

3-19-1971

## Dooley's Dictum, Vol. 1, no. 07

Notre Dame Law School Student Bar Association

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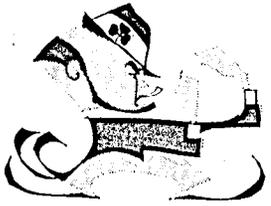
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### Recommended Citation

Notre Dame Law School Student Bar Association, "Dooley's Dictum, Vol. 1, no. 07" (1971). *Dooley's Dictum*. Paper 7.  
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# Dooley's Dictum

MAR 25 1971

A Newspaper of, by and for the Fighting Irish Lawyers of Notre Dame

Vol. 1 No. 7

Notre Dame, Indiana

March 19, 1971

## Justice Douglas urges environmental action *Hits Federal agencies for their activities*

By GREGG ZIVE

Dictum News Editor

Judging by his speech and comments while in South Bend March 11, when Supreme Court Justice William O. Douglas wants to get away from his work that is exactly what he does.

Justice Douglas came to Notre Dame to talk about a cause close to his heart—conservation—and that is essentially all he talked about even though asked about other topics by the press prior to his speech and by questioners in the audience following his address.

"Conservation of Man" was the title of his speech and Justice Douglas spoke from notes for approximately 45 minutes to a good-sized crowd in Stepan Center about the danger man has created by upsetting this planet's ecological balance.

While concentrating on the major problems found in the United States, he noted that the danger was not unique to this country. He said the oceans were the "cesspools of the world."

### Wants New Federalism

"What is needed is some kind of federalism to solve the problem," Justice Douglas stated. "Why can't there be United Nations conventions against mercury and DDT?"

He then swung into a discussion of problems found in this nation and said population was not the measure of the crisis, but that technology was to blame.

"Pollution is traceable to technological progress since 1945," he noted. "What we need to do is think in terms of net national product rather than gross national product. The question is what is the cost of the gross national product?"

His speech was interrupted by applause twice. The first time came when he commented that all the money needed to clean the waters in the United States is spent every five months in Vietnam.

The second burst of applause followed a suggestion that Congress pass a law

paying the Corps of Engineers not to build dams.

The Corps of Engineers was a particular target of Justice Douglas' who placed the blame for a great deal of the conservation crisis at the feet of federal agencies.

"The Corps of Engineers is endangering all the free-flowing waters," he explained. "The TVA (Tennessee Valley Authority) is the greatest strip miner in the country. Once you get under the protection of one of the federal bureaus you are dead. You have no voice, no protection."

Justice Douglas mentioned the potential dangers of atomic energy plants, pesticides and smog.

"I haven't found anybody who would want to live downwind from an atomic energy plant," he told the audience.

He seemed angered when describing the poisoning done by federal agencies in many western states.

"The whole public domain west of the Mississippi is filled with these poisons. I can take you to areas where you won't find a living animal for a week," he stated.

As to solutions he said he was very discouraged. "Ecologists are divided," he commented. "Will the world end with a bang or with a whimper?"

### Calls on Youth

Calling his own generation "politically bankrupt" he called for youth to take up the battle.

"The only salvation is in civic action—political action at the grass roots," he concluded.

Following the address there was a short question and answer period during which Justice Douglas gave short, inconclusive answers to all queries not dealing with conservation.

He said he didn't know about President Nixon's plan for para-judges, which the President suggested the day of Douglas' speech, to comment on the idea.

sponsored by Gray's Inn. He stayed When asked about the future role of the Supreme Court in the areas of civil and human rights he said he couldn't know what that role would be since he couldn't know who would be on the court in 1972.

When asked why civic action could be effective in the conservation battle he said conservationists have won some fights and that the courts could not provide the solution.

"Courts are no salvation. The judicial machinery is so slow, so cumbersome," he explained. Justice Douglas said he had "great confidence" in William Ruckelshaus, the head of the new Environmental Protection Agency.

Justice Douglas left Stepan Center and traveled across campus to the Morris Inn for a reception with the Notre Dame Law School student body and faculty approximately 15 minutes before retiring to his room.

