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**THE HISTORY OF RELIGIOUS HIRING AT AMERICAN
CATHOLIC LAW SCHOOLS⁺**
John M. Breen^{} & Lee J. Strang^{**}*

ABSTRACT

A mission-driven institution requires personnel who are competent for the realization of the mission. The following article examines the practice of Catholic law schools hiring Catholics as law professors throughout the over 150-year history of Catholic legal education in the United States. This history shows that Catholic law schools alternately sought to hire Catholics as law professors or to hire individuals without regard to their religious affiliation as these schools' self-understanding of mission changed over time.

⁺ This article is part of a larger project—a first of its kind book on the history American Catholic law schools. The book, *A Light Unseen: The History of Catholic Legal Education in the United States*, although not yet published, has already been the subject of a conference dedicated to a review of the manuscript. Jonathan Hannah, *A Light Unseen: A History of Catholic Legal Education*, UNIV. OF NOTRE DAME (Jan. 27, 2020), <https://churchstate.nd.edu/news-events/news/a-light-unseen-a-history-of-catholic-legal-education/>.

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I. INTRODUCTION

We live in an age in which the process of articulating the mission and vision of institutions has given rise to an entire industry. Business corporations, professional partnerships, schools, churches and other faith communities, charitable organizations, and even state and municipal agencies have all employed armies of consultants, facilitators, and scribes at great expense to help them formulate statements of present identity and future achievement.

Universities have been among the most avid consumers of these services. Indeed, it can be safely said that no American college or university lacks for a public statement that makes explicit the institution's commitments, sense of purpose, culture, way of doing things, and aspirations.

American legal education is rooted in the university, and American law schools are, like their host institutions, expressly mission oriented.¹ They are overt in the purposes for which they exist and the goals they hope to accomplish. Broadly speaking, the mission of every American law school is threefold: (1) To teach students the basics of legal doctrine and to educate them in the foundational skills of legal analysis, advocacy, and problem solving; (2) To advance the depth and breadth of knowledge concerning legal doctrine, legal theory, and legal institutions through research and scholarship; and (3) To be of service to the bar and the wider community in the formation of competent, ethical attorneys and by devoting attention to the legal dimensions of social problems in support of the common good.²

There are many ways in which a law school can live out this threefold mission, none of which will be the fulfillment of a neutral ideal. Indeed, there is no such thing as a university or a law school with a "neutral" mission. Every mission—in articulation and in practice—reflects certain values to the exclusion or diminishment of

¹ The American Bar Association, the accrediting body for legal education, requires law schools to provide "a statement of the law school's mission and its educational objectives in support of that mission" as part of the accreditation process. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022-2023, Standard 204 (a)(1), available at https://www.americanbar.org/groups/legal_education/resources/standards/.

² For a recent collection of mission statements at American law schools, see Irene Scharf & Vanessa Merton, *Table of Law School Mission Statements* (2016), available at https://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1174&context=fac_pubs.

others. A law school that emphasizes clinical education and legal practicum will be different from one with a high number of required doctrinal credits or courses that emphasize theory. A school where faculty scholarship is devoted to living-constitutionalism and non-textual legal interpretation will not be the same as one where originalism and textualism are dominant themes in faculty publications. None of these hypothetical law schools embodies a “neutral” vision of legal education—a Platonic ideal brought down to earth.³

In the same way, a law school is not “neutral” in its identity simply because it does not possess a religious identity. To paraphrase Richard John Neuhaus, “a secular [law school] is not a [law school] pure and simple; it is a secular [law school]. Secular is not a synonym for neutral.”⁴

Regardless of whether a school sees its mission as secular or as the outgrowth and reflection of a particular religious tradition, there are many ways in which a school can fail to realize its chosen mission. It may lack necessary material resources, or fail to adopt and implement an appropriate curriculum, or not succeed in nurturing an intellectual community in which scholarly productivity thrives. The one obvious and indispensable factor for those who sincerely hope to realize the mission of any institution is the people assigned the task of carrying out that mission. *Personnel is mission*. That is, the actual lived mission of an institution is in large part a function of the people who work there. The ideas and values that supposedly define the institution must be translated into actions by the school’s teachers and administrators. No matter how beautifully and precisely articulated a school’s mission statement may be, without people who know and understand the mission, support it, embrace it as their own, and seek to advance it

³ To be clear, an institution’s mission will not be univocal. The tripartite mission described above means that a school’s mission will possess multiple dimensions and myriad layers. And these different aspects of meaning may be in tension with one another, pulling an institution in different directions. Insofar as these different purposes are not mutually exclusive, some equilibrium can be achieved. But such an equilibrium is not a neutral steady state, but one that reflects a distinct balance of a distinct set of values.

⁴ Richard J. Neuhaus, *The Christian University: Eleven Theses*, FIRST THINGS (Jan. 1996), <https://www.firstthings.com/article/1996/01/the-christian-university-eleven-theses> (“A secular university is not a university pure and simple; it is a secular university. Secular is not a synonym for neutral.”).

in the life of the institution, the mission of the school will amount to only so many words on a page.⁵

In performing the three-fold work of teaching, research, and service, the specific mission of a Catholic law school *as such* can be defined in multiple ways.⁶ These various definitions run the gamut: overt institutional affiliation; the public display of religious symbols; the promotion of “social justice”⁷ and *cura personalis*;⁸ and offering

⁵ See Wilson D. Miscamble, C.S.C., *Meeting the Challenge and Fulfilling the Promise: Mission and Method in Constructing a Great Catholic University*, in THE CHALLENGE AND PROMISE OF A CATHOLIC UNIVERSITY 209, 217 (Theodore M. Hesburgh, C.S.C. ed. 1994) (“The faculty is located at the heart of a university. When a faculty is hostile to the mission of the institution, its attenuation is likely. When a faculty is passive, the mission is likely anemic. When a faculty is committed, there is every likelihood that the mission will be fulfilled.”); MICHAEL J. BUCKLEY, S.J., THE CATHOLIC UNIVERSITY AS PROMISE AND PROJECT: REFLECTIONS IN A JESUIT IDIOM 21 (1998) (describing the presence of a Catholic intellectuals on the faculty as “indispensable if the university is to be sustained actively in its Catholic identity”).

⁶ See Thomas M. Haney, *The Role of Religion in a Catholic Law School: A Century of Experience at Loyola University Chicago* (Aug. 16, 2012) (unpublished manuscript) (on file with the authors), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2130894. Haney sets forth (with citations) no less than thirty ways in which the Catholic identity of a law school might be defined. While some of these thirty ways of manifesting a Catholic identity overlap, Haney groups them into four categories of factors: those relating to faculty, those relating to students, those pertaining to curriculum, and those expressing Catholic social and moral concerns. *Id.* at 2-9.

⁷ See, e.g., *Mission & Values*, LOYOLA L. SCH., <https://www.lls.edu/thellsdifference/accoladesfacts/missionvalues/> (last visited Feb. 7, 2023) (stating that Loyola Law School is dedicated to educating leaders in the legal profession who will demonstrate “professional ethics and a deep concern for social justice”); *Mission, Vision & Values*, GONZAGA UNIV. SCH. L., <https://www.gonzaga.edu/school-of-law/about/mission-vision> (last visited Feb. 7, 2023) (“As a Jesuit institution, we are committed to educating the whole person to serve the public good, to engaging in a dialogue with all cultures and religious or ethical traditions, and to pursuing justice.”).

⁸ “Cura personalis” is Latin for “care for the person” and is often rendered “care for the whole person.” It is a key concept in Ignatian spirituality. In the context of a Jesuit university, the concept is meant to convey the deep care and concern the institution has for its students, faculty, and staff, not only intellectually and physically, but emotionally and spiritually. See Andy Otto, *Cura Personalis*, IGNATIAN SPIRITUALITY, <https://www.ignatianspirituality.com/cura-personalis/> (last visited Feb. 7, 2023); GEORGE W. TRAUB, S.J., DO YOU SPEAK IGNATIAN?: A GLOSSARY FOR IGNATIAN AND JESUIT TERMS 2 (25th Ann. Ed. 2022), available at <https://www.xavier.edu/jesuitresource/ignatian-resources/do-you-speak-ignatian>; Marquette University Law School, *Cura Personalis*, available at <https://law.marquette.edu/prospective-students/cura-personalis> (last visited Feb. 7, 2023).

classes that feature Catholic social teaching and canon law. Plainly, the individuals that a given school will need to fulfill its specific mission will very much depend upon how that institution defines its Catholic mission with particularity. A school that sees its mission narrowly as training specifically Catholic students to be Catholic members of the legal profession might reasonably require its faculty to be believing Catholics to serve as role models. A school that sees its Catholic identity loosely as only an incidental and ornamental feature will not seek to offer a curriculum that introduces students to the rich intellectual tradition of Catholic reflection on the nature of law and justice.⁹

In Part I of the essay that follows, we discuss the role of religion in faculty hiring practices at Catholic law schools during the founding era, from 1869 to approximately 1930. Part II discusses faculty hiring during the period of maturation in the history of these schools, from the late 1920s through the 1950s, when Catholic law schools strongly preferred to hire Catholics as law professors to the exclusion of others. Part III explores how this practice came to an end in the 1960s and 1970s when law school enrollments doubled in the span of ten years and law school faculties greatly expanded to meet the need. Part IV discusses the mutually informing relationship between mission and personnel and demonstrates how the self-descriptions of Catholic law schools changed during this period of rapid growth. Part V discusses the incentives behind the new hiring that took place without regard to mission, or rather reflected a new mission that placed greater value on scholarly publication and reviled the “inbred” nature of Catholic law school faculties. Although this approach to faculty hiring at Catholic law schools still holds sway, Part VI discusses the meager push-back it received in the 1990s and 2000s.

II. OVERVIEW OF CATHOLIC LAW SCHOOL FACULTY HIRING

Catholic legal education in the United States began in 1843, when St. Louis University retained Richard Alyette Buckner, an erstwhile legislator, congressman, and judge from Kentucky, to serve as the University’s first professor in its newly created “law department.” The department consisted solely of Judge Buckner, and it ceased operations four years later upon his death. Judge Buckner was not a

⁹ See generally John M. Breen, *Justice and Jesuit Legal Education: A Critique*, 36 LOYOLA UNIV. CHI. L. J. 383 (2005).

Catholic, but by all appearances was well qualified to offer instruction in law.¹⁰

This experience at St. Louis typified the approach to faculty hiring during the early years of Catholic legal education, a period that might be described as reflecting an emphasis of competence over creed. That is, in their earliest days, Catholic law schools did not select their instructors based on an individual's religious affiliation but on his prominence within the legal profession and his ability to teach. By contrast, in the period of maturation in the 1930s–1950s, Catholic law school faculties were predominately made up of Catholic law professors. The practice of hiring Catholics to serve in these roles reflected policies, both formal and informal, that sought to ensure the religious character of these institutions, and to provide students with role models for how to be a Catholic lawyer. This practice also coincided with a failed attempt by Catholic law schools to integrate a neo-Thomistic understanding of law into the American law school curriculum.¹¹ The emphasis on hiring Catholics as law professors changed beginning in the 1960s. Law school enrollments underwent explosive growth during this time, and schools greatly expanded their faculties to meet student needs. The decision to hire non-Catholics was buoyed by the newfound openness and ecumenism in the Catholic Church encouraged by the Second Vatican Council. Hiring at this time took place without regard for the Catholic identity of potential candidates or indeed with little sense that these schools were heirs to a special mission related to the Catholic intellectual tradition. With few exceptions, this practice continued through the end of the last century and still defines the approach to faculty hiring at most Catholic law schools today.

¹⁰ WALTER H. HILL, S.J., HISTORICAL SKETCH OF THE ST. LOUIS UNIVERSITY; THE CELEBRATION OF ITS FIFTIETH ANNIVERSARY OR GOLDEN JUBILEE ON JUNE 24, 1879, at 73 (1879); John E. Dunsford, *St. Louis – Pioneer Catholic Law School*, 3 CATH. LAW. 237, 237 (1957) (dating, erroneously, the founding of the school in 1842); EDWARD J. POWER, A HISTORY OF CATHOLIC HIGHER EDUCATION IN THE UNITED STATES 248-250 (1958); *Saint Louis University Timeline: 200 Years of Seeking Truth and Transforming Lives*, SAINT LOUIS UNIV., <https://www.slu.edu/timeline/index.php> (last visited Feb. 7, 2023).

