titles which are not part of the automated database. The primary goal for 1989-90, therefore, is to develop processes which will ultimately lead to the bibliographic control of the entire collection. The first task is to create a scheme to convert our manual serials cataloging to machine readable form. At the same time, preparation of our current paper serial control records for conversion to an automated system must also begin. The library has insufficient staff to maintain a manual serials check-in process equal to its aggressive acquisitions program. These systems must be automated as rapidly as resources will allow because, ultimately, only through automated processes, will the library be able to achieve the bibliographic control essential for maximum utilization of its research resources.

It is the function of the public services department to successfully provide library services directly to the patrons. While the public services staff has every reason to be satisfied with the efforts of the past year, challenges remain. Among the goals identified by the department include: develop a regularly updated, current checklist of faculty research interests to better enable the library to meet the particular needs of each faculty member; organize and offer an advanced legal research course in the spring semester; design a more formalized student assistant

training program; evaluate losses arising from missing materials and recommend replacements or permanent withdrawal; create a public services column in the Law Library Notes as a method of advising library patrons of public services developments; and improve the student pc lab so it may become a more useful tool for student research.

Finally, with the help of the university and its many friends, the library hopes to attract the resources necessary to maintain the rate of growth that has been achieved over the past two years so that, by 1995, the combination of the library's collections and services will find it unquestionably ranked in the top quarter of American legal education.

Roger F. Jacobs
Professor of Law
Associate Dean

M E M O R A N D U M

TO: Dean William McLean
FROM: Professor John Attanasio
DATE: September 1, 1989
RE: Annual Report on the Journal of Legislation

The Journal of Legislation is a student-operated publication with a staff of approximately twenty-five law students. The Journal targets questions at the cutting edge of law and public policy. Each year, the staff publishes two issues which together run approximately 300 pages. We are one of the oldest legal journals of this kind. The number of similar journals has proliferated--especially at the better law schools. In particular, Harvard and Yale each have similar reviews.

Traditionally, the Journal has featured prominent government officials. We have a substantial edge over our competitors in publishing such authors. For example, over the past fourteen years, we have published Edmund Muskie, Richard Gephardt, Christopher Dodd, Walter Mondale, Jack Kemp, Barry Goldwater, William Douglas, John Brademas, Elliott Richardson, Lawton Chiles, Peter Rodino, Andrew Young, William Webster, Henry Cisneros, Otis Bowen, Alfonse D'Amato, Birch Bayh, Dennis DeConcini, Adlai Stevenson, III, Claude Pepper, and many others. The Journal also has published a number of prominent legal academics. We have particularly emphasized such authors over the past few years. For example, recent issues have included Professor William Banks of Syracuse Law School, Professor Jack

Greenberg of Columbia Law School, Professor Athornia Steele of Washington and Lee Law School, and Professor Stephen Carter of Yale Law School. In addition to articles and book reviews by prominent authors, the Journal features a selection of student notes which tend to focus on issues currently pending before Congress and state legislatures. The editorial board devotes one of its two annual issues to a symposium. The other issue features articles covering a wide variety of topics.

The past symposium issue is a joint project with the Peace Institute on the Strategic Defense Initiative. We have obtained articles from Rev. Theodore Hesburgh, Senator Paul Simon, Secretary Jack Kemp, and General Daniel Graham who heads up High Frontier. Representing the Peace Institute, Professor George Lopez has obtained articles from many internationally renowned scholars including Dietrich Fischer of New York University and Princeton, Hans-Henrik Holm of the University of Aarhus, Denmark, and Ronald Sagdeyer of the Soviet Academy of Sciences. Professor Lopez wrote the foreword for this issue.

In our forthcoming Issue 16-1 we will feature articles by Professor Aubrey Diamond of our London Program, Congresswoman Olympia Snowe, and Professor Gao Xian of the Chinese Academy of Social Sciences. Our symposium issue is on poverty. It will feature articles by Senator Lloyd Bentsen, Diana Pierce of the Institute for Women's Policy, public interest lawyer Marc Linder, and Michael Novak.

On a housekeeping note, we purchased a new Zenith PC last

year. This has helped us to interface with the law school's computers. It has also facilitate interface with our publisher.

One problem with the Journal's enterprise is lateness of publication. So long as we continue to publish prominent governmental officials, this difficulty should prove hard to avoid. At times, we also encounter problems with the work submitted by congressional authors. We try to compensate for such problems by devoting substantial efforts to polishing such articles.

The most significant problem with the Journal has been funding. We budget very carefully to ameliorate this problem.

The following pages were copied from one of the books below that are available in Kresge Law Library at the University Notre Dame:

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090 KF292.N67 |bA7
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245 10 Annual report.
260 [Notre Dame, Ind. :|bLaw School, 198-
300 v.|c28 cm.
907 .b11053604

LOCATION	CALL #	STATUS
3rd floor, Stacks	KF292.N67 A7 1988-1989	Check shelves
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