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Annual Report of the Dean 1953–1954

Joseph O'Meara
Notre Dame Law School

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Report of the Dean



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NOTRE DAME LAW SCHOOL
ANNUAL REPORT OF THE DEAN
1953-1954

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THE UNIVERSITY OF NOTRE DAME

1953-54 ANNUAL REPORT OF

JOSEPH O'MEARA, DEAN OF THE COLLEGE OF LAW

Rev. Theodore M. Hesburgh, C.S.C.
President, The University of Notre Dame
Notre Dame, Indiana

Dear Father Hesburgh:

1953-54 was a rough year, as I foretold it would be; but we made some progress. This would have been impossible without the strong and unfailing support of the Administration, which I acknowledge with deepest gratitude.

One of those consulted when you were seeking a successor for Dean Manion suggested the importance of improving relations with the members of the Association of American Law Schools. This has been accomplished; Notre Dame's stock has risen in law school circles.

THE STUDENT BODY

At the dinner which marked the announcement of my appointment to the deanship, I said the most important thing in any law school is not the dean or the faculty or the curriculum, but the student body. At the outset of this report, therefore, I propose to set down some observations concerning our students, past, present and prospective.

Enrollment

First as to our enrollment for 1954-55. We have on file 244 accepted applications. This number may rise to approximately 250. How many of these will register in September? I cannot tell. My guess is that we will have a first-semester enrollment of about 200. By way of comparison, there were 240 students last year, 221 in September of 1952 and 204 in September of 1951. The following schedule gives the number in each class in the September semester a year ago and the corresponding number accepted for 1954-55:

<u>First year</u>	<u>1953</u>		<u>1954</u>	
First semester freshmen	104		89	
Second semester freshmen	<u>9</u>	113	<u>14</u>	103
<u>Second year</u>				
First semester juniors	57		69	
Second semester juniors	<u>20</u>	77	<u>7</u>	76
<u>Third year</u>				
First semester seniors	38		56	
Second semester seniors	<u>12</u>	<u>50</u>	<u>9</u>	<u>65</u>
Total September enrollment		240		
Total accepted as of August 14				244

As the schedule indicates, the entering class will be substantially smaller than last year. Of the 89 accepted applicants it is my guess that approximately 70 will show up. This compares with 104 a year ago. According to present indications, the quality of the group will be above average.

The shrinkage in first-year enrollment is the result of a sharp decline in the number of beginning combination students. Last year we had 64—61.5% of the entering class. This year we will have not more than 22, or 30% of the estimated enrollment. If we had had only 22 beginning combination students last year, the entering class, instead of being 104, would have been 62.

The decline in the number of beginning combination students no doubt has a number of causes. The most important of these, I think, are the higher standards in the Law School and the poor morale of the 1953-54 student body. The higher standards acted, as you will recall my saying they would, as a screen which kept out many prospective combination students who, otherwise, would have enrolled.

In addition, I have no doubt that many prospective combination students were deterred (as also were some graduates of the other colleges) by the many horrendous rumors concerning the Law School, which enveloped the campus, and by the deliberate efforts of some of the more bitter of our disaffected students.

In contrast with the decline in beginning combination students, the number of entering students holding degrees will be substantially larger than last year. There are now on file 67 accepted applications from students who have completed their undergraduate work, whereas the number of degree men in the entering class last September was 38.

Of those holding degrees, eight will be attending the Law School on

scholarships--and not one of them would be here otherwise. Two of the eight are the first recipients of John J. Cavanaugh Law Scholarships. Funds for the tuition scholarships awarded the others were provided by the Notre Dame Law Association.

To summarize, our 1954-55 entering class will be substantially smaller than a year ago. There will be only about one-third as many combination students. On the other hand, the number of students who have completed their undergraduate work will be in the neighborhood of 50% greater than last year.

Selection

All applicants for admission to the Law School are now required to take the Law School Admission Test. This requirement was announced in December, 1953, effective with respect to students entering in September, 1954.

I am feeling my way with the LSAT and have adopted a fairly low required minimum score, namely, 350. In effect this means simply that I am excluding only those whose score puts them in the lowest 15% of all the students who have taken the Test throughout the country in the last five years. And even if a man drops below this minimum requirement, I still will take him if he was in the upper half of his college graduating class. I will raise this minimum requirement if and to the extent that our experience indicates it is too low.

For the present I am using the Test only to screen out those who seem plainly sub-marginal. One of the valuable lessons I learned last year, however, is this: it is much more important to attract good students than it is to exclude poor students. And this, in turn, underlines the significance of our scholarship program. It indicates the necessity, moreover, of active recruiting. Hence I plan to visit a number of Catholic colleges and universities late next fall, particularly those which do not have law schools of their own, such as Xavier, Dayton and John Carroll. This, I think, should be done annually; and I am confident it will be effective, although the results may not be immediately apparent.

Admission and Registration

Since April 8 I have been handling admissions to the Law School. This is a departure from past practice which was imperative. I am grateful to Father Thornton for his understanding and cooperation, which greatly facilitated the transfer of this function from his office to mine. Since the transfer, I have corresponded personally with every prospective student, and the reaction to these personal letters has convinced me of their value. Other features of our admissions procedure--particularly the forms we have been using--can be improved and I hope to be able to report next year that they have been improved.