¹¹ See generally John M. Breen & Lee J. Strang, *The Road Not Taken: Catholic Legal Education at the Middle of the Twentieth Century*, 51 AM. J. LEGAL HIST. 553 (2011).

A. Early Days: Competence over Creed

Currently there are twenty-nine American law schools operating under ostensibly Catholic auspices at Catholic universities, a complete list of which is set forth in an accompanying Appendix. After St. Louis's brief venture into legal education, three Catholic law schools were founded in the 19th century: Notre Dame in 1869, Georgetown in 1870, and the Catholic University of America in 1897. The early twentieth century saw the majority of Catholic schools founded with seventeen established between 1904–1929.¹² Thereafter, growth in the number of Catholic law schools was less concentrated with ten schools founded between 1934–2001.

As set forth below, of these first three Catholic law schools, the experiences at Notre Dame and the Catholic University of America were anomalous in their approach to faculty hiring. Although short-lived, St. Louis's experiment in legal education typified the approach to faculty hiring assumed by Georgetown and most Catholic law schools in the early years of their existence. According to this model, non-Catholics were frequently hired to teach law classes as these new schools sought competence in the classroom and credibility in both the legal profession and in the then emerging legal education establishment.

1. Notre Dame

Most Catholic law schools established in the first three decades of the twentieth century were founded as part-time evening programs. Instruction in these schools usually took place in office space leased in the business districts of the various cities where the sponsoring Catholic colleges were located.

Notre Dame Law School was unusual in that it was founded as a full-time day school.¹³ In addition, the school's host university was not located in a major urban area with a significant Catholic population, but on a serene campus of green fields and mature trees nestled

¹² Of these seventeen, Xavier University School of Law founded in 1919 but closed for good in 1934. The University of Dayton School of Law opened in 1922, closed in 1935, but re-opened in 1974.

¹³ See UNIV. NOTRE DAME, A BRIEF HISTORY OF THE UNIVERSITY OF NOTRE DAME DU LAC, INDIANA FROM 1842-1892 (1895) 123, <http://archives.nd.edu/Anniversary/Golden.pdf> (referring to the law school providing two daily lectures to students) [hereinafter BRIEF HISTORY].

beside two lakes. It could not draw part-time teachers from a large pool of practitioners in the local bar. Thus, Notre Dame was also different in that its early faculty members were drawn from existing faculty or recent graduates. Not surprisingly, it seems likely that all these faculty—M.P. Colovin (the brother of Rev. Patrick Colovin, C.S.C., the University’s fifth president), Lucius Tong, Timothy Howard, and Francis Bigelow (who later became a priest)—were Catholic.¹⁴ This practice continued through the subsequent deanship of “Colonel” William J. Hoynes, a native of Ireland, Notre Dame alumnus, and beloved “Catholic gentleman” who enjoyed the military honorific due to his service in the American Civil War.¹⁵

2. *Catholic University of America*

The law school at the Catholic University of America (“CUA”) was founded as a different kind of institution from other law schools in the founding era. This difference was due in part to the nature of the host institution. CUA was founded as a research institution and graduate school for priests serving dioceses in the American church.¹⁶ Prior to its creation, an American bishop who wanted a priest to receive advanced study in theology, philosophy, or canon law had to send the candidate abroad to one of the Catholic universities in Europe, typically Rome or Louvain.

The law school at CUA was founded in this same vein as a graduate school where law was to be studied like one of the liberal arts, not as a professional school for the training of future American lawyers.¹⁷ Bishop John Joseph Keane, CUA’s first rector, planned the curriculum in consultation with William Callyhan Robinson, a Yale law professor and former Episcopal clergyman who had converted to Catholicism.¹⁸ The school was founded in 1897 but began as the

¹⁴ PHILIP S. MOORE, C.S.C., A CENTURY OF LAW AT NOTRE DAME 2-3, 7-10 (1969); ARTHUR J. HOPE, C.S.C., NOTRE DAME—ONE HUNDRED YEARS 151-52 (rev. ed. 1978); see also BRIEF HISTORY, *supra* note 13, at 122-27.

¹⁵ MOORE, *supra* note 14, at 15-17, 41.

¹⁶ EDWARD J. POWER, CATHOLIC HIGHER EDUCATION IN AMERICA: A HISTORY 353-67 (1972); C. Joseph Nuesse, *The Thrust of Legal Education at the Catholic University of America, 1895-1954*, 35 CATH. UNIV. L. REV. 33, 35-37 (1985).

¹⁷ Nuesse, *supra* note 16, at 43-48 (discussing Robinson’s plan for the law school as a “university school”—as opposed to a “professional school”—as graduate study that combined a philosophic study of law with the social sciences).

¹⁸ *Id.* at 41-42.

“Department of Law” within the School of Social Sciences in 1895 with Robinson serving as its head, offering doctoral and masters courses of study oriented towards a “scientific” philosophical examination of law and a “professional” course of study toward an LLB degree.¹⁹ The emphasis on law as an academic pursuit proved fiscally unsustainable and the school was almost discontinued.²⁰ In receiving approval by the American Bar Association (ABA) and Association of American Law Schools (AALS) in the 1920s, the school followed the predominant model of professional training,²¹ although with some attention paid to scholastic legal philosophy and the goal of forming men who would make a distinctly Catholic contribution to the legal profession.²² This capitulation to the demands of practical necessity was completed in 1954 when CUA’s law school absorbed the Columbus University School of Law, a night school catering to government workers, founded in 1922.²³

At the time of its organization, the academic senate at CUA determined that “[o]rordinarily, the professors shall be Catholic. Exceptions to this should be more difficult in proportion as the science in question has closer relations with Catholic truth and should be less frequently made in favor of young men than in favor of experienced teachers whose views and character have reached a certain stability.”²⁴ Even CUA recognized that hiring non-Catholics might be necessary. “Non-Catholic teachers who may be employed in our schools and cannot make a profession of faith, should make a formal promise, as men of honor, not to antagonize in any way the doctrines of the Church.”²⁵

¹⁹ *Id.* at 38, 47, 49.

²⁰ *Id.* at 52-53.

²¹ *Id.* at 48, 54 (noting that by 1905 “Robinson had given up his original project of uniting the study of law with the social sciences” and that he “prepared the way for the predominance of professional training in the school”).

²² *Id.* at 61-75 (describing the efforts of Robinson’s successors John McDill Fox, Rev. Robert J. White, and Brendan Brown).

²³ Vernon X. Miller, *The Law School of the Catholic University of America*, 4 CATH. LAW. 333, 333 (1958); ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S, at 207 (1983).

²⁴ Nuesse, *supra* note 16, at 49 (citing SCH. PHIL., ARCHIVES CATH. UNIV. AM. [hereinafter ACUA], KEANE PAPERS, (second draft of the committee’s report)).

²⁵ *Id.*

3. *Georgetown*

The experience at Georgetown was more typical of most Catholic law schools established in the founding era. It began as an evening program located in an office building near the local and federal courts.²⁶ It appears that all the school's founders were Catholic, many with close ties to Georgetown—Martin F. Morris, Dr. Joseph M. Toner, Charles W. Hoffman, William Merrick and his son Richard Merrick.²⁷ Many of the school's earliest faculty, who were practicing lawyers and judges and part-time teachers, such as Morris and the younger Merrick, were also Catholic.²⁸ Others, such as R. Ross Perry,²⁹ and Supreme Court justices Samuel F. Miller, Stephen J. Field, and Henry B. Brown, were not.³⁰ The dominance of non-Catholics at Georgetown prompted CUA's rector, Bishop John Keane, to remark that Georgetown's Law and Medical Schools were “not really Catholic in the personnel of their faculty.”³¹ Like many Catholic law schools, Georgetown offered a course on moral and legal philosophy,³² although here, the course was taught by the university's president, Patrick F. Healy, S.J.³³ Other Jesuits such as Rene I. Holaind, S.J., John A. Conway, S.J., and Thomas Gasson, S.J., later taught the same or similar courses.³⁴

The ambition of the founders had been for Georgetown to be a select, elite institution and not a school with a large enrollment.³⁵ Early

²⁶ Francis E. Lucey, S.J., *The Story of Georgetown Law School*, 3 CATH. LAW. 129, 129 (1957).

²⁷ DANIEL R. ERNST, *THE FIRST 125 YEARS: AN ILLUSTRATED HISTORY OF THE GEORGETOWN UNIVERSITY LAW CENTER* 5-7 (1995).

²⁸ *Id.* at 21 (referring to Georgetown's law faculty as “largely Catholic”); *id.* at 53 (describing Morris and Hugh Fegan as men who would have become Jesuits absent their obligations to provide financial support to family members).

²⁹ JOSEPH T. DURKIN, S.J., *GEORGETOWN UNIVERSITY: THE MIDDLE YEARS (1840-1900)* (1963), at 211; ERNST, *supra* note 27, at 21.

³⁰ DURKIN, *supra* note 29, at 94.

³¹ Nuesse, *supra* note 16, at 45 (quoting Correspondence, ACUA, Robinson Papers, Keane to Robinson, Washington, D.C. (Feb. 22, 1895)). Others confirm this. See DURKIN, *supra* note 29, at 91 (quoting a medical school alumnus that “he was Protestant, and recalling that this was probably true of half or more of the faculty in the first decade of the twentieth century” but insisting that science and religion were not antagonistic).

³² See Breen & Strang, *supra* note 11, at 586.

³³ DURKIN, *supra* note 29, at 97.

³⁴ ERNST, *supra* note 27, at 45.

³⁵ DURKIN, *supra* note 29, at 205; ERNST, *supra* note 27, at 32-33.

enrollment in the school was modest,³⁶ but the school continued to grow such that by 1914, it had 46 faculty members and an enrollment of over 1,000.³⁷ Yet, the practice of hiring faculty from the Washington, D.C. bench and bar meant that Georgetown had “men of various Protestant creeds on the faculty, including Episcopalians, Presbyterians, Methodists, and Baptists” such that by the 1916–1917 school year, “Catholics accounted for only 21 of the school’s 51 professors.”³⁸

This openness to hiring men from the legal profession, regardless of creed, reflected the practical reality in founding a Catholic law school. In creating schools, Catholic colleges sought to enhance their academic reputations and achieve the status of genuine universities.³⁹ But “to create law schools of recognizable worth and scholarly standing” they could not simply draw upon their own alumni as “their own scholarly reputations, by almost any appraisal of academic status, were low” and “the Catholic legal scholar who might be recruited to teach in a college of law was rare and hard to find.”⁴⁰ This meant hiring not only a faculty of laymen (rather than clerics who were members of the sponsoring college’s religious order) but a part-time faculty made up of judges and practicing lawyers, often with a non-Catholic background.⁴¹

4. *Other Schools in the Founding Era*

In the founding era, most Catholic law schools more closely resembled Georgetown in their hiring and operations than they did either Notre Dame or CUA. In large part, these schools were established in urban areas by close networks of local Catholic men who were also lawyers and often graduates of the Catholic college that would serve as the host institution for the new school. These schools often turned to non-Catholic lawyers and judges to serve on their faculties, both to lend credibility and to meet their curricular needs.

³⁶ DURKIN, *supra* note 29, at 77 (stating that enrollment in 1876 was 31 students and in 1883 was 66 students).

³⁷ ERNST, *supra* note 27, at 39.

³⁸ *Id.* at 86.

³⁹ Breen & Strang, *supra* note 11, at 579-80; *see also* DURKIN, *supra* note 29, at 78, 102 (describing President Patrick Healy, S.J.’s ambition that Georgetown be a real university and the law school’s contribution to that goal).

⁴⁰ POWER, *supra* note 16, at 221-22.