However, during his attendance at the reception, for the first time during his South Bend excursion he answered questions pertaining to law, law schools, and law clerks.

"There is a shortage of lawyers today as there are many new fields that need lawyers," Justice Douglas noted in reply to a question. "I'm not sure how law schools can get more students since I've been away from legal education for some

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Notre Dame

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## No abortion in Indiana

William J. Maledon

The abortion controversy in Indiana is far from being settled. Within the past week, a move to legalize abortion in Indiana was flatly rejected by the Indiana Legislature—in fact, the bill was never reported out of committee. Nevertheless, a three-judge federal district court has recently been convened to hear the arguments as to the constitutionality of the present Indiana abortion law.

The proponents of abortion intend to argue, as they have in the past before other courts, that the law prohibiting abortions is an unconstitutional infringement on the Fifth, Eighth, Ninth, and Fourteenth Amendment rights of a woman. The arguments go something like this: state restrictions against abortions deprive a woman of her life and liberty in violation of the Fifth Amendment; such restrictions force a woman to bear children against her will, which in turn constitutes cruel and unusual punishment in violation of the Eighth Amendment; such restrictions are an invasion of a woman's right of marital privacy in violation of the Ninth Amendment; and all of the foregoing are applicable to the states by virtue of the Fourteenth Amendment.

The chances of the success of such arguments are statistically favorable to the abortion proponents. The same arguments have resulted in abortion laws being declared unconstitutional in five states (Georgia, Illinois, South Dakota, Texas, and Wisconsin), while they have been unsuccessful in only two states (Louisiana and Ohio).

But on close examination, the fallacy of these arguments becomes readily apparent. The advances in medical science have almost totally eliminated the classic operating-table choice between the life of the mother or that of the child. And, of course, the abortion laws are not the cause of a woman's pregnancy. Thus, there is little room to argue that Fifth Amendment protections of life and liberty are being violated by restricting abortions. As for the argument that the abortion laws result in the infliction of cruel and unusual punishment in violation of the Eighth Amendment by forcing a woman to bear children, I believe that the Ohio court responded to this contention quite appropriately when it said that the argument was so frivolous as to merit no consideration whatsoever. The final argument—the Ninth Amendment right to marital privacy argument—is, of course, the extension of the *Griswold* decision. In *Griswold*, the Supreme Court held that the state could not legislate the morality of contraception—the choice of whether or not to become pregnant was held to be within the ambit of marital privacy. But abortion has nothing to do with marital privacy, and for that reason, the extension of *Griswold* is invalid.

Furthermore, it is interesting to note that in both Louisiana and Ohio, the two states in which the abortion proponents have been unsuccessful, the courts accepted arguments as to the rights of the unborn child. The mere permission by the court to present a case on behalf of the child seems to be a clear indication as to the final decision. The reason is obvious—the arguments on behalf of the child, supported by the data of biology and the precedents of property, tort, constitutional, and welfare law, are irrefutable.

But the abortion controversy is more than mere legal verbiage; it is a very real controversy. The fact of the matter is that in the first six months in which abortion-on-demand has been practiced in New York, dozens of babies have been born alive. One of these babies refused to die and has recently been placed for adoption. Can the abortion proponents continue to argue that there is only one life involved and that the life of the woman? If so, then how can the life of this one child be explained? And if this one life is said to be a mistake, then so also must abortion be said to be a mistake. All logic and legal evidence argues against abortion.

## On the Docket

March 20

Spring Law Ball—Albert Pick Motor Inn.

March 22

First Year Moot Court—Second Round, thru March 26.

March 23

Moot Court Semi-finals, Second Round, Hayes Healy Business Center.

March 26

Spring Band Concert—ACC.  
Varsity Indoor Tennis.

March 27

Varsity Indoor Tennis.  
Roller Derby.

April 3

Notre Dame Social Commission  
Concert—ACC

April 9

Under 20 World Fencing Tournament  
—thru April 12—ACC

April 11

Harlem Globetrotters—ACC—3:30  
p.m.

April 16

Midwest Homes Show—ACC—thru  
April 18.