Another innovation, registration of law students in the Law

Building rather than in the Drill Hall with the undergraduates, was inaugurated last September. It worked well, everybody was pleased, and the procedure will be continued.

Student Morale

To return to the unpleasant subject of student morale last year. It was poor, as I have said. There were a number of reasons for this. In part it was simply mediocrity fighting back against higher standards and harder work. This attitude, most pronounced among the seniors, permeated the entire student body.

The examinations created a great deal of ill will. The examination procedure was partly to blame for this. To that extent the outlook for the future is good, for I am confident we have overcome the difficulties which occasioned much if not most of the criticism.

The examinations will continue to be stiff, however, and it is to be expected that there will be a substantial mortality. For of one thing I am sure: if everybody passes nobody works. The mortality in 1953-54 was: in the first year 19.8%, in the second year 12%, in the third year 10.5%. I think we can expect the mortality in the second and third years to decline appreciably; I am not sure we can expect much decrease in the first year--not, at any rate, unless and until we become much more selective in admitting students than we are at present.

There were other reasons for the low morale of the students. The senior class was divided against itself. So far as I have been able to determine, this cleavage among the seniors had no connection with our new program. What was responsible for it I have not been able to ascertain. There is no question that it had a very bad effect, not only on the morale of the seniors but of the other classes as well.

Another factor of importance in this connection was the ineffectiveness of the Student Law Association. Under the presidency of William J. Roche, the Association was a strong force for good in 1952-53. Mr. Roche's successor, Mr. James B. Bleyer, was very ineffective as a student leader, and the Association fell to a low estate in the esteem of the students. This is in process of being corrected. Mr. Robert J. Maley, Jr., the new president, and the other officers are interested and hardworking, and I believe they will do a good job. Among other things they are organizing a welcome for the new students, including a get-acquainted smoker.

One of the most disturbing manifestations of the attitude of a considerable segment of the student body was the extensive cheating practiced on the first two days of the January examinations. As soon as it became evident what was going on, I took steps which were immediately effective. In May I offered the students, class by class, an alternative: continuation of the very strict protective measures which had become necessary in January, or complete freedom from surveillance in exchange for their adoption, by

majority vote, of the Honor System. About half a dozen students who typed their examinations elected the Honor System and were not proctored. The rest of the student body voted overwhelmingly against being treated as if they could be trusted.

In this connection it seems to be widely accepted on campus that dishonorable and dishonest conduct is no more than a venial sin and can be indulged in safely, unless one succeeds in stealing too much money. This venial-sin psychology will not be tolerated in the Law School. It is my announced policy not to recommend for graduation anyone who has proved his unfitness to be a lawyer by dishonest or dishonorable conduct.

The morale of the students would have been even lower than it was had it not been for Fisher Hall. I believe the wisdom of assigning the third and fourth floors to law students and according them privileges consistent with their age and maturity has been demonstrated. I think this would be even clearer were it not for the internal dissension among last year's seniors. The Law School and the students who were privileged to live in Fisher owe much to Father Boarman, the Rector, and to Father Cavanaugh and Father Sheedy, Prefects of the third and fourth floors. I have a sense of great personal gratitude to them.

The effects of last year's poor student morale will be felt for some time. It is my opinion, however, that this year's juniors--those who are left of last year's freshman class--are ready to go along with the new program, and I anticipate little if any difficulty with the beginning students. We may not have clear sailing so far as the senior class is concerned, but I think the measures which will be taken, including the inauguration of a class-advisor system, will keep the difficulty within bounds. On the whole, I anticipate a better attitude on the part of the students in 1954-55.

Undergraduate Status

There was still a further reason--one which deserves special consideration--for discontent among the freshmen: the high percentage of combination students and the prolongation of undergraduate psychology which the combination programs have encouraged. One of the first-year combination students, who failed, put it this way in his petition for readmission:

"For a student in the combination program, the first year of law school is a most awkward year. At least it was for me. I was a student with undergraduate ties, relationships and interests and at the same time I was a student with a heavy graduate-level load of studies. My undergraduate interests had not yet been satiated . . ."

This is a difficulty which cannot be eliminated over-night. Nor is there any single corrective. Some things, however, are clear beyond question. In the first place, participation by law students in undergraduate extra-curricular activities is not consistent with the professional

interests and attitudes which are essential in a professional school. For that reason the law faculty has resolved that a law student may not engage in any undergraduate extra-curricular activity. Some leeway was permitted in the enforcement of this rule last year, the first in which it was in effect. This year it will be enforced strictly.

But this alone will not suffice. Other means, as well, must be utilized to rescue the Law School from the blight of undergraduate status. The General Bulletin (p. 30-31) describes the Law School as one of the five colleges comprising The Undergraduate School of the University. It is simply not possible for the Law School to realize its potentialities so long as it is ranked with colleges which students enter fresh from high school. The Law School needs full recognition of its professional status, and this requires that it be plainly differentiated from the undergraduate colleges.