⁴¹ *Id.*

For example, in 1912, Rev. Albert Trivelli, S.J., the president of what was then St. Ignatius College (now the University of San Francisco) announced the opening of an engineering school and a law school.⁴² The institution would now be known as a university.⁴³ Trivelli recruited Matthew I. Sullivan, a St. Ignatius graduate, to head the new school.⁴⁴ Sullivan enlisted his brother Jerimiah (also a St. Ignatius graduate), Eustace Cullinan (his brother-in-law), Theodore Roche (his law partner and a St. Ignatius graduate), Thomas Hickey (Cullinan's partner and a St. Ignatius alumnus), and three others.⁴⁵ All of these men were Catholic, and all but one were the "progeny of Irish parents."⁴⁶

Similarly, Loyola University of the South (now known as Loyola University New Orleans) was founded by Rev. Albert Biever, S.J., in 1912.⁴⁷ The University's state charter expressly granted it the right to confer degrees "in all learned professions" making plain that teaching law "was an integral part of Biever's plan" from the start.⁴⁸ He enlisted the aid of two Catholic men devoted to Loyola, Judge John St. Paul (a graduate of Spring Hill College) and William Byrnes, Jr. (a graduate of Georgetown University).⁴⁹ Judge St. Paul, who served as the school's first dean, selected faculty from "judges and lawyers with a full-time, successful law practice to teach the courses at night."⁵⁰ Most, but not all, of the men selected were Catholic.⁵¹

Similar stories can be found in accounts describing the founding of the law schools at Creighton University,⁵² Fordham

⁴² JOHN BERNARD MCGLOIN, *JESUITS BY THE GOLDEN GATE: THE SOCIETY OF JESUS IN SAN FRANCISCO 1849-1969*, at 100-01 (1972).

⁴³ *Id.*

⁴⁴ ERIC ABRAHAMSON, *THE UNIVERSITY OF SAN FRANCISCO SCHOOL OF LAW: A HISTORY 1912-1987*, at 16 (1987).

⁴⁵ *Id.* at 16-20.

⁴⁶ *Id.* at 19.

⁴⁷ MARIA ISABEL MEDINA, *LOYOLA UNIVERSITY NEW ORLEANS COLLEGE OF LAW: A HISTORY 7* (2016).

⁴⁸ *Id.* at 9.

⁴⁹ *Id.* at 7-8.

⁵⁰ *Id.* at 25.

⁵¹ *Id.* at 26-27.

⁵² OLIVER B. POLLAK, *TO EDUCATE AND SERVE: THE CENTENNIAL HISTORY OF CREIGHTON UNIVERSITY SCHOOL OF LAW, 1904-2004* (Carolina Academic Press 2007). The history of Creighton's law school differs somewhat from others of this era in that the University had one outstanding benefactor, Count John Creighton (a successful businessman who disliked lawyers) to whom it turned for financial

University,⁵³ Loyola University Chicago,⁵⁴ Santa Clara University,⁵⁵ and Boston College.⁵⁶

The law schools at DePaul University, Marquette University, and St. Mary's University had somewhat different beginnings in that each university acquired an already existing, free-standing law school. DePaul affiliated with Henry Ogden's Illinois College of Law in 1912 and acquired the law school outright upon Ogden's death, assuming the institution's debt.⁵⁷ Marquette acquired two existing evening schools in Milwaukee and then opened both a day and an evening division.⁵⁸ In 1934 St. Mary's assumed control of the San Antonio Law School which was founded by the San Antonio Bar Association in 1927.⁵⁹

Owing to their origins, the proprietary law schools acquired by Catholic universities were frequently staffed by non-Catholic faculty. The Illinois College of Law acquired by DePaul "was essentially Protestant."⁶⁰ Although Howard Ogden was a Baptist, in completing the affiliation, he became the first non-Catholic trustee of DePaul University and the first dean of its College of Law.⁶¹

support to fund the law school. *Id.* at 14-15; *see also* Steven P. Frankino & C. Benjamin Crisman, *An Historical Look at the Creighton University School of Law*, 9 CREIGHTON L. REV. 227 (1975).

⁵³ ROBERT J. KACZOROWSKI, *FORDHAM UNIVERSITY SCHOOL OF LAW: A HISTORY* (Fordham University Press 2012); Robert M. Hanlon, Jr., *A History of Fordham Law School*, 49 FORDHAM L. REV. xvii (1980-1981).

⁵⁴ Haney, *supra* note 6.

⁵⁵ MARK THOMAS, *FROM PROMISE TO PROMINENCE: THE SANTA CLARA UNIVERSITY SCHOOL OF LAW* (2004).

⁵⁶ TODD F. SIMON, *BOSTON COLLEGE LAW SCHOOL: AFTER FIFTY YEARS—AN INFORMAL HISTORY 1929-1979* (1980). Boston College differs somewhat from the other schools founded during this time in that it began as a full-time day program of instruction and an evening division. *Id.* at 8.

⁵⁷ Lester Goodchild, *American Catholic Legal Education and the Founding of DePaul's College of Law*, 37 DEPAUL L. REV. 379, 390-400 (1988); *see also* Robert Q. Kelly, *DePaul University College of Law*, 6 CATH. LAW. 287, 287 (1960).

⁵⁸ Reynolds C. Seitz, *Marquette Law School—Fifty Years of Service in the Middle West*, 3 CATH. LAW. 331, 331 (1957).

⁵⁹ James N. Castleberry, Jr., *St. Mary's University School of Law*, 6 CATH. LAW. 49, 49 (1960).

⁶⁰ Goodchild, *supra* note 57, at 399.

⁶¹ *Id.* at 398. In contrast to the hiring policy adopted by CUA, when St. Vincent's College in Chicago adopted a new charter in 1907, becoming DePaul University, it followed the charter of University of Chicago which "required the administration to make no enrollment decisions based on *religion*." *Id.* at 395. Thus, even before

Similarly, in his unpublished history of Marquette Law School, Robert Boden (who served as Marquette’s dean from 1965–1984) concluded that there was “ample evidence that the law faculty was staffed without regard to creed.”⁶² In support of this claim, he noted that Marquette’s first law school dean, James G. Jenkins (a retired federal judge and former dean of the Milwaukee Law School), “was a Presbyterian” whereas “Prof. Umbreit was an Episcopalian . . . Judge Eschwiler and Prof. Schoetz were Roman Catholics . . . Profs. Corrigan and Rix were Masons . . . [and] Prof. Poss was Jewish.”⁶³ He observed that “[a] similar divergence of religious views was found throughout the practitioner faculty, and also among the full-time teachers later hired.”⁶⁴

In addition to this, a number of individual schools note with pride the early faculty who were welcomed as members of the law school community even though they were not Catholic. In 1913 I. Maurice Wormser became the first Jewish professor at Fordham Law School. Fordham would later celebrate Wormser as “a truly great teacher of the law”⁶⁵ and “one of America’s foremost legal minds”⁶⁶ whom students appreciated for “his sterling integrity . . . profound wisdom and . . . infinite inspiration.”⁶⁷ Similarly, Alvin D. Hersch began teaching at the University of Detroit in 1913 and served on the faculty for twenty-five years.⁶⁸ What mattered to these schools was the ability these men brought to the classroom, the reputation they enjoyed, and the prestige they shared with the institution.

DePaul acquired the Illinois College of Law in 1912, the University was committed to hiring non-Catholic faculty. *Id.* at 387.

⁶² Robert F. Boden, *The Milwaukee Law School, 1892-1928*, at 29 n.73 (unpublished manuscript).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ William Hughes Mulligan, *Fifty Years of Fordham Law School*, 24 FORDHAM L. REV. vii, viii (1955).

⁶⁶ Hanlon, *supra* note 53, at xxi.

⁶⁷ Laurence J. McGinley, *Of Authority and Freedom*, 24 FORDHAM L. REV. xxiv, xxxi (1955). The *Fordham Law Review* dedicated the issue to Wormser as the “much-loved teacher and friend of the generations of students who, during nearly the whole life of Fordham Law School, sat before his teaching desk.” *Id.* at xxix.

⁶⁸ William K. Joyce Sr. & Daniel J. McKenna, *The University of Detroit School of Law*, 27 MICH. ST. B.J. 5 (1948), *reprinted in* 12 UNIV. DETROIT L. J. 1, 3 (1948).

III. IN OUR TRIBE: THE PREFERENCE FOR HIRING CATHOLIC FACULTY IN THE ERA OF MATURATION

By 1930, twenty-one law schools had been established at Catholic universities, fourteen of which operated under Jesuit auspices.⁶⁹ Beginning in the late 1920s, in response to a new policy from Rome, these Jesuit schools moved away from the ecumenical approach to law school faculty hiring described above.

In February 1927, Rafael Cardinal Merry del Val, head of the Sacred Congregation of the Holy Office (the Vatican dicastery responsible for protecting and promoting the integrity of Catholic doctrine) summoned the head of the Jesuits, Father General of the Society of Jesus Wlodimir Ledochowski, S.J., to an appointment. Cardinal del Val informed Ledochowski that Jesuit colleges and universities in the United States had been accused of grave deficiency in their Catholic and Jesuit identity, that “professors were, for the most part, Protestants, Jews, and even atheists; rectors had little or no authority in choosing professors or determining policy; Jesuits exercised practically no influence on the spiritual and religious welfare of students.”⁷⁰ Although the Cardinal expressed both sympathy for the Jesuits and skepticism as to the veracity of the charges, he insisted that Ledochowski respond to them.⁷¹

Ledochowski set about responding to del Val’s instruction by gathering information by way of a questionnaire directed to every American Jesuit college and university department⁷² followed by a

⁶⁹ See the Appendix. As noted above, St. Louis University closed its law school in 1847. The school was reestablished in 1908 and has been in continuous operation since then. The University of St. Thomas in Minnesota established a law school in 1923 which began operations in 1926 and closed in 1933 following the Great Depression. St. Thomas reestablished its law school in 1999 which began offering classes in 2001. Xavier University in Cincinnati founded a law school in 1919 which closed in 1934, also as a consequence of the Great Depression.

⁷⁰ PAUL A. FITZGERALD, S.J., *THE GOVERNANCE OF JESUIT COLLEGES IN THE UNITED STATES, 1920-1970*, at 21 (1984).

⁷¹ *Id.* at 22.

⁷² *Id.* Daniel Ernst states that Georgetown’s law dean, Hugh Fegan, quickly responded to the survey reporting “that Catholics predominated in the student body and faculty.” ERNST, *supra* note 27, at 88. The predominance of Catholics in the student body was in fact a relatively recent phenomenon, following the introduction of a day division in 1920 to complement the Georgetown’s traditional evening program of instruction. “In the five years before 1925, Catholics accounted for, on average, 52 percent of the student body; in the five years after 1925 they averaged 70

lengthy missive to the American Jesuits. In his January 1928 letter, Ledochowski informed his fellow Jesuits that the presence of non-Catholic students at Jesuit schools was “not in itself desirable” but could “at most be tolerated.”⁷³ With respect to faculty, Ledochowski “conceded that 7 percent of non-Catholic professors in college departments was tolerable” but that “the more than 50 percent in the professional and technical schools . . . was entirely unsatisfactory” and that “in the future no one who is not a Catholic must under any circumstances be given the office of dean” and that non-Catholics currently serving as deans should be prudently dismissed.⁷⁴

In an October 15, 1928 meeting with Dean Hugh Fegan and his predecessor George Hamilton, Rev. W. Coleman Nevils, S.J., president of Georgetown University, explained the changes that would be necessary to ensure the Catholic identity of Georgetown’s law school.⁷⁵ The school would now be overseen by a Jesuit Regent “who would be in charge of the school, and who would represent the President at all meetings of the Law Faculty.”⁷⁶ In the appointment of faculty members, “Catholics were to be preferred in the process of gradually securing a Catholic Faculty.”⁷⁷ In addition, the school was required to establish “a course in Catholic Ethics,” and the Law Journal was to include “articles on Catholic subjects.”⁷⁸ A crucifix was to be placed in every classroom, and an effort was to be made “to secure conversions among non-Catholic students and professors.”⁷⁹ Whenever possible, textbooks by Catholic authors were to be used.⁸⁰

The newly appointed regent, Rev. Thomas B. Chetwood, S.J., took steps to give Georgetown Law School “a more Catholic complexion” by instructing Dean Fegan that “all future applicants must declare their religion” and that the law school should offer scholarships to top-

percent. In the 1928–1929 academic year, three-quarters of all Georgetown law students were Catholic.” *Id.* at 79.

