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THE CATHOLIC UNIVERSITY OF AMERICA

THE REORGANIZATION OF THE CATHOLIC UNIVERSITY OF AMERICA
DURING THE RECTORSHIP OF JAMES H. RYAN (1928-1935)

A DISSERTATION

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For the Degree
Doctor of Philosophy

By

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Law School

The state of The Catholic University Law School was the first critical situation which James H. Ryan had to face when he became Rector. In his report to the Board of Trustees the day before his inauguration Ryan said: "The Law School is in a hopeless condition. Unless plans under consideration and to be proposed by Mr. Martin materialize, the existence of this School is in jeopardy."²⁴ The

²²Tower, XIV, No. 25 (May 9, 1935), 1, 4.

²³MMBT, November 12, 1935.

²⁴EBT, Ryan to Board of Trustees, Washington, November 13, 1928.

Chancellor of the University wrote later:

The Law School of The Catholic University of America was virtually in a state of collapse in the year 1928. It was necessary to get new professors, to reorganize the curriculum of studies, and to establish again such eminence of the Law School as was acknowledged in the days of Dean Robinson.²⁵

Ryan used the occasion of his inauguration day to invite a select number of leaders of the American Bar to discuss with him the work of The Catholic University Law School. This meeting led to a series of meetings concerning the Law School. At various times in the past it had been pointed out that the decline of the Law School was due to local conditions, e.g., distance from the center of Washington; it was suggested that the Law School should be transferred downtown; the competition with a large number of law schools in the city, many of which were old and well established; and competition particularly from Georgetown University, where the fees were lower and the regulations governing student life were more liberal.

The Catholic University Law School was approved as a Class "A" law school by the Section on Legal Education and Admissions to the Bar of the American Bar Association; was a member of the Association of American Law Schools; and was registered by the Board of Regents of New York. As a member of the Association of American Law Schools The Catholic University required the completion of one-half of the work acceptable for a Bachelor's degree before a student could be admitted to the study of law. Several law schools in Washington required only a high school education for admission. This naturally

²⁵ Michael J. Curley, "Five Years of Progress," Catholic University Bulletin, I, No. 4 (May, 1933), 2.

tended to keep down the number of students at Catholic University. Catholic colleges without a law department would not cooperate because they feared that The Catholic University would attempt to get their students to transfer in their Junior year.

The main thing necessary for the development of the Law School was an endowment sufficient to pay salaries that would attract top professors or at least enable the University to retain men who had begun their teaching career in the School and had done work that brought them to the attention of other schools. As the University was unable to meet the offer of higher salaries made by other institutions, the Law School lost several men who would have built it up both in numbers and in efficiency. It was felt that a strong faculty would offset the drawbacks already mentioned. Even if the number of students should not be large, the quality of their work and the standards of the School would give it high rank.²⁶

At a meeting of lawyers held at the University in March, 1929, all were of the opinion that a graduate school of law ought to be conducted on the campus. The majority were, likewise, in favor of an undergraduate law school. It was the consensus that the first and most important step to be taken was to obtain the services of a man of outstanding ability as Dean.²⁷

A year later Ryan wrote to the Chancellor:

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Rector's Office Files, "Law School - C.U.A. (1928-1930)," Memorandum to the Rector concerning the Law School, March 2, 1929.

²⁷

MMBC, March 11, 1929.

in law before branching out in any field."³¹ Clarence Martin advised Fox not to tackle the postgraduate work until he had got the undergraduate work in shape.

In a progress report to the Rector, Fox stated:

My present aim is to subordinate all outside material and stress fundamental law. It is essential, to my mind, that we train undergraduate law students who will be enabled to pass their local bar examination and become lawyers and leaders in their profession and in the civic life of the community in which they practice.³²

With reference to undergraduate work, Fox intended to develop his faculty in particular fields. By placing each faculty member in a distinct field and requiring research work, he hoped to build up a splendid faculty. He attempted to put over his ideas with reference to interpreting Catholic philosophy into some of the undergraduate courses. The faculty prepared their courses with this requirement in mind.³³

As a result of a series of lectures delivered during the spring semester of 1929 by Visiting Professor Salvatore Riccobono of Palermo, a world famous authority on Roman Law, the Riccobono Seminar of Roman Law, composed of the Washington law schools, was formed at Catholic University on January 8, 1930. Lectures under the auspices of the Riccobono Seminar were given at the various law schools in the District at regular intervals in the following school years.