This can be done by three simple measures, in addition to those already in effect. The first is a change of name from "The College of Law" to "The Law School". The University would then be organized into The Graduate School, The Law School and The Undergraduate School. A summary of reasons for this greatly needed change is appended to this report, marked Exhibit A, beginning at page 18.

The second measure is this: award law degrees after graduate degrees and before the bachelor's degrees of Arts and Letters, Science and Engineering. As it is, a law graduate who got an A.B., for instance, at least three years ago--who may even have an M.A.--waits his turn while hundreds of students receive undergraduate degrees--just as if his LL.B. were of lesser dignity than the A.B. he himself won three years or more ago.

Finally, limit free days for law students to national holidays and Holy Days.

At best it will take at least two more years to establish a firm tradition of hard work in the Law School. It does not help to be identified as just another undergraduate college.

THE PROGRAM OF INSTRUCTION

Some improvements have been made in the organization and sequence of courses. In addition, we are now requiring summer reading in legal history. This is based on the conviction stated thus by Woodrow Wilson: "We need lawyers....who have explored the sources as well as tapped the streams of the law...."

The Bulletin, which has been revised and, I think, improved, now describes the course on the History of the Legal Profession as follows:

"Legal history is still written in terms of kings and courts and official acts; it should be written around practicing lawyers. That is the approach which is taken in this course. The origin of lawyers is traced and their position and function in society throughout the ages examined. In the process the student is introduced to the great men of the profession who have advanced the cause of human freedom within the framework of orderly government. Particular attention is directed to the contributions made by lawyers to the rise of Western civilization and the development of Western thought. The course concludes with an examination of the Canons of Professional Ethics, for the Canons reflect the principles and ideals, the courage and devotion of the great lawyers who have made the practice of law a learned profession dedicated to justice."

The first of a series of articles by Professor Chroust on various phases of this subject appeared in a recent issue of the Notre Dame Lawyer. I sent reprints of this article, entitled "The Legal Profession in Ancient Athens," to a number of prominent lawyers who are or have been active in the American Bar Association. The response was gratifying. Letters of commendation were received from Mr. Harold H. Bredell (Treasurer of the American Bar Association), Mr. John W. Davis, Mr. W. J. Jameson (President of the American Bar Association), Professor Robert E. Mathews (immediate past president of the Association of American Law Schools), Mr. David F. Maxwell (Chairman of the House of Delegates of the American Bar Association), Judge Philbrick McCoy of the Superior Court of Los Angeles, Whitney North Seymour (former president of the Association of the Bar of the City of New York) and Chief Justice Arthur T. Vanderbilt of the Supreme Court of New Jersey.

Combination Programs

Substantial improvement has been made in the combination programs. So far as the AB-Law program is concerned, I think the problem is solved. Students in this program will take Torts as an AB elective in their junior year. Thus, before entering the Law School, they will have completed six

hours of the freshman law program. This will give them time, in their first year in the Law School, to complete their undergraduate requirements without adding appreciably to their total work load. In the other combination programs the excessive burden on the student has been reduced but not eliminated. I hope we will be able to make further progress this year toward elimination of this differential. The Engineering-Law program, which imposed a virtually impossible burden on the student, has been discontinued.

Class Advisors

Last year I proceeded on the mistaken assumption that a student with a problem will seek counsel if it is made clear that the latchstring is on the outside of every faculty door at all times. This year we will have a system of class advisors. First-year students will be required to report twice a month to one of their class advisors and upper classmen will be required to report monthly. In this way I hope to flush out the problems before they become serious. The following will serve as class advisors: First year, Professors Richter and Chroust; second year, Professor Barrett and Assistant Professor Ward; third year, Professor Rollison and I.

Strengthening the First-Year Program

Recently I saw a statement by Dean Pound to the effect that "the key to legal education is in the first year in the law school." I agree with that. Accordingly, a number of innovations are planned in order to make the first year more profitable for the students. In the first place, every first-year student will be required to brief all assigned cases. The briefs will be handed in, scrutinized by the instructors, marked, returned to the students and discussed with them. Moreover, the briefs will have to be in a prescribed form, the aim being to give the students daily practice in the systematic reading and digesting of judicial decisions. It is my purpose, furthermore, to give the first-year students a trial-run examination at mid-semester so that, when the first semester examinations are held, they will not face the ordeal of a wholly new experience fraught with mystery.

One of the chief aims of the new program, inaugurated in September of 1953, is to maximize student participation in the educational process, with the emphasis in the first year on analysis, in the upper classes on synthesis. The Common Law is not merely or essentially a body of knowledge. It is, rather, a way of approaching problems, a method of dealing with concrete situations, a technique; and it can be learned only by practice. A student can learn about law by reading books and attending lectures. But this is not enough if what he wants is to be a lawyer. For the practice of law is a craft. A lawyer can never have enough knowledge, but no amount of learning ever made a lawyer. In this sense a lawyer is like a surgeon, mastery of whose art entails much more than merely reading or hearing about operations. Similarly, it is indispensable for a lawyer to have the "feel" of the law, and this there is no way to acquire except by long practice in the actual use of legal materials. It cannot be done vicariously. The student has to learn to keep himself afloat--in good weather and bad; no one

can do it for him; it is a disservice to try. And he will develop his capacities fully only if forced constantly to extend himself.

