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# REFLECTIONS ON THE 25TH ANNIVERSARY OF THE REOPENING OF THE UNIVERSITY OF DAYTON SCHOOL OF LAW

*The Honorable Walter H. Rice\**

Although the new Law School Building is well into its third year of existence,<sup>1</sup> one still cannot look at this still relatively new structure and contemplate how far the Law School has come, from somewhat humble beginnings in the basement of Albert Emanuel Hall some twenty-five years ago, without exclaiming "Wow! Wow! Who would have ever thought it?"

To understand this sense of awe and wonderment, you have to look back in time to a point almost thirty years ago, and to Dayton in the early 1970's. Back then, Dayton was a city of a quarter million people not yet without its industrial base and with a thriving downtown and solid, middle class neighborhoods. Dayton was, in those years, and had been for many years previously, nothing less than the very best large city in the entire State of Ohio in which to practice law. Why was this? Elementary! It was the only large city in the State of Ohio without a hometown law school. Each year, three or four or, at the very most, five new lawyers would find their way to Dayton, would quickly be absorbed in the practice and, if they were willing to work hard, would soon find themselves succeeding, either as a private or public practitioner.

When one considers this background, it is easy to understand why our Law School was greeted, among the practicing Bar, with all the enthusiasm typically reserved for carriers of bubonic plague. Of course, Dayton did have a law school at one time in the 1920's and 1930's, a school that graduated many of the leading members of the Dayton Bar.<sup>2</sup> However, the Law School, a victim of the depression years before, had gone out of existence. For forty years it was not replaced and, for that matter, as the 1970's dawned, there did not seem to be a consensus or a ground swell of support, such as would be required to bring a new law school into being.

With that in mind, it is surprising that events moved so rapidly in 1972. Early in that year, Wright State University was awarded a medical school by Ohio's Board of Regents. All of a sudden, as if from nowhere, rumors started circulating that a new law school was in the works, probably headed for Miami University or, for that matter, to Wright State to join the fledgling medical school. This move that would have seriously tipped the

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\* Chief Judge, United States District Court for the Southern District of Ohio.

<sup>1</sup> Present third year law students have no recollection of somewhat more primitive surroundings and conditions.

<sup>2</sup> Herbert Jacobson, for over forty years a leading criminal trial prosecutor, and long-time County Prosecuting Attorney, Mathias Heck, Sr., to name just a few.

balance of prestige, esteem and fund-raising capability, at least insofar as graduate school was concerned, to that new university, just then emerging from its earlier image as one building in the midst of a very large corn field. When a group of entrepreneurs, not a lawyer among them, announced plans to form a private, non-university affiliated law school in Dayton, under the name "The Dayton Law School," and when they followed it up by announcing that their Board of Trustees included every Judge and leading lawyer in the Dayton, Montgomery County area,<sup>3</sup> the University of Dayton had had enough. In the twinkling of an eye, then University President, Father Raymond Roesch, formed a feasibility committee to investigate whether there was a need or a market for a new law school in the greater Dayton area and, if so, whether it might be best for all concerned if such a law school were affiliated with the University of Dayton.

The committee met on five or six occasions, under the leadership of the Dean of the Business School, William Hoban. While we kept ourselves busy studying demographic trends generally, and trends in the legal profession specifically, coupled with the economics and costs of a university providing a school of law on its menu of departmental offerings and the resultant benefits to that university, there was always an unspoken thought: "If we don't put a new law school at the University of Dayton, then it will go elsewhere and the university will have missed a great opportunity, such as would never come its way again." Our committee, consisting of lawyers and a few Judges, as well as members of the University administration, had the distinct impression that we were in the process of compiling a report whose conclusions were pre-ordained and that would tell the administration exactly what it wanted to hear. In other words, there was a desperate need for a new law school in our community and that it would benefit the University of Dayton greatly were it to offer such a program. We did not mind, however, given that each of us, by this time, was enthusiastic about being on the ground floor of a new and exciting venture.

Not surprisingly, our committee report unanimously endorsed the idea of a University of Dayton affiliated law school and, when the University Board of Trustees endorsed the report several weeks later, the law school was off and, well, not *quite* running. Within a matter of weeks, however, Professor Norman George was named Acting Dean of a still, non-existent law school -- a law school with no students, no faculty, no library and, perhaps most important of all, no classrooms or administrative offices.

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<sup>3</sup> These announcements came much to the surprise of each and every one of those Trustees, who had not been consulted about their willingness to serve.



Within a short space of time, however, palatial quarters were located for the fledgling law school in a few small rooms in the basement of Albert Emanuel Hall.