⁷³ FITZGERALD, *supra* note 70, at 23.

⁷⁴ *Id.*

⁷⁵ Georgetown University Law Center, Special Collections & Archives Department, Executive Committee Minutes, Box 1 of 5, Executive Committee Minutes 1914–1959, F.1.15, Minutes, Oct. 15, 1928.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

ranked Catholic students at non-Catholic law schools.⁸¹ Chetwood's successor, Rev. Francis E. Lucey, S.J., became regent in 1931.⁸² Under his direction, the Georgetown law faculty became "overwhelmingly Catholic and Georgetown-trained."⁸³ By 1937, only two full-time faculty did not have their law degrees from Georgetown.⁸⁴ "A decade later, every full-time professor had a Georgetown law degree, and 15 of the 19 professors who taught in the day school were Catholic."⁸⁵ When a team of inspectors questioned the practice, Georgetown responded that it hoped to present a natural law point of view to its students and that "persons who are trained in Catholic colleges and law schools are best fitted to carry out this objective."⁸⁶

Georgetown was not alone. Similar thinking inspired similar faculty hiring practices that predominated at other Catholic law schools during the period from 1930 to roughly 1960. As a general matter, Catholic law schools preferred to hire Catholic faculty.⁸⁷ Addressing a group of Jesuit law school deans and regents in December 1948, Santa Clara University Law School's Dean Edwin Owens argued that the faculty of a Catholic law school "should be selected not alone with their secular learning as a criterion; character, personal habits, and example, should count. While the faculty need not be exclusively Catholic, it should be predominantly so."⁸⁸ Notes of the discussion following Owens' presentation reflect a "general agreement on the necessity of a predominantly Catholic faculty, but it was felt that there [was] room for exceptions, particularly in the case of non-Catholics who are religious minded men, sympathetic to our outlook on the

⁸¹ ERNST, *supra* note 27, at 91.

⁸² JOSEPH T. DURKIN, S.J., *GEORGETOWN UNIVERSITY: FIRST IN THE NATION'S CAPITAL* 111 (1964).

⁸³ ERNST, *supra* note 27, at 100.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Writing to Loyola University New Orleans president, Rev. Thomas Shields, S.J., about an open faculty position, Loyola Dean Vernon X. Miller (who later became dean of the University of San Francisco School of Law and then Catholic University of America Columbus School of Law) remarked that "I think we can get a non-Catholic soon, but I agree with you sincerely that men of our faculty should be Catholic." Loyola University New Orleans Archives, Letter from Vernon X. Miller to Rev. Thomas Shields, S.J., May 13, 1947.

⁸⁸ Boston College Archives: BC.2002.16 Series I, Box 2: Report of Meeting of Jesuit Law Schools, Xavier University, Cincinnati, Ohio, Dec. 29, 1948, p. 3

law, and especially the concept of the natural law.”⁸⁹ The discussion participants also shared the view that “[a] predominantly Catholic faculty which is impregnated with a Catholic outlook on life, and a Catholic culture will of necessity and almost unconsciously make itself felt in the approach to the study of law and of legal principles and practice.”⁹⁰

When they sought to do so, Catholic law schools substantially succeeded in hiring predominantly Catholic faculty. In 1957, the University of Detroit School of Law could brag to prospective students that the school had more Jesuit lawyer-priests per student than any school in the country and that they could enjoy such an instructor “every single semester for the entire three-year program.”⁹¹ Detroit also boasted that “[e]very single full-time faculty member is Catholic” and that “[e]very single visiting lecturer—except one—is Catholic.”⁹² The Loyola University Chicago School of Law likewise maintained a “general rule” of hiring “wherever possible members of our own church”⁹³ and in this Loyola succeeded. A 1957 ABA site inspection report on Loyola noted that “[a]ll members of the [full-time] faculty [were] Roman Catholics” and all but one of the part-time faculty, yet “there [was] no requirement of the school that this shall be so.”⁹⁴

A survey of Jesuit law schools conducted by Rev. David C. Bayne, S.J.⁹⁵ on behalf of the Jesuit Educational Association and covering the 1950–1951 academic year, demonstrates the change in practice from the founding era and confirms that most Jesuit law schools

⁸⁹ *Id.*

⁹⁰ *Id.* at 4.

⁹¹ Historical Papers of the University of Detroit School of Law, Vol. XVI, Oct. 1957–Dec. 1957: University of Detroit College of Law (self-description to be used in student recruitment; two versions, Catholic and Non-Catholic).

⁹² *Id.*

⁹³ Haney, *supra* note 6, at 60 (quoting a Letter from President Rev. Samuel K. Wilson, S.J. to Dean John Cushing Fitzgerald, May 11, 1939).

⁹⁴ *Id.* at 77–78 (quoting GORDON JOHNSTON, LOYOLA UNIV. CHI., ILL., INSPECTION REPORT 8 (Jan. 14–16, 1957)).

⁹⁵ Rev. David C. Bayne, S.J. later became dean of the University of Detroit Law School. Unable to move the school forward as an academic institution, he joined the law faculty at the University of Iowa where he served as a professor from 1967 to 1988 when he took emeritus status. He published widely in the area of corporate and securities law. He died in 2009.

during this period were staffed by Catholic law professors.⁹⁶ Bayne's survey found that the thirteen Jesuit law schools then in operation were staffed by 105 full-time professors, 83 of whom were Catholic (79 percent).⁹⁷ The percentage varied at different schools, with 33 percent being the lowest and 100 percent Catholic full-time faculty at four schools.⁹⁸ Further, six schools had between 75 and 85 percent, while the other two schools had between 56 and 60 percent.⁹⁹ Of the 105 full-time professors, the survey found that 56 percent had graduated from a Catholic college or university, whereas 53 percent had their law degrees from Catholic law schools.¹⁰⁰ While one school was at either extreme (zero and 100 percent), 50 percent of the full-time professors at seven of the surveyed schools graduated from Catholic law schools.¹⁰¹ Two were at 25 percent while the remaining two were at 83 and 92 percent respectively.¹⁰² The survey also found that twelve Jesuits priests taught at the thirteen Jesuit law schools, six full-time and six part-time.¹⁰³ Of the six full-time, three were lawyers.¹⁰⁴ "In the main the Fathers teach Jurisprudence or allied subjects, with the exception of the lawyer Jesuits who teach their own particular fields of law."¹⁰⁵

Catholic law schools were self-conscious about their criteria for the selection of faculty. As the dean of the University of Detroit School of Law informed the University's president in 1954:

Many of the most outstanding members of the faculties at American law schools would not be acceptable at this or any other Catholic law school. A teacher who allowed his hostility to religion to color his lectures; or whose philosophical outlook was wholly materialistic; or who was a Marxist, even though not an actual

⁹⁶ Boston College Archives: BC.2013.16, Series I, Box 4, Folder 21: David C. Bayne, S.J., Survey of Jesuit Law Schools: 1950-1951: Conducted by Conference of Jesuit Law Schools of the Jesuit Educational Association, pp. 3-4.

⁹⁷ *Id.* at 3.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* at 4.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

Communist, would certainly be out of place in a Christian, and especially in a Catholic university.¹⁰⁶

Detroit's clear vision of the kinds of men (as candidates were almost exclusively male at this time) it sought to hire was someone with a "reasonably complete mastery of the subject" and an "ability to impart his knowledge to a classroom of students."¹⁰⁷ Such a person must also possess "honesty and integrity in character" since "[w]hether he wishes it or not, he is and must be an exemplar to his students."¹⁰⁸ Any "serious flaw in his personal character automatically cancels any value which his learning might confer upon him."¹⁰⁹ A Catholic law school might still be open to hiring non-Catholic faculty where the candidate met the curricular needs of the school and the person was not hostile to the school's religious identity and culture.¹¹⁰

IV. SOMETHING GAINED, SOMETHING LOST: FACULTY HIRING AND THE EXPLOSION IN ENROLLMENTS

When the 1960s arrived, Catholic law schools were a fixture in the American legal education establishment. They mimicked their non-Catholic counterparts in most respects, from curriculum and pedagogy to school facilities and student activities.¹¹¹ The difference was that these schools were culturally Catholic, a fact reflected in their observance of religious feasts as part of the school calendar, in the celebration of an annual Red Mass, and in the presence of symbols such as a classroom crucifix or hallway portrait of St. Thomas More.¹¹² By

¹⁰⁶ Historical Papers of the University of Detroit School of Law, Vol. VII, Jan. 1954-July 1954: Letter from Dean Daniel McKenna to Rev. Celestin Steiner, S.J., Apr. 23, 1954, "Memorandum Concerning Evaluation of Teachers."

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Historical Papers of the University of Detroit School of Law, Vol. IX, Jan. 1955-Apr. 1955: Letter from Rev. David Bayne, S.J. to President Rev. Celestin Steiner, S.J., Jan. 4, 1955 (expressing a keen interest in hiring Ernest Goldstein who "comes from a fine Jewish family"); Historical Papers of the University of Detroit School of Law, Vol. XVI, Oct. 1957-Dec. 1957: Letters between Melvin Nord to David Bayne, S.J., Nov. 11 and Dec. 17, 1957 (discussing employment, where the candidate notes that he is "not a member of the Catholic Church, but carry out my Ethical Monotheism Engineering at Temple Israel").

¹¹¹ Breen & Strang, *supra* note 11, at 585-87.

¹¹² *Id.* at 592-94.

far, however, the most significant source of Catholic cultural identity at these schools was the fact that a majority of both students and faculty were Catholic, a feature that was preserved through the active recruitment of both.¹¹³ As the 1960s progressed, however, this Catholic atmosphere and ethos diminished and in some cases was almost entirely lost when law school enrollments skyrocketed.

Faculty hiring is a law school function that must, at least in part, be responsive to student enrollment. The number of students attending American law schools rose rapidly in the first quarter of the twentieth century as the number of both university-affiliated and proprietary law schools proliferated and the center of legal education decisively shifted from the apprentice model in a law office setting to formal classroom instruction.¹¹⁴ In 1889–1890 only 4,486 individuals were enrolled in American law schools, yet twenty years later, in 1909–1910, the figure had risen to 12,384.¹¹⁵ By November of 1926, 45,301 students were attending law school.¹¹⁶ This dramatic increase in enrollments took place at the same time that the American Bar Association sought to establish itself as the formal accrediting body in legal education.¹¹⁷ Concurrent with these efforts, the ABA worked to see that the states required both graduation from an approved law school and passage of a formal bar examination as prerequisites to admission to the bar.¹¹⁸

The number of students attending law school dropped following the Great Depression and in the years leading up to America's entry into the Second World War, from 46,318 in 1929, to 41,920 in 1935, to 34,539 in 1939.¹¹⁹ Total law school enrollment increased in the

¹¹³ *Id.* at 587-92.

¹¹⁴ Emory Washburn, *Legal Education – Why?*, 7 W. JURIST 213 (1873) (discussing the change from preparing to be a lawyer by reading law in an office to receiving formal instruction in law school).

¹¹⁵ CARNEGIE FOUND. ADVANCEMENT & TEACHING, REVIEW OF LEGAL EDUCATION IN THE UNITED STATES AND CANADA FOR THE YEARS 1926 AND 1927, at 34 (Alfred Z. Reed ed., 1928) [hereinafter LEGAL EDUCATION 1926].

¹¹⁶ *Id.*

¹¹⁷ STEVENS, *supra* note 23, at 205.