Accordingly, the first-year class will be divided into sections of not more, I hope, than 35, in order to facilitate active participation in class discussion by every student at every session. For the time being our staff is insufficient to permit sectionalizing the upper classes. I intend to move, however, in that direction as rapidly as possible.

The Problem Method

The problem method, used in the upper classes, did not work very well last year. This was due to a number of causes, which can be summarized by saying that it was new to both students and faculty. I am attaching as exhibits B-1 and B-2, beginning on page 20, two communications I have addressed to the faculty on this subject. Two faculty meetings have been held at which the subject has been discussed, and there will be another in the near future. As a result, I am confident we can anticipate improvement in the use of the problem method this year.

Our Approach to Legal Education

What I have been saying indicates the direction of my approach to legal education. I have abandoned the traditional approach, still followed in greater or less degree in most of the nation's law schools, which leaves pretty nearly everything to the discretion of the individual teacher. Given things as they are in today's world, my thesis is that best results will be obtained by a concerted attack upon the educational problem by the faculty working as a team. This does not mean that every teacher will be required to adhere to a rigid pattern of instruction. But it does mean uniformity of approach and close collaboration among members of the faculty to insure that each course will play its assigned role in a co-ordinated pedagogical campaign.

This approach is a virtual impossibility in most law schools, particularly large schools like Harvard and Michigan. The latter offer advantages which, if we are honest, we must admit we will not be able to match in the foreseeable future. It is just as true, on the other hand, that we can do what they cannot, and that is to provide an integrated program calculated to encourage the professional ideals and develop the professional competence we have set as our goals. It is my purpose, therefore, not to imitate others, but to concentrate on exploiting the advantages our own particular situation puts within our reach: a balanced program which takes account of the significance of historical and philosophical learning; small classes and the intensive training they make possible in working with legal materials; close liaison between faculty and students; close and cordial collaboration among the members of the faculty. In due time these will enable us to affirm with full confidence that there is no better law school than the one at Notre Dame.

THE FACULTY

We are fortunate in two new accessions to the faculty, namely, Assistant Professor Bernard J. Ward and Mr. Nathan Levy. Professor Ward comes to us after a year of graduate work at Yale. Before that he taught at Loyola in New Orleans and also practiced in that city. Mr. Levy is a member of the firm of Crumpacker, May, Beamer, Levy & Searer. He will teach Secured Transactions, a field in which he is working constantly.

As you know, my purpose is to augment the full-time faculty by appointing outstanding young men as they become available. I could have obtained the services of a number of well-thought-of older men but did not do so. One of them had been recommended by Professor Sutherland of the Harvard Law School. He replied as follows to my letter advising of my decision:

"...if I were in your place I should do exactly what you are doing and that is to seek for young fellows... These coming scholars will write the great books and teach the great lessons of the next generation, when fellows of my age have moved off the scene."

The spirit of the faculty is good. Occasional rumors about dissension in the faculty are, in my opinion, malicious. It is not to be supposed that everyone agrees completely with all details of the new program. When a man has looked at and done things in a certain way for many years, it takes a while for him to adjust fully to a different approach. What matters is that all members of the faculty are working loyally and diligently to make the program succeed. I am indebted to every one of them without exception.

A list of publications by members of the faculty for the academic year 1953-54 is appended as Exhibit C, beginning on page 24. In addition, Professor Sullivan completed his book on the law of oil and gas and Professor Rollison made good progress on his book on estate planning.

Professor Chroust read a paper before the Fourth International Congress of Comparative Law held in Paris August 1-8. His paper was one of three in Section A-1; all other papers submitted for this section were rejected. Of the two papers which survived, along with Professor Chroust's, one was by an Italian and the other by a German. All of the American papers were rejected except that submitted by Professor Chroust. In addition, he was elected Reporter General for the Congress with the rank of permanent vice-chairman. In this capacity he coordinated the work of eight special reporters, and himself acted as special reporter for Section A-1. He served also as a member of the General Committee on Jurisprudence.

Papers submitted by scholars from the following American law schools in addition to our own, were presented at the Congress: University of California School of Law, Columbia University School of Law, Duke University School of Law, University of Iowa College of Law, University of Minnesota Law School, New York University School of Law, Yale Law School. Harvard

Law School, University of Chicago Law School and University of Michigan Law School were represented, but their representatives did not present papers. The papers submitted by the scholars representing Harvard and Michigan were rejected.

OTHER ITEMS

Notre Dame Lawyer

For the most part the quality of the Lawyer has been poor and it has been published irregularly. I have taken steps to insure that it will be published on schedule in the future. Raising its quality is a more difficult task, but the only alternative is to suspend publication. And I think we can raise the quality of the Lawyer, although to raise it to, and keep it at a satisfactory level of excellence will require sustained hard work. There are too many law reviews in this country. There simply aren't enough worth-while things written to go around. As a result, there is intense competition for good, publishable material, and in this competition reviews like Harvard, for instance, have a long start on us. There is only one way to meet this situation and that is to plan the issues of the Lawyer far in advance and make an unceasing campaign to get commitments from able writers before they are committed to our competitors. I have discussed this matter with the present editors of the Lawyer, they are in full accord, and the campaign to nail down contributors long in advance is well under way.