## Dooley's Dictum

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Subscription rates are \$5.00 per year. They may be ordered by addressing the editors, in care of this newspaper.

# Douglas tells of lawyer shortage

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time, but there definitely is a need for more lawyers."

He explained that he had a committee interview law students who are interested in becoming his clerk. He selects his clerk from the Ninth Circuit which is his home.

"We don't really consider grades," he said when asked what he and his committee look for when interviewing. "We interview students referred to us by the deans and also any other interested student who applies. We want persons with a wide background and not those who come from schools who point towards local bar examinations. A grounding in constitutional law and in areas of public laws is desired. We don't want students with a narrow education."

Justice Douglas, who was appointed to the Supreme Court in 1939 by President Franklin Roosevelt, said he thought that except for the Department of Health, Education and Welfare there wasn't too much opportunity for lawyers interested in public law in government.

"What is needed are creative, imaginative lawyers. It is not really the fault of the law schools if the student isn't creative—it probably is the fault of the student's grandfather," Justice Douglas commented.

The Notre Dame speech is one of only two or three Justice Douglas gives each year.

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## Special issue on elections is forthcoming

As a public service to the law school student body, Dooley's Dictum will publish an eight page special edition on the forthcoming SBA elections.

The special is tentatively scheduled to appear March 29. It is hoped that the special issue will provide background information on the SBA and the candidates so that the student can have a better perspective from which to make his or selection of new SBA officers.

# Faculty opts for all electives after first year

BY BOB LUECK  
Dictum Co-editor

When Tim Hartzler finished his survey of 37 top rank and second rank law schools, he found 21 schools with no required courses after the first year. The remainder had some required courses but no school had as many required courses after the first year as did Notre Dame.

His point: the Notre Dame law school was not up to date in its educational structure and style of legal education.

On March 5, the faculty voted to eliminate all required courses after the first year. This action necessarily made false Hartzler's point but is he bothered by this?

Not at all. In fact, it pleases him very much because that is what he has been aiming for since last September and the goal has now been realized.

Starting next fall, students can take any course they want out of those offered. Although it sounds like a radical departure from the current system, it really isn't because students will end up taking basically the same courses that they do now.

The faculty agreed to the new system only after a provision for suggested core courses, model programs, and an intensive system of faculty counseling was added.

By the end of this month the faculty is expected to have the details of the new system completed. This entails developing the core of recommended courses, probably four to six courses that are considered basic to the study and practice of law, and developing model programs which a student can follow to attain a special competency in a certain broad area of law.

The faculty will devote a day long meeting on March 28 to determine the details of the plan and get it in shape for the counseling sessions which will precede the pre-registration period tentatively set for late April.

### SBA Goal

For Tim Hartzler and the Student Bar Association, the faculty vote represents the attainment of a long sought goal. The current SBA officers promised this as one of their goals in their campaign for office a year ago.

This past fall SBA President Steve Boone appointed Hartzler to the curriculum committee and gave him a free hand to choose the other students for the committee and plan how to achieve the all elective course system. Hartzler picked three first year students to assist him and then went to work on the electives proposal.

Much discussion about the subject took place throughout the fall. Prior to the Christmas break, one of the faculty members on the curriculum committee suggested to Hartzler that he do a study on required courses at other law schools.

The study was done over the break and a report submitted to the committee. The committee drew up three proposals for changing the present structure and submitted them to the faculty for their consideration at their meeting on February 25. The faculty voted against the electives proposal because they felt that a lack of guidance would be detrimental to the students.

After that meeting, Dean Murphy asked Professor Beytagh to submit a memorandum on how some system of guidance could be incorporated into the proposal to overcome the faculty's objections. At the March 5 faculty meeting, the additional proposals on guidance were enough to switch faculty sentiment from the negative to the positive side.

Both Hartzler and Boone pointed out that extensive student lobbying also was a major contributing factor in getting the proposal passed.

### New Responsibilities

Under the new system, a greater burden will be placed on the faculty and students but the latter group will have the heaviest burden of all. Students will now have to think far more about what they want to get out of law school and the courses they will have to take in order to achieve their individual goals.