¹¹⁸ *Id.*

¹¹⁹ CARNEGIE FOUND. ADVANCEMENT & TEACHING, REVIEW OF LEGAL EDUCATION IN THE UNITED STATES AND CANADA FOR THE YEAR 1929, at 62 (Alfred Z. Reed ed., 1930); THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, ANNUAL REVIEW OF LEGAL EDUCATION FOR 1935, at 64 (Will Shafroth ed., 1936); THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS IN THE UNITED STATES FOR 1939, at 10 (1940); *see also* STEVENS, *supra* note 23, at 177 (noting that the drop

immediate post-war years, aided by the financial support of the G.I. Bill, reaching 57,759 in 1949.¹²⁰ It then dropped precipitously, to 39,565 by 1954, as the wave of returning veterans seeking legal education subsided.¹²¹ Law school enrollments plateaued in the late 1950s and early 1960s averaging around 40,000 students in ABA approved schools.¹²² Then, in the span of ten years, law school enrollments nearly doubled from 56,510 enrolled in J.D. programs in ABA approved schools in 1965 to 111,047 J.D. students in ABA schools in 1975.¹²³ Catholic law schools shared in this enormous growth, increasing enrollments from 6,310 J.D. students in 1960,¹²⁴ to 9,443 J.D. students in 1965,¹²⁵ to 13,171 in 1970,¹²⁶ to 18,747 in 1975.¹²⁷

To meet the rising tide in student enrollments, law school faculties greatly expanded. In 1970, ABA approved schools were staffed by 2,873 full-time professors and 1,520 part-time instructors.¹²⁸ Just five years later ABA schools employed 3,584 full-time law professors, and 1,777 part-time teachers.¹²⁹ Catholic law school faculties likewise steadily grew in number to meet the swelling class sizes. Catholic law schools were home to 271 full-time law teachers and 269 part-time

in attendance was less than might have been expected and that surprisingly more students chose to attend ABA approved schools over unapproved schools).

¹²⁰ 1 THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, REVIEW OF LEGAL EDUCATION: FALL 1965, at 20 (1965) [hereinafter LEGAL EDUCATION 1965].

¹²¹ *Id.*

¹²² *Id.* (listing the respective enrollments for ABA approved schools: 1958: 39,144; 1959: 39,631; 1960: 40,381; 1961: 41,499).

¹²³ THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, A REVIEW OF LEGAL EDUCATION IN THE UNITED STATES: FALL 1995, at 67 (Rick L. Morgan ed., 1996).

¹²⁴ THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS IN THE UNITED STATES: 1960 REVIEW OF LEGAL EDUCATION 5-17 (1960).

¹²⁵ LEGAL EDUCATION 1965, *supra* note 120, at 4-16.

¹²⁶ THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, REVIEW OF LEGAL EDUCATION: LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS IN THE UNITED STATES: FALL 1970, at 6-39 (1970) [hereinafter LEGAL EDUCATION 1970].

¹²⁷ THE SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR OF THE AM. BAR ASS'N, LAW SCHOOLS AND BAR ADMISSION REQUIREMENTS: A REVIEW OF LEGAL EDUCATION IN THE UNITED STATES – FALL 1975, at 6-36 (1975) [hereinafter LEGAL EDUCATION 1975].

¹²⁸ LEGAL EDUCATION 1970, *supra* note 126, at 45.

¹²⁹ LEGAL EDUCATION 1975, *supra* note 127, at 43.

teachers in 1965.¹³⁰ By 1975 those numbers had risen to 493 full-time faculty and 339 part-time.¹³¹

To illustrate how the size of law school faculties grew alongside increasing enrollments in both Catholic and non-Catholic law schools, *Table A* compares J.D. student enrollments and the number of full-time faculty/part-time faculty at four pairs of Catholic and non-Catholic neighboring schools located in close proximity to one another in Michigan, New York City, Los Angeles, and Wisconsin.

TABLE A¹³²

LAW SCHOOL	1960	1965	1970	1975
Michigan	886	1064	1153	1097
	39/3	42/4	46/9	41/5
Detroit	127	267	378	732
	5/20	/178	12/8	18/13
Columbia	798	885	1035	890
	28/14	34/14	40/14	39/14
Fordham	705	867	851	1111
	15/13	18/13	22/10	25/16
UCLA	430	677	945	990
	20/4	36/2	49/0	40/4
Loyola-LA	358	516	1033	1292
	5/14	12/18	22/26	28/23

¹³⁰ LEGAL EDUCATION 1965, *supra* note 120, at 4-16.

¹³¹ LEGAL EDUCATION 1975, *supra* note 127, at 6-36.

¹³² See sources cited *supra* notes 119-27 for the information contained in this table.

Wisconsin	451	629	771	875
	22/5	28/3	44/0	33/20
Marquette	181	264	304	440
	7/7	11/7	12/6	10/1

V. WORD AND ACTION: THE RELATIONSHIP BETWEEN A SCHOOL'S DEFINED MISSION AND ITS ACTUAL OPERATIONS

The most salient feature about the practice of faculty hiring that took place at Catholic schools during the period of dramatic growth that began in the 1960s was that it was done without any regard for the distinctive Catholic identity that these schools were said to possess. Whether that identity was defined in terms of an atmosphere and ethos of cultural Catholicism or as an intellectual mission to preserve and sustain the natural law tradition, discussion of this identity was conspicuously absent.

Just as law and culture exist in a “mutually informing, formative, and reinforcing relationship,”¹³³ so the operating policies of a school exist with the institution's stated mission. The need to hire faculty who were both personally Catholic and dedicated to a normative Catholic vision of law diminished as the mission of Catholic law schools changed. At the same time, the new faculty who joined these schools were not mere spectators. These new constituents of the law school brought with them new perspectives and values which changed the institutions of which they had become a part.

The way in which the Catholic mission of these schools was redefined over this period of time can be seen in the self-descriptions of these schools in their student bulletins. For example, in its 1961–1962 bulletin, Georgetown University Law Center informed prospective students that “[t]he immediate and primary objective of the Law

¹³³ Francis Cardinal George, O.M.I., *Law and Culture*, 1 AVE MARIA L. REV. 1, 9 (2003).

Center is to provide the best professional education possible for qualified men and women”¹³⁴ and that its program is “conducted in an environment which emphasizes ethical and moral values as the basis for law and human action, recognizes competence and integrity as the essential attributes of an attorney, and regards public service to the community as a fundamental obligation of every lawyer.”¹³⁵ The education Georgetown sought to provide its students was more than mere technical training:

More than a professional school, the Law Center is also a department of a university dedicated to the preservation, transmission, and perfection of the Christian and American cultural heritage. In this heritage nothing is of greater significance than the rule of law.¹³⁶

By remaining faithful to these objectives, the Law Center said it “hope[d] to achieve its ultimate justification, the distinguished service of God and country.”¹³⁷ Specifically with respect to religion, the bulletin noted that the Law Center had a priest-chaplain and a chapel where “[t]he Blessed Sacrament is reserved, and Mass is offered twice each day.”¹³⁸ At the same time, the bulletin made clear that non-Catholic students are welcome and are “not obliged to take part in any of the specifically Catholic exercises” and that “Georgetown does not proselytize.”¹³⁹

The 1970–1971 Georgetown bulletin maintained the reference to the Law Center being more than a professional school “dedicated to the preservation, transmission, and perfection of the American cultural heritage.”¹⁴⁰ Although the idea that this heritage was “Christian” was no longer present, the bulletin did state that the Law Center’s “ultimate justification” was “the distinguished service of God and country.”¹⁴¹ It also added that, being in the nation’s capital, education at Georgetown made available “the elucidation of the supremacy of the

¹³⁴ GEO. UNIV. L. CTR., BULLETIN 1961–1962, at 7.

¹³⁵ *Id.* at 7-8.

¹³⁶ *Id.* at 8.

¹³⁷ *Id.*

¹³⁸ *Id.* at 11.

¹³⁹ *Id.*

¹⁴⁰ GEO. UNIV. L. CTR., BULLETIN 1970–1971, at 7.

¹⁴¹ *Id.*

law, the equality before law of all men, and the inviolable dignity of every human being.”¹⁴²

The next year, however, in the 1971–1972 bulletin, Georgetown deleted any reference to the Law Center as something more than a professional school. Gone also was any mention of a heritage worth preserving and transmitting (whether American or Christian), as well as any reference to equality before the law, or the dignity of every human being. The bulletin did, however, continue to make clear that the Law Center welcomed “both Catholic and non-Catholic students,” and that “Georgetown does not proselytize” because its mission is educational and its “primary objective is to provide the best in instruction and guidance.”¹⁴³

A similar pattern can be observed in the Boston College Law School Bulletin. Boston College’s 1960 bulletin provides an elaborate description of the school’s goals and perspective. The bulletin declares that the purpose of the law school is “to prepare young men and women of intelligence, industry and character for careers of public service in the administration of justice; to equip them for positions of leadership in advancing the ideals of justice in our democratic society.”¹⁴⁴ More than this, Boston College made its philosophical perspective explicit in a way that was unmistakable.

For Boston College Law School is dedicated to the philosophy that there is in fact an *objective moral order*, to which human beings and civil societies are bound in conscience to conform, and upon which the peace and happiness of personal, national and international life depend. The mandatory aspect of the objective moral order is called by philosophers the *natural law*. In virtue of the natural law, fundamentally equal human beings are endowed with certain *natural rights and obligations* to enable them to attain, in human dignity, the divine destiny decreed for them by their Creator. These natural rights and obligations are *inalienable* precisely because they are God-given. They are antecedent, both in logic and in nature, to the formation of civil societies. They are not granted by the beneficence of the state;

¹⁴² *Id.*

¹⁴³ GEO. UNIV. L. CTR., BULLETIN 1971–1972, at 34.

¹⁴⁴ B.C. L. SCH., BULLETIN 1960, at 8.

wherefore the tyranny of a state cannot destroy them. Rather it is the high moral responsibility of civil society, through the instrumentality of its civil laws, to acknowledge their existence and to protect their exercise, to foster and facilitate their enjoyment by the wise and scientific implementation of the natural law with a practical and consonant code of civil rights and obligations.¹⁴⁵

In addition to the skills necessary for the practice of law, Boston College also sought to impart to its students “an intellectual appreciation of the philosophy which produced and supports our democratic society” because only with an “intellectual recognition and the skillful application of the natural law to the principles and rules, the standards and techniques of the civil law, that society can hope to approach the objective order of justice and to create the condition of human liberty intended by the Creator for rational and spiritual beings.”¹⁴⁶

When Boston College Law School published its 1971 bulletin, this entire self-description was deleted and nothing new was put in its place. There was no description of the school’s philosophical commitments or pedagogical goals other than a wholly anodyne reference to its program of instruction being “designed to prepare students to practice [law] in any jurisdiction in the United States.”¹⁴⁷

A letter, written two years later, demonstrates the profound change in the school’s self-understanding brought about by the new faculty hirings. In March 1973, Dean Richard Huber wrote to Boston College’s president, Rev. Donald Monan, S.J., complaining that “[o]ne of the problems we do run into on recruiting [students] is the supposed Catholic orientation of the school.”¹⁴⁸ He then told the president “I am sure you know that our Law School has no particular religious orientation” and that “[o]ne of the things that does occasionally develop and creates a bit of a problem . . . is the presence of the cross on the building . . .” Huber told Monan that “[a] number of faculty have felt that we should have this removed” and that he thought this “probably would be an excellent idea.”¹⁴⁹

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ B.C. L. SCH., BULLETIN 1971, at 25.

¹⁴⁸ Boston College Archives: BC.1999.65 Box 146: Letter from Richard Huber to Donald Monan, S.J., Mar. 21, 1973.

¹⁴⁹ *Id.*

In a span of just over ten years Boston College had changed from a law school dedicated “to the objective order of justice and to creat[ing] the condition of human liberty intended by the Creator for rational and spiritual beings,” to declaring that it had “no particular religious orientation” and being embarrassed about a cross on the exterior of the law school building and seeking its removal.

In its 1980 bulletin, Boston College Law School simply stated that “the Law School is committed to providing [a] broadly based understanding of the principles and societal policies that guide change and growth in the law, and the society which it serves.”¹⁵⁰ Surely the same could be said of Suffolk Law School or the law school at Boston University. Boston College’s self-understanding was that it had no distinctive mission.