One thing that bothered me last year was the enormous amount of time spent by the editors on mechanical details. This excessive pre-occupation with the purely formal side of the publication has no educational value. On the contrary, it takes the editors away from other important work. It is my purpose, therefore, to relieve them of some of the burden of proof-reading, etc., this year.

Library

The program to strengthen the library, which has been given the Administration's full support, is proceeding satisfactorily. The shelving problem, however, has become acute. Books are now stored on four of the reading tables. Yet no provision was made in the budget for additional shelving. If we must use the tables as book shelves, where are we to put the students? If the students use the tables, where are we to put the books?

Special Events

A number of last year's special events deserve mention, particularly the Practice of Law Institute, the Fact Institute, the visit of Lloyd Paul Stryker and, above all, the Symposium on Legislative Investigations.

The Practice of Law Institute brought together a panel of successful lawyers, a cross-section of the bar, who, for an entire day, answered questions of the students concerning where and how to practice law and related matters.

Law students are preoccupied with the opinions of appellate courts. This is necessary, but it does have some undesirable consequences. Among other things, it has a tendency to play down the role of facts. It is

important to find ways and means of correcting this distortion. The Fact Institute, prepared and presented by the FBI at my request, was one answer to this problem--one not previously attempted elsewhere, so far as I know. It was very successful and I hope to repeat it every third year. I do not know how much the students will remember of the information they were given at the Institute, but I am sure they will carry with them permanently a better understanding of the vital importance of facts and of the necessity of painstaking, systematic search for and careful preservation of facts.

Mr. Stryker's impact on the students was tremendous. Not long after his visit to Notre Dame Mr. Stryker's new book, "The Art of Advocacy", was published. In his review of the book in the New York Times Chief Justice Vanderbilt, of the Supreme Court of New Jersey, said this:

"The only remedy I can see for the evils of which Mr. Stryker rightly complains is for all concerned with the administration of justice and the preservation of individual liberty in this country to join in persuading the law schools to open their doors to advocates like Mr. Stryker and then to persuade advocates like Mr. Stryker to enter."

I am glad to be able to say that we anticipated the Chief Justice.

The outstanding special event of the year was the Symposium on Legislative Investigations. A reprint of the Symposium went to every member of Congress, to every federal judge, and to the Governor and Chief Justice of each of the 48 states as well as to officers of the American Bar Association. Notwithstanding some criticism, I think I can say that the Symposium increased the stature of the Law School, and I believe it made a significant contribution toward solution of a grave and difficult problem. Letters commending the Symposium were received from:

Mr. Bernard M. Shanley, Special Counsel to the President of the United States

Governor Sigurd Anderson of South Dakota

Chief Justice Harry L. S. Halley of the Supreme Court of Oklahoma

Judge Charles S. Desmond of the New York Court of Appeals

Judge Philbrick McCoy of the Superior Court of Los Angeles, a member of the Council of the Survey of the Legal Profession

Chief Judge Harold M. Stephens of the United States Court of Appeals for the District of Columbia

Judge Henry W. Edgerton of the United States Court of Appeals for the District of Columbia

Judge William Denman of the United States Court of Appeals for the Ninth Circuit

Judge Thomas F. McAllister of the United States Court of Appeals for the Sixth Circuit

Judge Charles Fahey of the United States Court of Appeals for the District of Columbia, former Solicitor General of the United States

Judge Edward P. Murphy of the United States District Court, San Francisco

Judge George A. Welsh of the United States District Court, Philadelphia

United States Senator John F. Kennedy of Massachusetts

Congressman Hugh Scott of Pennsylvania, former Chairman of the Republican National Committee

Congressman E. Y. Berry of South Dakota

Congressman Harold C. Hagen of Minnesota

Congressman Kenneth B. Keating of New York

Dean Erwin N. Griswold of the Harvard Law School

Dean Albert J. Harno of the University of Illinois College of Law, member of the Council of the American Law Institute, President of the American Judicature Society, Secretary of the Survey of the Legal Profession and member of the House of Delegates of the American Bar Association

Mr. Francis M. Shea of Shea, Greenman, Gardner & McConnaughey, Washington, D. C., former dean of the University of Buffalo School of Law

Professor John E. Cribbet of the University of Illinois College of Law, advisor to the American Bar Association's Committee on Individual Rights as Affected by National Security

Mr. William A. Schnader of Schnader, Harrison, Segal & Lewis, Philadelphia, Chairman of the American Bar Association's Committee on the Bill of Rights

Mr. Louis C. Chapleau of Farabaugh, Chapleau & Roper, South Bend

Several important special events have been scheduled for this year. In order to galvanize the interest of the students at the threshold of the year, an actual negligence case, entirely unrehearsed, will be tried on September 30 by two experienced Chicago trial lawyers, Chester A. Wynne

and Peter Fitzpatrick. Judge Wendell E. Green of the Circuit Court of Cook County will preside. Medical testimony will be given by Dr. Sherman L. Egan. The trial will be held in Washington Hall and is expected to consume the entire day and, possibly, part or all of the evening. Students and faculty members of the other colleges will be invited.