Hartzler and others also felt that the passage of this proposal would have a beneficial psychological effect on the school and also contribute to a more intellectual atmosphere within the school.

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Of legal knowledge I acquired such a grip

That they took me into the partnership.

H. M. S. Pinafore

# Who shall be numero uno?

**BY PAT HERALD**  
**Dictum Sports Editor**

Basketballs were seen everywhere last week with the NCAA tourney, Hoosier Hysteria, and the Law School Intramural League moving into full gear. There were a total of 15 games in the league action but two forfeits and a double forfeit marred what seemed to be a great scheduling feat over the four day weekend break.

Team 6 continues to show the strength and balance which accounts for their 5-0 mark: their latest victory came by dropping previously unbeaten team 9 by a 57-43 margin. O'Shaughnessy and Stephan led the victors with 18 and 14 points respectively.

Ray Scotto and Tim Westfall kept the losers in the game but speculation among the fans at the sellout indicated that had

## Law Ball fete all set for tomorrow

Members of the SBA Social Committee are formulating last-minute details for this year's spring law ball.

The spring social event for law school students and their wives or dates will take place on the sixth floor of the American National Bank Building in the new Albert Pick Motor Inn.

The March 20 fete will begin at 9 pm and continue until 1 am. Suggested dress for gentlemen will include dark suits or tuxedos. The ladies will appear in cocktail dresses and semi-formal or long formal gowns.

Music for the evening will be provided by the Jack Cooley Quintet. Cooley and his popular group will present such scintillating sounds as "Hey Judge," "I Can't Get No Jurisdiction," and "Raindrops Keep Falling on My Torts." The singing of Eddie Cleveland will also be one of the featured attractions of the evening.

A free-pour bar will be available at the ball, and other refreshments will be on hand. Social Committee members expect that the facilities and festivities they have provided will make for the most enjoyable law ball in recent years.

Tickets for the event are ten dollars per couple. Only a limited number are available and they will be on sale in the Student Bar office through today.

Fred Kuhar canned *any* out of his 23 shots the game might have had a close ending.

Team 6 further strengthened its hold on the top spot by knocking off team 1 earlier in the week, 59-42.

Team 4 also remained in the unbeaten ranks to keep the fans, sportswriters and television viewers undecided as to who deserves the number one poll ranking. The big reason given for keeping team 4 in the second spot is the fact that they have not yet met team 9, the third ranked team currently sporting a 5-1 mark.

In the minds of the pollsters, the above reason is still valid despite team 4's record high scoring 95-52 victory over team 8. Team 4 also stopped a faltering team 7 by a score of 63-42. Joe McFadden and John Suminski are carrying their Moot Court instinct for victory to the hardwood court much to the delight of their teammates.

The Commissioner's jinx (often compared to the Sports Illustrated front cover kiss of death) in touting team 3 last week seems to have done it again: team 11 knocked off team 3, 55-53. Team 11 also collected two of the three forfeits to up their record to four and two, good enough for fourth place in the poll.

Team 1 edged above the .500 mark, 4-3, by downing team 10, 61-48. All five starters hit in double figures for the victors with Martin and McGloin netting

13 apiece to lead the way.

In other reported action, team 9 dropped team 2, 68-46; team 2 won their first game of the season, 32-31, over team 11, and team 5 bowed to team 1.

### FROM THE KOMMISSIONER'S DESK:

"Jungle" Jim Bertucci set an all-time law school intramural basketball record by fouling out of a game in 13 minutes and 22 seconds.

Team 8 has been dropped from the league for violating LSAA rules. Reports indicated that forfeits appear to be the reason although there may have been other reasons (never fear—it has nothing to do with school work or legal studies).

#### LSAA Poll

team	points
1. Team 6 (3) .....	215
2. Team 4 (2) .....	200
3. Team 9 .....	135
4. Team 11 .....	95
5. Team 1 .....	35

#### I-M TEAM STANDINGS

team 6	5	0	team 10	1	2
team 4	5	0	team 12	1	3
team 9	5	1	team 7	1	4
team 11	4	2	team 8	out	
team 1	3	3	team 2	1	5
team 3	2	2	team 5	0	4

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