³¹ Ibid., Ryan to Fox, Washington, November 11, 1932, copy.

³² Ibid., Fox to Ryan, Washington, October 18, 1932.

³³ Ibid., "Law School - C.U.A. (1928-1930)," Fox to Ryan, Washington, August 30, 1930.

We feel that the University is faced by two possible courses of action. (1) We can suppress the Law School. As it is now conducted, it should be suppressed. But we feel that, considering its past history and the protests that would arise from alumni, and for other reasons, it would be very unfortunate to do away with the School. (2) Under the circumstances, there seems nothing else to do but go to the Board of Trustees and ask for an additional \$25,000 a year to the budget in order to provide for three first-class professors.²⁸

At the Executive Committee meeting in June, 1930, a large number of candidates for the Deanship and professorships was presented. The Committee felt that it could not come to any decision. It was voted to leave the matter of new appointments on the Law Faculty in the hands of the Rector on advice from Clarence E. Martin and John J. Sullivan.²⁹ On June 24, 1930, the Rector announced that as of August 1st John McDill Fox, of Marquette University, Milwaukee, would assume the duties of Dean of the School of Law of Catholic University.

Fox wrote to Ryan:

I am so earnestly desirous of building up the Law School and so impersonally desirous of so doing, that I feel that if I have not the complete confidence of the administration, I am then a hindrance to its development and my resignation will be most cheerfully given any time at your request.

I had no school when I came here. The first year was practically observational. My faculty was in the main, terrible. Chaos, is the only descriptive word I can think of with reference to instruction, instructors, and students.³⁰

The Rector thought that "the thing to do is to consolidate the faculty, increase the student body, and give a first-class course

²⁸ AAB, Ryan to Curley, Washington, March 27, 1930.

²⁹ MMBC, June 11, 1930.

³⁰ Rector's Office Files, "Law School - C.U.A. (1932)," Fox to Ryan, Washington, April 2, 1932.

Gamma Eta Gamma, the oldest national legal fraternity in the United States, accepted the petition for a chapter of The Catholic University Law School in the spring of 1931. Beta Kappa Chapter was installed at Catholic University on May 16, 1931. Dean Fox was the principal speaker for the affair, and honorary memberships were conferred upon James J. Hayden and Edward M. Curran, instructors in law.³⁴

At the end of his first year as Dean, Fox wrote the Rector:

If our law school has any particular advantage, it lies in my library rule (my law students are required in addition to their program of studies to put in eighteen hours a week, as a minimum in the library) and my rule with reference to the boys notes, and the fact that there is individual instruction, and that the library facilities can be used. . . . the one thing that I think I have built up this year, namely, a real spirit of study.³⁵

In the fall of 1931 Father Robert J. White began his teaching career in law at Catholic University. The following year Brendan F. Brown joined the Law Faculty. Both of them later served as Deans of the Law School.

At the November, 1931, meeting of the Trustees, the Rector could report:

The reorganization of the Law School has been completed. There was a 100% increase in Freshman attendance. All reports that come to me about its work are favorable. We feel

³⁴Tower, X, No. 14 (May 20, 1931), 1.

³⁵Rector's Office Files, "Law School - C.U.A. (1931)," Fox to Ryan, Washington, May 5, 1931.

that the Law School is on the road to a sound development.³⁶

The General Catalogue, 1932-1933, announced that commencing September, 1933, three-fourths of the work for the Bachelor's degree would be required for admission to the Law School. In September, 1934, an A.B. degree would be required. As a result of the new requirement Catholic University had higher entrance standards than any other law school in Washington. The Catholic University was the first Catholic law school to require four years of college previous to the study of law.³⁷

In the fall, 1932, through a cooperative endeavor between the Faculties of the College of Arts and Sciences and the Law School, a six-year combined Arts and Law course was realized, whereby students were able to obtain a college degree and a Bachelor of Laws in a period of six years. Such courses were already in operation at several state universities.