The most significant event of the year will be the meeting of natural law scholars on October 8 and 9, which will signalize the launching of our proposed journal of natural law studies. In addition to Dr. A. P. d'Entreves, who will deliver a series of lectures, the following have accepted an invitation to attend:

Professor Frederick K. Beutel of The University of Nebraska
College of Law

Professor Vernon J. Bourke of St. Louis University

Dr. Brendan F. Brown of Loyola University School of Law,
New Orleans

Mr. George W. Constable of Constable, Alexander & Daneker,
Baltimore

Professor Edward S. Corwin of Princeton University

Professor Lon L. Fuller of the Harvard Law School

Dr. Jacques Maritain of Princeton and Notre Dame

Professor Myers S. McDougal of Yale University Law School

Professor F. S. C. Northrop of Yale University Law School

Professor Ervin H. Pollack of The Ohio State University
College of Law

Dr. Heinrich Rommen of Georgetown University

Dean Miriam Theresa Rooney of Seton Hall University School
of Law

Professor John Wild of Harvard University

The final argument in the Annual Moot Court Competition, heretofore held in June after the students had gone home, will take place on the evening of October 20. A distinguished array of judges will constitute the mythical Supreme Court of Hoynes for that occasion, namely:

Chief Justice Horace Stern, Supreme Court of Pennsylvania

Chief Justice Carl V. Weygandt, Supreme Court of Ohio

Chief Justice George W. Bristow, Supreme Court of Illinois

Judge Frank E. Gilkison, Supreme Court of Indiana

Justice Harry F. Kelly, Supreme Court of Michigan

In December the Law School and the Department of Political Science will present a series of lectures on the problems of local government, which I hope will serve to ignite interest on the part of the student body in this too-much-neglected area. Mr. Robert Moses, of New York, will discuss problems encountered on the municipal level; Mr. Frank Bane, of the Council of State Governments, has been invited to discuss problems encountered on the state level. I hope it will be possible to publish these lectures as a small volume.

After the first of the year I hope to be able to arrange a legislation institute, which will seek to accomplish in respect of the legislative process what our Fact Institute did as regards facts. In addition, I am trying to get either former Supreme Court Justice Owen J. Roberts or Clarence Randall of Inland Steel to come out in the late winter or early spring to address the student body.

Law Building

The Law Building is poorly planned. In consequence, it is inadequate to our needs and will become constantly more so. In particular, more stack room, more faculty office space, more shelving in the reading room, and toilet facilities for women are urgently needed. As authorized, I am consulting about this with Maginnis and Jalsh, the architects who designed the building.

Advisory Council

One matter of major importance, which has been crowded aside, is the formation of an advisory council. I hope some progress can be made next spring; I see no possibility of doing much before then.

In the Future

Establishment of a legal aid group in the Law School, to work with the local bar association, is a must. It seems prudent to defer this, however, until the students are thoroughly accustomed to the new program and higher standards.

When that time comes I look forward, also, to enriching the curriculum by introducing "honors courses", which will be open only to second- and third-year students whose record indicates that they have the capacity to carry the additional work load and profit by it.

As a further inducement to excellence, I hope we can have established a Notre Dame chapter of the Order of the Coif. It is my intention in the near future to start the ball rolling in that direction.

SUMMARY OF RECOMMENDATIONS

1. Change the name from "The College of Law" to "The Law School".
2. Award law degrees immediately after awarding graduate degrees.
3. In the case of law students limit holidays to national holidays and Holy Days.

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I cannot close this report without expressing again the gratitude I feel for all the kindnesses and the unfailing support I have received at Notre Dame, especially from you, Father Ted, and from Father Moore.

Respectfully submitted,

JOSEPH O'MEARA
Dean

August 14, 1954

EXHIBIT A

SUMMARY OF REASONS WHY "THE COLLEGE OF LAW" SHOULD BECOME "THE LAW SCHOOL"

In the first place, the top law schools of the country call themselves schools. Here they are:

The Harvard Law School
(The Law School of Harvard University)

Yale University Law School

Columbia University School of Law

The Cornell Law School
(The Law School of Cornell University)

New York University School of Law

University of Pennsylvania Law School

University of Michigan Law School

University of Chicago Law School

Northwestern University School of Law

University of California School of Law

It is a disadvantage to call ourselves a college. Why is this? Why should it make any difference what name is used? It makes a difference for the simple reason that "college," in the context of its use at Notre Dame, signifies "undergraduate," and it does not enhance the professional standing and prestige of the Law School to treat it as an undergraduate institution. It is no inducement to students in other colleges and universities, who must have obtained a degree before they are eligible for admission to the Law School, to tell them that, notwithstanding they have completed their undergraduate work, they will be continued in undergraduate status if they study law at Notre Dame. Yet that is precisely what they are told, for the Law School is listed as one of the components of The Undergraduate School, along with the four colleges (Arts and Letters, Commerce, Science and Engineering) to which students gain admission directly from high school. Thus the real point of the change of name is to extricate the Law School from undergraduate classification. The University of Notre Dame would then be composed of The Graduate School, The Law School and The Undergraduate School, the last named comprising the four undergraduate colleges.