VI. THE CAUSAL REASONS AND CULTURAL FACTORS BEHIND THE CHANGE IN HIRING PRACTICES

The explosive growth in the size of Catholic law school enrollments necessitated the hiring of additional faculty, but there was no requirement that the mission, as traditionally understood, not be taken into account. The reasons for this shift in approach were severalfold.

A. No Longer Inbred: Hiring Graduates of Other Law Schools

First, voices both inside and outside Catholic legal education had accused these institutions of the sin of “inbreeding”—the practice of selecting a school’s own graduates to serve as its faculty members. It was feared that a school that simply hired from among its own would calcify in its ideas and methods of operation, whereas a school that hired the graduates of other law schools would benefit from new ideas in scholarship, pedagogy, curriculum, and administration. The practice of inbreeding was by no means confined to Catholic law schools, yet in the case of these schools, the criticism carried additional meaning. Because the graduates of Catholic law schools tended to be Catholics, the criticism leveled was also a kind of disapproval of the religious composition of these faculties. Thus, in 1966 when the ABA complained that Marquette’s faculty was “heavily staffed with graduates of the law schools operated by the Society of Jesus—e.g. Boston

¹⁵⁰ B.C. L. SCH., BULLETIN 1980, at 3.

College, Georgetown, Creighton and Marquette”¹⁵¹—the message was not lost.

The criticism of inbreeding was not new. While serving as a faculty research fellow at the Harvard Law School in 1936–1937, Lewis Cassidy wrote a blistering critique of Catholic legal education noting that in Catholic law schools “the tendency towards inbreeding is quite pronounced.”¹⁵² Although a Harvard law graduate himself, Cassidy had wide experience in Catholic legal education having taught at Creighton, Boston College, Georgetown, and having served as dean at the University of San Francisco School of Law from 1934–1936.

While not new, the criticism of inbreeding had a new reticence as the complaint not only came from accreditors but from students. In 1973, when Marquette’s dean, Robert Boden, learned through an alumnus that a number of students had complained about the “inbred” nature of the law school’s faculty,¹⁵³ Boden felt compelled to defend his record. He noted that of the fourteen faculty hires since he became dean in 1965, eight of them had been non-Marquette graduates, and that the Marquette graduates who were hired had proven to be more productive scholars. He also observed that inbreeding was not confined to Marquette, noting that “Harvard Law School is the most inbred in the country.”¹⁵⁴

¹⁵¹ Marquette University Archives, John G. Harvey, Inspection Report, Marquette University School of Law, June 14, 1966.

¹⁵² Historical Papers of the University of Detroit School of Law, Vol. III, 1935–1945, Letter from Rev. H.E. Ring, S.J., President of USF to Rev. L.J. Lynch, S.J., Regent of Univ. Detroit, Oct. 23, 1937, Attachment, “A Critique of Catholic Legal Education” by Lewis C. Cassidy, Ph.D. Georgetown, S.J.D. Harvard, Faculty Research Fellow, Harvard Law School, 1936-37. To his credit, Cassidy also observed that the tendency toward inbreeding is “discernible in other law schools.” *Id.*

¹⁵³ Marquette University Archives, Univ. A-1.2, Series 3, Box 459, Letter from Robert F. Boden to John S. Schlosser, Nov. 6, 1973. Boden also defended the practice of hiring one’s own, arguing that to “slavishly pursue a policy against ‘in-breeding’ we would be forced to hire second string older teachers or youngsters right from graduate law school *without prior loyalties to this law school.*”

¹⁵⁴ *Id.* The facts support Boden’s claim that Harvard Law School faculty is deeply inbred. In 1970, 41 of Harvard’s 61 full-time law professors (67%) were Harvard Law School graduates. In 1980, the numbers were 46 out of 73 (63%), and in 1990, they were 54 out of 85 (64%). (This data was gathered from the Harvard Law School Yearbooks for 1970, 1980, and 1990 which list the schools attended by its professors). Harvard is not unaware of this fact. In 1978, Harvard’s former dean Erwin Griswold remarked that “[o]ur faculties tend to reproduce themselves; and in the process may by the continual inbreeding that is involved be producing even narrower

Significantly, Boden also defended the practice of inbreeding as a means of sustaining Marquette's Catholic identity. He argued that Marquette's law professors "teach people to probe deeply into the question of justice between men, drawing on seven centuries of a common law tradition which is at its roots Judeo-Christian" and that this commitment was largely "a result of the tendency, sometimes criticized, to 'inbreed.'"¹⁵⁵ There were, said Boden, "many Jesuit, Catholic, or Christian law schools which have long since conformed" to teaching law "bereft of moral content."¹⁵⁶ These schools have lost their identity, "not consciously perhaps, but arising" from the faculty they recruited from "the Ivy League and the Big Ten."¹⁵⁷ By contrast, Marquette's "inbred" faculty "actually raises the moral standards of our students in the sense that our training enables them to make better informed moral judgments"¹⁵⁸ and so helps maintain Marquette's Christian commitment and Catholic identity.

Nevertheless, law school accreditors continued to urge Marquette to diversify its faculty. During their 1980 site visit, the inspectors noted that "students complained of too much 'inbreeding' on the faculty and the facts bear out the impression" with 10 of 19 full-time professor and 13 of 18 adjunct professors being Marquette law graduates.¹⁵⁹ Marquette's dean summarized the inspectors criticisms, saying that they "judge[d] that the faculty [was] not engaged sufficiently in scholarly research, and they surmise[d] this might be a result of an attitude they fear comes from a faculty suffering from academic inbreeding."¹⁶⁰ Eight years later, the inspectors leveled the same criticism, finding that 14 of the 26 faculty members were Marquette law

law students than they were themselves." JOEL SELIGMAN, *THE HIGH CITADEL: THE INFLUENCE OF HARVARD LAW SCHOOL* 123 (1978).

¹⁵⁵ Marquette University Archives, Univ., A-1.2, Series, Box 460, Law School Gen. Correspondence 1976, Memorandum from Dean Robert F. Boden to Edward D. Simons, V.P. Academic Affairs, Nov. 18, 1976, "Developing in Law Students the Ability to Make Sound Moral Judgments; a part of the University's Christian Commitment."

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Marquette University Archives, Univ. A-1.2, Series 3, Box 456, Folder 3 of 4, ABA/AALS Report on Marquette University Law School, Sept. 14-17, 1980, p. 9.

¹⁶⁰ Marquette University Archives, Memorandum to File from Edward D. Simons, V.P. Academic Affairs, Oct. 10, 1980, "ABA Accreditation Visitation Wrap-Up."

graduates and that this was “an exceptionally high ratio.”¹⁶¹ These inbred faculty were “well satisfied with Marquette’s traditions and its somewhat insular qualities, and have little taste for change.”¹⁶² Thus, they concluded that the school “would benefit from the fresh perspectives and ideas which would come from faculty members with broader backgrounds.”¹⁶³

Other Catholic law schools no longer sought to hire their own graduates or those from other Catholic law schools. In 1958 the ABA inspectors found that six of Fordham Law School’s twelve full-time professors were Fordham graduates and thirteen of seventeen part-time teachers went to Fordham.¹⁶⁴ The inspectors found that this detracted from the stature of the school.¹⁶⁵ Dean William Mulligan “sought to get away from the inbreeding by diversifying the faculty in terms of educational and religious backgrounds.”¹⁶⁶ Two-thirds of the faculty appointed during his tenure as dean from 1956–1971 were graduates of law schools other than Fordham.¹⁶⁷ The policy was continued under Mulligan’s successors, Joseph McLaughlin and John Ferrick such that the Fordham faculty was no longer “home-grown” but “‘increasingly diverse’ in terms of educational backgrounds” with a shared “commitment to excellence.”¹⁶⁸

Likewise, under the leadership of Charles Purcell who served as dean from 1970–1975, Loyola University Chicago School of Law first began to look “beyond its own graduates and the local Catholic community for its teachers.”¹⁶⁹ Purcell “embarked on a program to

¹⁶¹ Marquette University Archives, Univ., A-1.2, Series 3, Box 458, Memorandum to File from David R. Buckholdt, Acting V.P. Academic Affairs, “Brief Summary of Comments Made During Exit Interview by Law School Accreditation Team,” Apr. 14, 1988 (attributed to Dean Dale A. Whitman, Univ. Missouri).

¹⁶² Marquette University Archives, Univ., A-1.2, Series 3, Box 458, Law School—External Review and ABA Accreditation 1988, ABA Report on Marquette University School of Law, Apr. 10-13, 1988, p. 13.

¹⁶³ *Id.*

¹⁶⁴ KACZOROWSKI, *supra* note 53, at 223.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 335; *see also id.* at 266 (“McLaughlin diversified the faculty by hiring lawyers who had attended law schools other than Fordham and by hiring women faculty.”); *id.* at 338 (“Dean Ferrick charged the faculty recruitment committee each year to increase the diversity of the faculty.”).

¹⁶⁹ Haney, *supra* note 6, at 105.

recruit faculty nationwide, so as to enhance the status of the school,”¹⁷⁰ a practice continued by his successors. Recruiting candidates regardless of their religious affiliation meant that “being Catholic was no longer a qualification to teach at Loyola.”¹⁷¹ In the years that followed significant new additions to the faculty included Nina Appel (who would later become Loyola’s first female and first Jewish law dean) and civil rights attorney Norman Amaker.¹⁷²

B. The Pursuit of Prestige: Hiring Faculty Dedicated to Scholarship

A second and related factor in the new approach to faculty hiring was the priority given to legal scholarship. Catholic law schools sought to enhance their reputations among their peers. In American higher education, academic reputation is the pearl of great price, and among law schools, scholarly publication is the coin of the realm. In the past, Catholic schools prided themselves on their close attention to classroom teaching and the emphasis they gave to preparing students for the practice of law.¹⁷³ While these qualities may have served students well, they did little to promote the schools themselves beyond their alumni and the local practicing bar. To do this, Catholic law schools needed to hire professors who would do more than teach. They needed faculty who would regularly engage in the scholarly enterprise of intellectual inquiry and academic publication.

Prior to this time Catholic law schools knew that they were deficient in scholarly productivity relative to their secular peers. In 1948, the leaders of the Jesuit law schools observed that there was a “[l]ack of legal scholarship and publications by Catholics which give concrete

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² Thomas M. Haney, *The First 100 Years: The Centennial History of Loyola University Chicago School of Law*, 41 LOYOLA U. CHI. L.J. 651, 699, 706 (2010).

¹⁷³ Compare B. C. L. SCH. BULLETIN 1955, at 16 (stating that the student “is given a rigorous training to enable him to analyze and marshal [sic] complicated facts, to evaluate the social problems involved, to discern therein the real issues of law, to discover the pertinent legal principles and standards, to find the applicable case and statute law, and to solve the legal problem by an accurate and logical use of principle and authority”), with Simon, *supra* note 56, at 36 (noting that when Rev. Robert Drinan, S.J. became dean of Boston College he “wanted a particular type of person for the faculty ... the ideal candidate was someone with a growing reputation as a scholar and a teacher who was young enough to stay with the Law School for many years”).

evidence of the integration of Catholic philosophy and legal studies” and that “[t]he heavy teaching loads in Catholic laws schools . . . leave little time for research and writing.”¹⁷⁴

In 1957, the Georgetown law faculty agreed that “an effort should be made to obtain qualified persons who are not graduates of this law school in order to avoid inbreeding.”¹⁷⁵ Although the school did hire some “outsiders” who engaged in scholarship,¹⁷⁶ significant change did not take place until later, following the retirement of Francis Lucey, S.J. as regent in 1961 and the elimination of the regent position in 1971.¹⁷⁷

Reflecting in 1970 on the changes that had already taken place, David McCarthy (who would later become dean) wrote to the law school’s Ad Hoc Committee on Goals and Priorities that “[i]n 1960, seventeen of twenty-five members of the full-time faculty received their initial legal education at Georgetown” whereas in 1970 “seventeen of thirty-six members received their initial law degree at Georgetown.” Hiring faculty from different backgrounds was, said McCarthy, “a conscious policy in the 1960s” but “[i]t is not intended to deprecate the Georgetown education to conclude that Georgetown itself will benefit from more diversity.”¹⁷⁸ Despite the improved level of faculty scholarship, the number of books and law journal articles was still less than “would traditionally be desirable” such that “it is fair to say that the Georgetown faculty . . . is not as well known among its colleagues as one would wish.”¹⁷⁹

The leaders of Georgetown recognized that, with respect to faculty scholarship, “[n]o goal has greater impact on the classroom, the intellectual quality of faculty life, or the reputation and attractiveness

¹⁷⁴ Boston College Archives, *supra* note 148, at 4.