Under the plan adopted, a student of the College of Arts and Sciences had to satisfy all the requirements for the first three years in one of the A.B. or B.S. programs and attain a general average of at least 80 during his third year. He might then take the regular first year law course together with the prescribed studies in the College of Arts and Sciences and count this combination of law and other studies as the fourth year of his course in the College of Arts and Sciences. Thus he might be a candidate for the College degree at

³⁶MMBT, November 10, 1931.

³⁷Catholic University Bulletin, I, No. 3 (March, 1933), 11.

the end of the fourth year of the combined course and for the LL.B. at the end of the sixth year.³⁸

When James M. Campbell became Dean of the College of Arts and Sciences, he insisted that all those who elected the combined course must pass all of their Law School courses or else the A.B. degree would be postponed. The requirements for the combined course were tightened up in general. This procedure was in complete accord with the School of Law policy. While the numbers that entered might be fewer, the loss either by transfer or by dropping Law upon obtaining the A.B. degree would be correspondingly less. The practice had been that although the first year Law work was all required, nevertheless, that if the combined course was elected by a candidate for the A.B. degree, he might treat the Law subjects as electives and upon completing the required Arts courses needed, only aggregate sufficient hours in the Law School to comply with the quantitative credits needed for graduation. That rule resulted in a disturbance of the morale of the first year Law students. More than half of the first year Law students were in the combined course, which meant that more than half of the class felt no compelling necessity to obtain credit in any particular Law subject.

Dean Fox did not care for the combined course at all; nevertheless, he felt it could not be abandoned as at least three-fifths of the entering student body of the Law School was derived from the combined course. The number of students from outside colleges had declined almost to the vanishing point. One reason was the increase

³⁸Tower, XI, No. 15 (October 6, 1932), 4.

in standards, namely, the Bachelor's degree was required for entrance except for Catholic University students who elected the combined course.

Fox's idea was not to appeal for scholarships but to appeal for students. This was the most vitally necessary matter that then confronted the Law School. The Dean did not want just anybody, but he was anxious to secure as many properly trained students as possible.

I feel that with the higher standards which we have put in, which again is a deterrent, we will nevertheless attract a more capable student body giving eventually more prestige to our degrees and more promise of leadership for our graduates.³⁹

In October, 1932, Clarence E. Martin, who received his Master of Laws from Catholic University and was then one of its trustees, was elected President of the American Bar Association. The Dean wrote the Rector that "the greatest thing that has ever happened to the Law School is the election of Mr. Martin."⁴⁰

The Catholic University Law School students witnessed the laying of the cornerstone of the Supreme Court Building in November, 1932.

The Dean wanted a law quarterly, but realized the time was not opportune from a financial point of view because of the Depression. It was a matter that should be attended to as soon as it reasonably could. Beginning with October, 1933, the Law School students had their own column in the Tower, called "The Bar Docket."

³⁹ Rector's Office Files, "Law School - C.U.A. (1935)," Fox to Ryan, Washington, June 11, 1935.

⁴⁰ Ibid., "Law School - C.U.A. (1932)," Fox to Ryan, Washington, October 18, 1932.

Bishop Ryan asked the opinion of the Law Faculty on the feasibility of moving the graduate Law courses downtown; not moving the libraries, but having only lecture rooms; conducting the courses on the seminar plan; and accepting no applications except those with degrees. The Faculty was of the opinion that these things were not feasible.

Going downtown at this time would be not only dangerous from a scholastic point of view but would be extremely ill advised from a practical and financial point of view. We feel we are at present among the few schools with real high standards. Our desire is to solidify our position and increase in numerical strength sufficiently to relieve the burden of overhead.⁴¹

The Dean was opposed to night law schools. He could not see how a real lasting professional background could be laid unless full-time school work was done. Catholic University was the only law school in Washington operating as a distinctly day school. The Law School did offer graduate courses in the late afternoon.

The other law schools in Washington followed Catholic University's lead in at least three instances. After Catholic University introduced Aviation and Radio Law, the courses were introduced in other schools. The same was true when Catholic University introduced Jurisprudence and Labor Law.⁴²

The teaching in the School of Law was in the main conservative. While it gave courses in Administrative Law and Labor Law, it refused to enter very far into the New Deal theories of law and government.⁴³

⁴¹ Rector's Office Files, "Law School - C.U.A. (1935)," Fox to Ryan, Washington, May 21, 1935.