We are operating in a highly competitive field. In many respects we can never compete on even terms with, say, Harvard. Does this mean that

we must resign ourselves to a condition of permanent inferiority? Not at all. It does mean, though, that we simply cannot overlook any bets; we have to take full advantage of every opportunity; no matter how small, we must make the most of it.

We gain nothing by sticking our heads in the sand; as I have said, in many respects we cannot compete with Harvard. But we can compete with Harvard and we intend to compete with Harvard on an over-all basis. And I believe firmly that our program and our team approach will give a man as good a legal education here as he can get anywhere.

But more than that is necessary. If we are to realize our opportunities to the full, we must advance simultaneously on many fronts. This means, among other things, that we have to concern ourselves not only with the quality of our legal education but also with those imponderables which, together, contribute so much to the professional standing and prestige of a law school, which, in turn, make good students want to go there.

It is in this context that the name assumes very real importance. To be one of the five colleges making up The UNDERGRADUATE School simply is not consistent with the position in the law-school world we are entitled to occupy and mean to occupy. And it is in part responsible, I think, for the tacit acceptance of taken-for-granted inferiority which I have observed in so many of our students and which I am determined to eradicate.

If "college" is more dignified than "school," as some have thought, why do we not have The Graduate College instead of The Graduate School?

Classifying ourselves as the leaders classify themselves, that is, as a school rather than as a college, would get us out of the inappropriate undergraduate category and signalize the fact that we are in the same league as the top law schools of the country. This would remove a definite impediment to our progress and, in that way, give us a real and needed lift.

JOSEPH O'MEARA
Dean

EXHIBIT B-1

June 25, 1954

Mr. Elton E. Richter
Law School
Notre Dame, Indiana

Dear Elton:

One of the things we must give attention to this summer is the operation of the problem method. I think we can make it more effective and I know all of us want to make it as effective as possible. This, of course, will require time and effort on the part of each instructor teaching courses in which this method is used. As a matter of fact, as we all appreciate, what is involved is nothing less than re-thinking these courses in terms of the problem approach. This is a substantial undertaking and is one of the reasons why I have relieved of teaching duties this summer as many members of the faculty as I possibly could.

We are in agreement that the problem method is not just super-imposing problems upon a course. On the contrary, the problems are central to the course; they are the means whereby the subject is taught. Hence they must be thought out with great care. To achieve their purpose they have to be stimulating and challenging. Above all, they must be interesting, and a number of instructors have found that one way to make them interesting is to base them on actual recent decisions.

As you know, I personally feel that how-to-do-it problems have great value, that is, problems which must be approached from the point of view

Mr. Elton E. Richter

June 25, 1954

of a practicing lawyer rather than from the point of view of an appellate judge. I hope there will be more of these next year.

What I have said applies not only to the research problems; it applies also to the problems which are discussed in class. These latter have to be worked out with care and ingenuity to test the student's understanding of the assigned cases and to help him learn the art of dealing with concrete situations on the basis of prior decisions. This requires substantial capacity for synthesis, which is what our program emphasizes after the first year's emphasis on analysis.

This past year many, perhaps most of the students attached little importance to the research problems. I think we must consider, therefore, the imposition of some sanction; and it is clear to me that the research problems will not fully serve their purpose unless each student's work is carefully read, marked and then discussed with him personally.

I do not think we will have a very able senior class next year and it might be well for us to consider reducing the number of research problems for the seniors and confining them to cross-over problems, that is, problems involving two courses. This would enlarge the time available for review; and I think the seniors will probably need a good deal of that.

I have had an opportunity to discuss these matters with some members of the faculty and want to discuss them with the others at the earliest possible moment. Then, a little later, I hope we can have a faculty meeting to consider them in detail, along with some other matters of importance concerning next year's program.

With gratitude for all you have done and are doing, I am

Sincerely,

JOSEPH O'MEARA
Dean

JO'M:cw

July 16, 1954

Mr. Elton E. Richter
Law School
Notre Dame, Indiana

Dear Elton:

I think we had a good discussion at the meeting of second- and third-year instructors. I have been re-examining my own position in the light of that discussion. Here it is.

It isn't enough for a man to learn how to read and brief cases. If he is going to be a lawyer he has to learn how to use cases. The use of cases in the interest of a client in a particular factual situation is an art. It can be learned, if at all, only by long practice. That is why we agreed, as part of the new program, to emphasize the problem method in the second and third years.

We agreed to use two kinds of problems, research problems and problems for class discussion. Both are designed to give the student as much experience as we possibly can give him in the art which will be a large part of his stock in trade as a lawyer -- the art of using cases as stepping stones to a desired result in concrete circumstances.