¹⁷⁵ Georgetown University Law Center, Special Collections & Archives Department, Executive Committee Meetings, Box 1, File 1.38, Minutes, May 16, 1957.

¹⁷⁶ Ernst, *supra* note 27, at 134, 147 (commenting on the hiring of “outsiders” Chester J. Antieau, Sidney Jacoby, Paul Haskell, and Bernie Burrus).

¹⁷⁷ Francis Lucey, S.J. stepped down as regent in 1961 having served in the role since 1931. He was replaced by Brian McGrath, S.J. *Res Ipsa Loquitur*, vol. 14, no. 1, Oct. 1961 (newsletter published by the law school administration). McGrath then served in the role until 1971 when the position was eliminated. McGrath then became the law school’s chaplain. Ralph Defour, *Father McGrath New Chaplain*, GEO. L. WKLY., Jan. 19, 1972, at 7.

¹⁷⁸ Georgetown University Law Center, Special Collections & Archives Dept., Committee (planning), Box 11, F.3, Memorandum, David McCarthy to Ad Hoc Committee on Goals and Priorities (Feb. 26, 1970) pp. 6-7.

¹⁷⁹ *Id.*

of the school.”¹⁸⁰ To achieve the stature it desired, Georgetown implemented a strategy of expanding the size of the faculty and hiring colleagues who would regularly write and publish. The school adopted a long-range plan in 1978 which included the goal of “having a nationally recognized, active publishing faculty.”¹⁸¹ By 1988, Georgetown had a full-time tenured and tenure-track faculty of sixty who published regularly and in prestigious journals. Of these sixty faculty members, only ten had received their law degrees from Georgetown, whereas eighteen went to Harvard and eleven went to Yale.¹⁸²

Other Catholic law schools adopted similar strategies that sought to realize their ambitions for enhanced prestige through faculty hiring. Thus, in a 1987 report to the Board of Visitors to the Loyola Law School in Los Angeles, Dean Arthur Frakt noted the difficulties encountered in the 1960s and 1970s with a rapidly expanding student body which meant that the “faculty had little time in which to pursue important academic and professional research.”¹⁸³ With a larger full-time faculty and reduced teaching loads, “[i]n terms of faculty publications and research” Loyola had “made major strides” and was “becoming a significant source of legal scholarship.”¹⁸⁴

Similarly, a self-description of Notre Dame Law School published in 1986 noted the transformation that had taken place:

Most importantly, hiring new faculty is being made not only on the criterion of teaching ability but based on potential for the production of scholarship that has a national impact While in the past the faculty as a whole was able to produce only a handful of law review articles in any academic year, now most faculty, especially those recently hired, are producing articles,

¹⁸⁰ Georgetown University Law Center, Special Collections & Archives Dept., Faculty, Box 1, File 6, Folder 3, Memorandum from David McCarthy to Faculty (Aug. 5, 1982).

¹⁸¹ ERNST, *supra* note 27, at 179.

¹⁸² Georgetown University Law Center, Special Collections & Archives Dept., Faculty, General 1988-1989, Box 2, File 7, Folder 2, Georgetown University Law Center, J.D. Full Time Faculty Demographics (Summer 1988).

¹⁸³ Loyola Los Angeles Law School Archives: Dean’s Reports 1962-1993, Box 1 of 1; Dean Arthur N. Frakt, A Report to the Board of Visitors (June 23, 1987).

¹⁸⁴ *Id.*

manuscripts, and books at a rate comparable to that of faculty at the most prestigious law schools.¹⁸⁵

C. Two Other Factors: The Openness of Vatican II and the Independence of *Land O'Lakes*

Two additional factors contributed to the new hiring practices at Catholic law schools. These factors were not causal in nature, but they provided legitimacy to the fact that these schools no longer sought to hire Catholic faculty.

The first factor was the Second Vatican Ecumenical Council, a gathering of the world's Catholic bishops that took place from 1962–1965. In the documents it produced and the attitudes it inspired, the council brought about enormous changes in the Catholic Church—in its liturgy and style of worship,¹⁸⁶ in the study of scripture,¹⁸⁷ in its view of religious liberty,¹⁸⁸ and in its approach to modern society and culture.¹⁸⁹ Furthermore, the council emphasized the role of the laity in the church as distinguished from the clergy—“the people of God” responsible for proclaiming the gospel and living the faith in the

¹⁸⁵ ROBERT SCHMUHL, *THE UNIVERSITY OF NOTRE DAME: A CONTEMPORARY PORTRAIT* 126 (1986).

¹⁸⁶ SECOND VATICAN ECUMENICAL COUNCIL, CONSTITUTION ON THE SACRED LITURGY, *Sacrosanctum Concilium* (Dec. 4, 1963), reprinted in *THE DOCUMENTS OF VATICAN II*, at 137 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19631204_sacrosanctum-concilium_en.html.

¹⁸⁷ SECOND VATICAN ECUMENICAL COUNCIL, DOGMATIC CONSTITUTION ON DIVINE REVELATION, *Dei Verbum* (Nov. 18, 1965), reprinted in *THE DOCUMENTS OF VATICAN II*, at 111 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651118_dei-verbum_en.html.

¹⁸⁸ SECOND VATICAN ECUMENICAL COUNCIL, DECLARATION ON RELIGIOUS FREEDOM, *Dignitatis Humanae* (Dec. 7, 1965), reprinted in *THE DOCUMENTS OF VATICAN II*, at 675 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

¹⁸⁹ SECOND VATICAN ECUMENICAL COUNCIL, PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD, *Gaudium et Spes* (Dec. 7, 1965), reprinted in *THE DOCUMENTS OF VATICAN II*, at 199 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

world.¹⁹⁰ Leaders in American Catholic higher education understood the council as saying “that laypeople should be given responsibility in Catholic affairs commensurate with their dedication, their competence, and their intelligence.”¹⁹¹ They saw Vatican II as “call[ing] for the participation and leadership of Catholic lay men and women in every facet of the church’s mission, including education.”¹⁹² The council also encouraged ecumenical relations with non-Catholic Christians¹⁹³ and inter-religious dialogue.¹⁹⁴ Hiring non-Catholics to serve as faculty in Catholic universities fit with this new atmosphere of openness and lay responsibility.¹⁹⁵

A second and related factor supporting the practice of hiring of non-Catholics was the independence that Catholic universities

¹⁹⁰ SECOND VATICAN ECUMENICAL COUNCIL, DOGMATIC CONSTITUTION ON THE CHURCH, *Lumen Gentium* (Nov. 21, 1964), reprinted in THE DOCUMENTS OF VATICAN II, at 14 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html.

¹⁹¹ THEODORE M. HESBURGH, C.S.C. & JERRY REEDY, GOD, COUNTRY, NOTRE DAME 159 (1999).

¹⁹² PAUL C. REINERT, S.J. & PAUL SHORE, SEASONS OF CHANGE: REFLECTIONS ON A HALF CENTURY AT SAINT LOUIS UNIVERSITY 48 (1996); see also ALICE GALLIN, O.S.B., NEGOTIATING IDENTITY: CATHOLIC HIGHER EDUCATION SINCE 1960, at 69 (2000) (“A new generation of laity, by now well represented among the faculties, administrators, and trustees of the Catholic colleges, was attuned to the implications of Vatican II teaching and the ways it should be implemented in American culture.”).

¹⁹³ SECOND VATICAN ECUMENICAL COUNCIL, DECREE ON ECUMENISM, *Unitatis Redintegratio* (Nov. 21, 1964), reprinted in THE DOCUMENTS OF VATICAN II, at 341 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19641121_unitatis-redintegratio_en.html.

¹⁹⁴ SECOND VATICAN ECUMENICAL COUNCIL, DECLARATION ON THE RELATIONSHIP OF THE CHURCH TO NON-CHRISTIAN RELIGIONS, *Nostra Aetate* (Oct. 28, 1965), reprinted in THE DOCUMENTS OF VATICAN II, at 660 (Walter M. Abbott, S.J., ed., Joseph Gallagher trans., 1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651028_nostra-aetate_en.html.

¹⁹⁵ See POWER, *supra* note 16, at 447 (noting that “colleges in the United States seeking justifications for new departures in educational policies and practices could usually find them in the balanced views of compromise characteristic of Vatican II”). But see GALLIN, *supra* note 192, at 86 (quoting Msgr. John Murphy, executive director of the College and University Department of the National Catholic Education Association that “there is considerable evidence that Catholic colleges and universities have many academically credentialed persons on their faculties who are ignorant of, indifferent to, and, yes, even hostile to the Catholic dimensions of these institutions”).

obtained in formally separating from the religious orders that founded them. In 1967, under the leadership of Notre Dame's president, Rev. Theodore M. Hesburgh, C.S.C., the presidents and officials from twelve Catholic universities issued a document popularly known as the *Land O'Lakes Statement* which declared that "[t]o perform its teaching and research functions effectively the Catholic university must have a true autonomy and academic freedom in the face of authority of whatever kind, lay or clerical, external to the academic community itself."¹⁹⁶ A subsequent, related document, entitled *The Catholic University in the Modern World*, similarly provided that "[t]o perform its teaching and research functions effectively a Catholic university must have true autonomy and academic freedom" but also insisted that this autonomy included freedom "in appointment of personnel."¹⁹⁷

Between 1965 and 1975, the governing bodies of nearly every American Catholic college and university were reorganized.¹⁹⁸ The religious orders (such as the Jesuits, Franciscans, Vincentians, Marists, and Holy Cross) formally separated from the colleges and universities they founded, and the ownership and control of these institutions was transferred to newly constituted boards of trustees dominated by lay people.¹⁹⁹ Although priests and other members of religious communities still often served as presidents, senior administrators, and board members, Catholic universities and colleges now felt free to explore how to define their Catholic identity on their own terms.²⁰⁰

¹⁹⁶ Neil G. McCluskey, S.J., *Land O'Lakes Statement: The Nature of the Contemporary Catholic University*, reprinted in AMERICAN CATHOLIC HIGHER EDUCATION: ESSENTIAL DOCUMENTS, 1967-1990, at 7 (Alice Gallin, O.S.U. ed., 1992).

¹⁹⁷ *The Catholic University in the Modern World*, in AMERICAN CATHOLIC HIGHER EDUCATION: ESSENTIAL DOCUMENTS, 1967-1990, *supra* note 137, at 37, 43.

¹⁹⁸ See JAMES T. BURTCHAELL, C.S.C., THE DYING OF THE LIGHT: THE DISENGAGEMENT OF COLLEGES AND UNIVERSITIES FROM THEIR CHRISTIAN CHURCHES 705-16 (1998).

¹⁹⁹ POWER, *supra* note 16, at 442 (stating that "probably the genuine reason why the colleges took their step toward corporate control—by establishing the ultimate power in boards of trustees, colleges could assume the legal standing of corporations freed from religious and denominational ties"); see also GALLIN, *supra* note 192, at 42-47.

²⁰⁰ GALLIN, *supra* note 192, at 128-29 ("During the years after Vatican Council II, Catholic higher education ... was busy 'redefining its Catholicism.'") (citation omitted); James Tunstead Burtchaell, *Everything You Need to Know About Ex Corde Ecclesiae – Part 3: Climbing the Ivory Tower*, CRISIS MAG. (July 1, 1999) (noting that the "constant aim [of Catholic university presidents] has been to make the Catholic

VII. DEVELOPMENTS SINCE THE ERA OF CHANGE IN THE 1960S-1980S

The approach to hiring faculty at Catholic law schools that began in the 1960s has continued to this day. Gone are the days when the candidate pool was confined to the “Catholic ghetto.”²⁰¹ The dominant approach going forward has been to seek to hire the “best available candidate” in terms of scholarly ambitions and curricular needs and without regard to a person’s Catholic background, affiliation, or intellectual perspective.²⁰² Although these institutions are free, under federal employment law, to give preference to Catholic candidates,²⁰³ they choose not to do so.

character of their institutions autonomous and nonessential. . . . In a word, its Catholic identity will be unilaterally claimed and defined.”).