⁴² Ibid., Fox to Ryan, Washington, February 27, 1935.

⁴³ Ibid., Fox to Ryan, Washington, June 11, 1935.

The present Law Faculty is keenly aware of the needs of today. We prefer a middle course. Not too much experimentation nor yet a policy of conservative aloofness. There is constantly reiterated a demand for a sound philosophical basis and a constant pointing out of the interrelation of law, government, sociology and economics.⁴⁴

Soon after Fox became Dean, he proposed to establish a Legal Aid Society under the direct supervision of the Faculty. He wished to create and organize among the local bar a voluntary committee of lawyers who would consent to examine and supervise the students' work.

Social agencies would refer cases. The students would be required to investigate, interview witnesses, and prepare pleadings and actually try each case referred to them, taking no case in which any fee could be earned. The local bar would be asked to refer cases to the Law students. The Dean was sure an arrangement could be made here, as in other cities, with the local judges of lower courts, permitting this practice. He felt that it was scandalous that there was no definite organized Legal Aid in the Nation's Capital. He thought it would be wonderful for the Legal Aid Society in the Capital to be under the auspices of The Catholic University.⁴⁵

For two years Dean Fox and Father White put in quite a bit of work on the details of organizing the Legal Aid Society. They were prepared to start a Legal Aid Society, but felt the Washington Council of Social Agencies was really the place where the Legal Aid

⁴⁴Ibid., "Law School - C.U.A. (1934)," Fox to Ryan, Washington, February 20, 1934.

⁴⁵Ibid., "Law School - C.U.A. (1931)," Fox to Ryan, Washington, October 23, 1931.

should be. The Council organized a Legal Aid Bureau in October, 1932, adopting their plan and set-up in its entirety. Fox wrote the Rector:

A social good is being accomplished mainly through our efforts in stirring these people up, and it is no financial burden on us. The possibility of using our students later on for investigative work seems rather bright.⁴⁶

The Dean was named a member of the Advisory Committee of the Legal Aid Bureau, and six Catholic University Law students served as student assistants to attorneys on the staff of the Bureau.

Dean Fox was of the strong belief that no law school conducted under Catholic auspices pretended to really teach a Catholic philosophy of law. He felt keenly the necessity of promoting such work. It was, he suggested, Catholic University's "urgent even imperative duty that a Neo-Scholastic Jurisprudence be taught."⁴⁷ For the Catholic University Bulletin he wrote:

If a School of Law exists at The Catholic University of America it must be Catholic to justify its existence. The Catholic Church is supporting the School. While the intention is always to keep it a small school, it is much smaller than it should be, and it should be more widely supported. Its graduates are successfully practicing their profession and are respected men in their communities. We are not content to be another law school; we insist on a Catholic approach to jurisprudence and the proper development of the student in an understanding of the true function of law.⁴⁸

⁴⁶ Ibid., "Law School - C.U.A. (1932)," Fox to Ryan, Washington, October 18, 1932.

⁴⁷ Ibid., "Law School - C.U.A. (1934)," Fox to Ryan, Washington, February 20, 1934.

⁴⁸ John McDill Fox, "The School of Law of The Catholic University of America," Catholic University Bulletin, III, No. 3 (March, 1935), 5.

To this end Fox instituted courses in jurisprudence which afforded an opportunity for the juristic development of both lay and ecclesiastical students. Integrating the jurisprudential elements of such fields as legal history, philosophy, theology, Roman and canon laws, sociology, and economics, these courses represented a new departure in the Catholic law schools of this country, which had been content to present merely elementary courses in jurisprudence, without attempting to build a distinctively Catholic conception of juristic thought capable of competing with the utilitarian jural theories of the outstanding non-Catholic schools of law.

The Catholic University student, while he was taught law for the practical purpose of his bar examination, was also led to consider the nature and purposes of law in the light of Catholic philosophy. Thus he was properly prepared with a solid background of juridical training for any later legislative or judicial or executive career.