At the bar, matters of the greatest importance depend upon how effectively a man can use cases. The student's practice in the use of cases will accordingly be the more valuable to him if there is something at stake - something of importance to the student. Under our system, therefore, the student is expected to master part of each course by digging it out for himself in the process of carrying out his research assignments. This gives these problems a significance they could not otherwise have - but only if the quality of the student's work has an important bearing on his success or failure in the course.

To finish his research assignments satisfactorily the student must necessarily go to the library. This is a further great virtue of the problem method. Before a man can use cases and other materials to advantage he has to find them. Nor is it enough merely to be able to find relevant materials in the library. A competent lawyer must know how to do this readily and with the greatest possible economy of time and effort. This, too, is an art that requires long practice. No man ever acquired it in a course on legal bibliography, no matter how good the course.

The research problems have another advantage. They give the student practice in effective legal writing and this is the more necessary now that circumstances have forced a discontinuance of our legal writing course.

To accomplish these ends, however, it is obvious that the research problems must be carefully planned and that the student's work must be read, graded, returned to him and then discussed with him. This is an essential part of the system.

Mr. Elton E. Richter

July 16, 1954

The discussion the other day and my subsequent re-examination of the matter have served to reinforce my belief in the great value of the problem method. There is no doubt that it requires more work and more planning on the part of the faculty. And it definitely requires the members of the faculty to work together as a team. That is why it is an impossibility in large schools. We are small enough to make it work. More important, we have the necessary esprit de corps. Our School is especially blessed in this regard, which is one of the important reasons why a student will not get anywhere a better legal education than he will get at Notre Dame.

Sincerely,

JOSEPH O'MEARA
Dean

JO'M:cw

EXHIBIT C

FACULTY PUBLICATIONS 1953-54

Edward F. Barrett

Book Reviews:

Arthur T. Vanderbilt, The Separation of Powers Doctrine and Its Present-Day Significance (Lincoln: Univ. of Nebraska Press, 1953), 29 Notre Dame Lawyer 144-148 (1953).

John Alan Appleman, Successful Appellate Techniques (Indianapolis: Bobbs-Merrill Co., Inc., 1953), 29 Notre Dame Lawyer 517-519 (1954).

Thomas F. Broden

Articles:

"Practical Aspects of Administrative Law," Proceedings of the First Indiana Employment Security Institute G1 - G4 (1953).

Book Reviews:

Francis J. McCaffrey, Statutory Construction (New York: Central Book Co., 1953), 29 Notre Dame Lawyer 335 (1954).

Theodore R. Kupferman, editor, 1953 Copyright Problems Analyzed (Chicago: Commerce Clearing House, Inc., 1953), 29 Notre Dame Lawyer 514-517 (1954).

John J. Broderick

Books:

Second Annual Proceedings of the Conference on Collective Bargaining and Arbitration, University of Notre Dame (1954), co-editor.

Anton-Hermann Chroust

Articles:

"The Composition of Aristotle's Metaphysics," 28 The New Scholasticism 58-100 (1954).

"Treason and Patriotism in Ancient Greece," 15 Journal of the History of Ideas 280-288 (1954).

EXHIBIT C (cont.)

"The Meaning of Philosophy in the Hellenistic-Roman World," 27 The Thomist 197-253 (1954).

"The Legal Profession in Ancient Athens," 29 Notre Dame Lawyer 339-389 (1954).

"Prophecy, Poetry and the Beginning of Philosophy," 9 Quarterly Bulletin of History Teachers' Club 15-19 (1954).

"The Managerial Function of Law," 34 Boston University Law Review 261-290 (1954).

Book Reviews:

Robert L. Hale, Freedom Through Law: Public Control of Private Governing Power (New York: Columbia Univ. Press, 1952), 15 Review of Politics 538-541 (1953).

Hugh W. Divine

Book Reviews:

George Shiras III (edited and completed by Winfield Shiras), Justice George Shiras, Jr. of Pittsburgh (Pittsburgh: Univ. of Pittsburgh Press, 1951), 29 Notre Dame Lawyer 511-514 (1954).

Joseph O'Meara

Articles:

"Legislative Investigations: Safeguards For Witnesses: Foreword," 29 Notre Dame Lawyer 157-158 (1954).

Roger P. Peters

Book Reviews:

Edmond Cahn, editor, Supreme Court and Supreme Law (Bloomington: Indiana Univ. Press, 1954), 29 Notre Dame Lawyer 519-522 (1954).

Wlenczyslaw J. Wagner

Articles:

"Treaties and Executive Agreements: Historical Development and Constitutional Interpretation," 4 Catholic Univ. of America Law Review 95-112 (1954).

EXHIBIT C (cont.)

Book Reviews:

Charles H. Kinnane , A First Book on Anglo-American Law (Indianapolis: Bobbs-Merrill Co., Inc., 1952), 29 Notre Dame Lawyer 135-140 (1953).

Jean Stanislaw Dutkowski, Une Expérience d'Administration Internationale d'un Territoire: l'Occupation de la Crête, 1897-1909 (Paris: Pedone, 1953), 48 American Journal of International Law 344-345 (1954).