²⁰¹ See Philip Gleason, *Immigrant Assimilation and the Crisis of Americanization*, in PHILIP GLEASON, *KEEPING THE FAITH: AMERICAN CATHOLICISM PAST AND PRESENT* 58 (1987) (explaining the loss of Catholic identity in Catholic universities and in the various Catholic academic and professional associations that made up the Catholic intellectual ghetto as a loss in confidence in having something different to offer); see also ANNE HENDERSHOTT, *STATUS ENVY: THE POLITICS OF CATHOLIC HIGHER EDUCATION* 9 (2009) (noting that students on Catholic campuses “are finding an increasingly faithless faculty culture in which Christian professors are discriminated against and religious viewpoints have been crowded out by feminism and multiculturalism”).

²⁰² Cf. BURTCHAELL, *supra* note 198, at 628 (noting that the political science faculty at Boston College “had their undergraduate experiences at Dartmouth, Oberlin, Brandeis, Cornell, Johns Hopkins, Reed, Michigan, Brooklyn, UCLA, Chicago, and Kalamazoo. None did graduate studies on a Catholic campus. Therefore, no one in the department has ever experienced what BC claims to offer. . . . The situation at BC, with so few academics that have Catholic faith or experience, appears to isolate overtly Catholic activities from the primary educators.”); James Tunstead Burtchaell, *Everything You Need to Know About Ex Corde Ecclesiae – Part 4: External Authorities?*, *CRISIS MAG.* (July 1, 1999) (noting that “[t]he presidents [of Catholic universities] seem to have adopted the incredible position that faculty must be hired who will somehow be supportive of the Catholic faith, regardless of their religious background”).

²⁰³ Robert J. Araujo, S.J., “*The Harvest is Plentiful, But the Laborers Are Few*”: *Hiring Practices and Religiously Affiliated Universities*, 30 U. RICH. L. REV. 713, 724 (1996) (arguing that religiously affiliated schools may, consistent with Title VII of the Civil Rights Act of 1964, adopt an affirmative action hiring policy in support of the school’s religiously inspired mission).

In 1990, Pope John Paul II issued the apostolic constitution *Ex Corde Ecclesiae*²⁰⁴ as a corrective to the loss of Catholic identity experienced at many Catholic universities. Among its many salient points, the document insists that a Catholic university must publicly declare its identity as such, that it “carr[y] out its research, teaching, and all other activities with Catholic ideals, principles and attitudes,” and that “Catholic teaching and discipline . . . influence all university activities.”²⁰⁵ Significantly, the document states that, to maintain its Catholic identity, “the number of non-Catholic teachers should not be allowed to constitute a majority within the Institution, which is and must remain Catholic.”²⁰⁶ Although the United States Conference of Catholic Bishops approved a set of norms applying *Ex Corde* to Catholic universities in the U.S.,²⁰⁷ the document has had (aside from a few discrete exceptions) no discernible influence on faculty hiring. It is now all but a dead letter.²⁰⁸

Three exceptions stand out from the widespread and well-defined practice described above. First, Notre Dame Law School has continued to hire faculty for mission in a serious (rather than a superficial) way. This can, in part, be attributed to the University’s recognition that to sustain its Catholic identity, it must maintain a Catholic faculty. Notre Dame’s first strategic plan, the Report of the Committee on University Priorities (the COUP’s Report), issued in 1973, provided that the University must have a faculty “among whom Catholics predominate.” Indeed, the report makes plain:

If the University is to have a Catholic character, it is obvious that all who play a role in recruitment should exercise care to attract and appoint from among the most competent teachers, scholars and scientists

²⁰⁴ POPE JOHN PAUL II, APOSTOLIC CONSTITUTION *Ex Corde Ecclesiae* (1990), available at https://www.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_15081990_ex-corde-ecclesiae.html (last visited Feb. 11, 2023).

²⁰⁵ *Id.* at art. 2, §§ 2-4.

²⁰⁶ *Id.* at art. 4, § 4.

²⁰⁷ United States Conference of Catholic Bishops, *The Application for Ex Corde Ecclesiae for the United States* (2000), available at <https://www.usccb.org/committees/catholic-education/application-ex-corde-ecclesiae-united-states> (last visited Feb. 11, 2023).

²⁰⁸ Anne Hendershott, *Catholic Universities and Colleges Continue to Ignore Ex Corde Ecclesiae*, CATH. WORLD RPT. (Mar. 17, 2022), available at <https://www.catholicworldreport.com/2022/03/17/catholic-universities-and-colleges-continue-to-ignore-ex-corde-ecclesiae/> (last visited Feb. 11, 2023).

available those who are articulate believers: brilliant scholar-teachers who respect Christ in man and who are committed as He was to service and sacrifice.²⁰⁹

Now, almost fifty years later, Notre Dame's current mission statement similarly provides that "[t]he Catholic identity of the University depends upon, and is nurtured by, the continuing presence of a predominant number of Catholic intellectuals."²¹⁰ Commenting on Notre Dame's 1993 strategic plan, which contained similar language,²¹¹ the Law School's then associate dean, Ferdinand "Tex" Dutile, acknowledged the objection that hiring candidates with a formal religious affiliation cannot ensure the hiring of committed Catholic intellectuals.²¹² However, this objection is trumped by "the undeniable fact that a failure to hire formally Catholic faculty members will result in few faculty members committed to the Catholic nature of the institution; that result, in turn, will unerringly presage the demise of that institution's religious character."²¹³ Notre Dame Law School has not failed in this regard. On the contrary, it has succeeded in building a distinguished faculty of Catholic intellectuals and kindred spirits from other faith traditions dedicated to the School's mission of educating "students to practice law with competence and compassion"²¹⁴ and seeking

²⁰⁹ *The Report of the Committee on University Priorities*, reprinted in NOTRE DAME MAG., Dec. 1973, at 8, 13. The report here also acknowledges the contributions that non-Catholics can make to the University, "intellectual comrades who live in and by the spirit of Notre Dame and respect her heritage and tradition." *Id.* at 13. Every Notre Dame strategic plan since the COUPS Report has maintained this standard. See, e.g., OFF. PRES., UNIV. NOTRE DAME, *A Legacy Expanded: A Strategic Plan for Notre Dame* (2014), <https://strategicplan.nd.edu/university-plan/catholic-character/enduring-commitments/>. Under Goal 1, Catholic Character, Enduring Commitments, the plan states as follows: "Affirming that this is an intellectual community enriched and enlivened by diversity—one that cannot thrive without faculty and students of different faiths and those of none—we also know the vitality of Notre Dame's Catholic mission depends on our ability to maintain a predominance of Catholic faculty who draw on their faith as teachers and scholars." *Id.*

²¹⁰ UNIV. NOTRE DAME, MISSION STATEMENT, <https://www.nd.edu/about/mission/> (last visited Feb. 10, 2023).

²¹¹ *Colloquy for the Year 2000*, at 5 (1993) ("All who participate in hiring faculty must be cognizant of and responsive to the need for dedicated and committed Catholics to predominate in number among the faculty.").

²¹² Ferdinand N. Dutile, *A Catholic University, Maybe; But a Catholic Law School?*, in CHALLENGE AND PROMISE, *supra* note 5, at 71, 74.

²¹³ *Id.*

²¹⁴ *The Law School: Mission and History*, UNIV. NOTRE DAME, <https://law.nd.edu/about/mission-history/> (last visited Feb. 10, 2023).

“to advance knowledge in a search for truth through original inquiry and publication”²¹⁵ all of which is done “within our Catholic tradition” that seeks “dialogue between, and integration of, faith and reason.”²¹⁶

The other two exceptions to the now standard approach of faculty hiring at Catholic law schools are Ave Maria School of Law and the University of St. Thomas School of Law. Both are new schools. Ave Maria began offering courses in 2000,²¹⁷ while St. Thomas began doing so in 2001.²¹⁸ Each of these schools was founded upon a mission that is unapologetically Catholic to which its faculty is explicitly dedicated.²¹⁹ But they are the exception.

VIII. CONCLUSION

The foregoing essay has described the practice of faculty hiring at Catholic law schools over time, with specific attention given to the role of religion. In the past, Catholic law schools often preferred hiring Catholics for faculty positions, sometimes to the exclusion of non-Catholics. For most of their history, however, Catholic law schools were open to hiring individuals of various religious backgrounds. Today, religious identity is largely irrelevant to the hiring process. This irrelevance is reflective of the change in mission that took place at these schools—a change that was both a cause and a product of new

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Our History*, AVE MARIA SCH. L., <https://www.avemarialaw.edu/history/> (last visited Feb. 10, 2023).

²¹⁸ *About St. Thomas Law, Our History*, UNIV. ST. THOMAS SCH. L., <https://www.stthomas.edu/law/about/> (last visited Feb. 10, 2023).

²¹⁹ *Our Mission, Mission Statement*, AVE MARIA SCH. L., <https://www.avemarialaw.edu/about-us/mission-statement/> (last visited Feb. 10, 2023) (describing itself as “a Catholic law school dedicated to educating lawyers with the finest professional skills” and inspired by Pope John Paul II’s encyclical *Fides et Ratio* providing “an education characterized by the harmony of faith and reason” and so affirming “Catholic legal education’s traditional emphasis on the only secure foundation for human freedom – the natural law written on the heart of every human being”; “Our faculty joins in the enterprise of research, discovery, and communicating truth in their areas of expertise. Our faculty evaluates the subjects of their studies in light of the moral and social teachings of the Church.”); *About St. Thomas Law, Our Mission*, UNIV. ST. THOMAS SCH. L., <https://www.stthomas.edu/law/about/> (last visited Feb. 10, 2023). (“The University of St. Thomas School of Law, as a Catholic law school, is dedicated to integrating faith and reason in the search for truth through a focus on morality and social justice.”).

faculty hiring. It is certainly true that *personnel is mission*—that an institution’s mission will languish and die from neglect if it is not embraced and taken up by those responsible for the work that it performs. But it is also true that *mission is personnel*—that the stated goals, values, and ways of acting within an institution reflect the specific individuals present and will change as those individuals change.

APPENDIX

UNIVERSITY AFFILIATED CATHOLIC LAW SCHOOLS IN THE UNITED STATES

SCHOOL	Year Opened- Closed, Reo- pened	ABA Ac- creditation	AALS Ac- creditation
St. Louis	1842-1847, 1912	1924	1924
Notre Dame	1869	1925	1924
Georgetown	1870	1924	1902
Catholic	1897	1925	1921
Creighton	1904	1924	1907
Fordham	1905	1936	1936
Loyola Chicago	1908	1925	1924
Marquette	1908	1925	1912
Duquesne	1911	1960	1964
Santa Clara	1911	1937	1940
DePaul	1912	1925	1924
Detroit-Mercy	1912	1933	1934

Gonzaga	1912	1951	1977
San Francisco	1912	1935	1937
Loyola New Orleans	1914	1931	1934
Xavier	1919-1934		
Loyola Los Angeles	1920	1935	1937
Dayton	1922-1935, 1974	1975	1984
St. John's	1925	1937	1946
St. Thomas MN	1926-1933, 2001	2003	2012
Boston College	1929	1932	1937
St. Mary's	1934	1948	1949
San Diego	1949	1961	1966
Seton Hall	1951	1951	1959
Villanova	1953	1954	1957
Pontifical Catholic Puerto Rico	1961	1967	
St. Thomas FL	1984	1988	2001

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Seattle	1994	1994	1974²²⁰
Barry	1995	2002	2006
Ave Maria	2000	2002	

²²⁰ The law school that became Seattle University School of Law was founded as the University of Puget Sound School of Law in 1972. Seattle purchased the school from Puget Sound in 1993 and began operating the school as part of the university in 1994.