The new University of Dayton School of Law welcomed its first group of students, members of the Class of 1977, during the week before Labor Day, in August 1974. Included as a member of that initial faculty was a much younger, but not quite as distinguished looking, Professor Dennis Turner. From the beginning, our school's new students were different from law students at other schools. The Class of 1977 and, for that matter, those who comprised the classes up through the early 1980's were a tremendously diverse group. This group, of course, consisted of traditional students fresh from college. However, it also consisted of many older students who had finished their undergraduate careers years before and had in the interim spent many years in business or other professions, but who had always wanted to go to law school and found that a new law school was available in their very community. Such a delicate mix of youth and maturity produced a student body that had a sense of excitement and a sense of being a pioneer in a new and exciting venture - a synergy that helped "jump start" this law school to the point where, by the early 1980's, its graduates were already making a significant impact in the legal profession and legal culture of the greater Dayton area.

This was not easily accomplished, however. When the Class of 1977, as bright a group as has ever graduated from this law school,<sup>4</sup> made their first halting steps into the local job market, they found doors closing, loudly, all over the community and beyond. People were simply not willing to take a chance on graduates of a new and, as yet, untested law school. However, this soon changed radically. The new law school came to be, first grudgingly, and then enthusiastically, accepted by our community, because of those highly intelligent, pioneering law students of the Classes of 1977 through 1982, a relatively young faculty who had trained those students so well and, not least of all, the founding Dean, Richard Braun. Dean Braun was the ideal person for a new law school - truly the right person at the right place at the right time. Through a combination of charm, diplomacy, hard work, an unwillingness to take "no" for an answer, the temerity to disagree with Judge Carl Kessler, the then all powerful Ayatollah of the Common Pleas Court, innovative programs, continuous outreach to the legal and non-legal community and through a deep belief in the future of this law school, Dean Braun literally stormed the ramparts of skepticism

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<sup>4</sup> The Class of 1977 consisted of future leaders of the Bench and Bar, Common Pleas Judges, public office holders and successful practitioners among them.

and opposition among our area's legal community. Dean Braun did this so well that, by the end of his tenure, UD Law School graduates were placed in all aspects of the legal profession, public and private, and our law school enjoyed, at least in our community, the excellent reputation it continues to hold today.

Through the years, through a succession of Deans, interim and permanent, and up to today, the law school has increased its reputation beyond the borders of the greater Dayton community to the point where it is a recognized force in legal education throughout the Midwest. I confidently predict that our new facility will push our favorite law school to the next level - a level where it is recognized, throughout the country, because of its innovative programs and diverse student body as one of the leaders in legal education in the 21st century.

I hope that you are proud of your law school and the fine reputation it has achieved. Graduates of this law school are among the leaders of the Bench and Bar, not only in this community, but also throughout the United States. In the Greater Dayton legal community, University of Dayton Law School graduates are prominent in law firms, both large and small, and as sole practitioners, and are beginning to occupy positions of prominence in government as Judges at all levels and in the business life of our community. This reputation and the increased recognition and acknowledgment of its leading, cutting-edge role in legal education in the future will make your degree from, and your affiliation with, this fine law school an even greater asset than it is today, for as long as its graduates practice our profession and for as long as our faculty members educate the leaders of the next generation.

I cannot close this all-too-inadequate article without saying a few words of appreciation to the one individual who pulled it all together and who is, more than any single one individual, responsible for both the position this school now enjoys and for its unlimited potential in the next century. Without the tireless efforts of Dean Francis Conte, aided and abetted by the respect and admiration that each member of our legal community has for him, Joseph Keller Hall would still be nothing more than a set of plans sitting in some architect's office and the reputation of our law school would have barely spread beyond our immediate area. Only an individual who is so widely respected and admired by all segments of the Bar, the alumni and the community as a whole, can generate the necessary enthusiasm and support for an institution of learning that will make possible not only an incredible physical structure but a greatly enhanced academic reputation as well. If Dean Braun was the ideal founding Dean of this law school, then Dean Conte has been nothing less than the perfect person to take it to its present level and beyond, not only in the sense of

this law school's academic achievements, but also in the realm of providing *our* law school and *our* profession with a law school that truly will be a bridge to the future.

I am so very proud of our law school. The accomplishments of its graduates, many of whom I was fortunate to have as students in my classes in Trial Practice, have made me very proud. I have a particular debt of gratitude to those graduates who have served as my law clerks, a number now approaching double digits, able lawyers who have, over the years, kept me out of difficulty with our Sixth Circuit Court of Appeals.

The accomplishments of our graduates have reflected well upon our law school and our profession. I hope that those graduates are proud to be attorneys and of what our profession has accomplished. Let them always carry the lessons learned at our special institution and pledge to continue to defend that profession with all their hearts and with all their souls, every day of their professional lives. Let them pledge, also, to make our system of justice work and continue to provide, throughout the next century and beyond, for the protection of individual freedoms and liberties against the ever present danger that those freedoms and liberties will be compromised in the name of expediency or some ephemeral, short term goal.

