



The 2005–2006 academic year will mark the 50th anniversary of Professor Robert Rodes’s tenure with the Notre Dame Law School. The article that follows is a reminiscence that he offers upon this occasion.

That Rodes has had significant influence upon the Notre Dame law school community during this half-century finds testament in many ways, not the least of which is the sheer number of students with whom Professor Rodes has come in contact, as well as his impressive repertoire of scholarship, including nine books, thirty-plus articles, and countless book reviews and contributions.

In an article written for volume 73 of the 1997–98 Notre Dame Law Review, Professor emeritus Thomas Shaffer said of his colleague:

When I had the chance to leave law practice and become a full-time law teacher, I turned, in the time-honored fashion, for advice from my law teachers. The most memorable and persistent of these—the most cheerful, too, and therefore the most hopeful—was Robert E. Rodes, Jr., then a young (36) transplanted New Yorker, Harvard law graduate, and Boston lawyer....Rodes told me he had come to teaching and to Notre Dame because he wanted a contemplative life—not an obvious vocation for the father of seven, teaching four sections of law classes per semester, faculty advisor for the law review and already a prolific scholar. Thirty-five years later, those who continue to learn from him, as his seventieth birthday has come and gone, would guess that he has done what he wanted to do when he came to Notre Dame in 1956, and that is nowhere more evident than in his unique theological jurisprudence.”

Introduction by Carol Jambor-Smith  
Essay by Professor Robert E. Rodes



That Rodes’s enthusiasm for his chosen life continues is evident in a quote on his Web page: “Chief among the pleasures of teaching here for the better part of a lifetime has been the company. My work has been a blend of law with various kinds of history and theology, and it has never lacked for encouragement, understanding and useful criticism from students and colleagues over the years.”

In 1957, Rodes authored “Law at Notre Dame,” a booklet written for newly-admitted students to the law school. In its introduction, he wrote:

*Whether your subsequent legal career puts you on the bench, in the courtroom as an advocate, or in an office advising clients, you will be playing a part in the accumulation of tradition that will shape and reshape the system for generations to come. You will be at the heart of the institutions that make us great and that made us free.*

Because of his tutelage, countless NDLS graduates display the ethical, moral, and professional principles that form the foundation of a Law School education. Indeed, Professor Robert Rodes has been an integral part of the tradition of preparing the “Different Kind of Lawyer” that is a Notre Dame Law School lawyer.





# Science

**T**he most important thing about the Law School as it was when I came here in 1956 is that Joseph O'Meara was Dean. He was a tax lawyer from Ohio, and Father Hesburgh brought him on board shortly after becoming President. He was a man of total dedication and integrity, and in many ways a mentor to me. He was courtly, and, under a craggy exterior, kind. He was a man of few words, many of them lapidary. When asked how he was, he would say "in my usual ill humor." On things in general, he said, "The world is in a hell of a state...[sententious pause]...and always has been." He was in fact a master of the sententious pause: "Nobody knows the harm that is done by a bad lawyer." A hapless alumnus once chided him for making the Conflicts course compulsory. "In twenty years of practice," he said, "I haven't had a Conflicts case." In his best sepulchral tones (many of his remarks were uttered in sepulchral tones), O'Meara responded, "You only think you haven't." On legal education, he was more than exigent.

"The most important thing a law school can have is a firm tradition of sustained hard work." There was a rumor that he went to the Grotto the night before exams and blew out all the candles. It wasn't true, but he loved it.

His great contributions to the hard work tradition were the compulsory curriculum and the unlabeled examination. His theory on abolishing electives was that students could not know enough about their profession to elect intelligently, so they chose courses that would not cut into their social lives. His theory on exams was that a client didn't come into a lawyer's office with a problem neatly labeled "Torts" or "Contracts" or "Business Associations." So the students came in three evenings in a row, and answered a package of questions from different courses, guessing which of their teachers would grade their answer to this one or that. There was also the dreaded Comprehensive Examination. As I recall, it came a week after the main exams. Each question involved two different courses (again, of course, not labeled) and courses from the two previous semesters as well as the current semester could be used. Your grade on the Comprehensive Examination was half your G.P.A. for the semester. I always felt that thinking up and grading these questions was as complicated a task as answering them, but Bob Blakey, who has done both, insists that taking them was worse.

The students who underwent this rigorous treatment may not have been as bright on paper as their successors today, but I haven't really noticed much difference in that regard. The most important differences between students then and students now involve gender and number. Our first woman graduate was Grace Olivarez in 1970. We had admitted two women a couple of years before Grace, but the isolation proved too much for them, and they dropped out in their first year.





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Some of us younger faculty members had been working for some time to get Dean O’Meara to admit women, but he had steadily refused. He alluded to the lack of adequate restrooms as an excuse, and we passed a resolution offering to give up the faculty restroom and use the student facilities. I don’t think that was what led the Dean to change his mind.

Our graduating classes were generally just short of forty members. Seventy-some-odd would enter, and half would either quit or flunk out. Blakey’s class (1960) started at 75 and graduated 35. We were pretty inclusive in our admissions and, indeed, were required to admit anyone with a Notre Dame degree who applied. We eventually got up a form letter to discourage Domers with low LSATs and low grades from applying. We told them what percentage of people with their numbers had made it through in the previous few years. We prided ourselves on feeding our best graduates into the major corporate law firms. The traditional American success story of the son of working class parents achieving middle class status and professional distinction through education was still operative for a good many of the Catholic ethnic groups that provided most of our students, and the social forces that brought on the dichotomy between corporate and public interest practice had not yet manifested themselves. Some of our graduates went into government service—notably Blakey, who entered a Justice Department program for honor graduates, fetched up in the midst of Robert Kennedy’s campaign against the Mafia—and never looked back. But legal services for the poor were in a haphazard state with very few full-time lawyers. There was an office downtown where we spent an afternoon from time to time dealing with poor

people’s problems, and the local bar supported one newly admitted lawyer to work for the poor. Oddly enough, none of us realized that this service was inadequate. There was little enough demand for it because most of the poor didn’t know it was available. When Lyndon Johnson’s Anti-Poverty Program funded serious Legal Services offices, Con Kellenberg set one up in South Bend, with offices in all the poor neighborhoods. Later, when everybody realized that the offices existed, it became possible to consolidate them in one place so the program could be more efficiently run. It was the same Anti-Poverty Program that made the service of the poor an aspiration for many of our graduates and an option for some of them.

When I first came, there was a faculty lunch room in the basement of the Morris Inn. It was moved soon after to the Oak Room, upstairs in the South Dining Hall. Faculty from all over the University ate there if they did not brown bag or go home for lunch. So there was a good deal of informal mingling. The Law School contingent ate regularly with philosophers, theologians, mathematicians, and a biologist or two. Anything human gets legislated or litigated over sooner or later, so we tended to catalyze interdisciplinary discussions among our colleagues from other departments. I remember a philosopher saying nobody but the lawyers talked philosophy at lunch.





When you ask somebody what has changed in forty-some-odd years, the first answer has to be the person you are asking. When I first came, and for many years afterward, I had an office in the basement of the building, and I remember when I was thin enough and lithe enough to climb in the window if I forgot my keys. (So, by the way, was whoever stole my typewriter.) Prescinding from changes in me, I suppose the major change is that both the Law School and the University were a lot smaller than they are now, and rather less hung up on scholarship. Then as now there was a maxim, “Publish or perish” (“Publish or parish” in the case of our CSC colleagues), but it was not as inexorable or as hard to satisfy as it seems to be now.

On the whole, then, I think my younger colleagues are busier writing than I was at their age, and less broadly acquainted with people from other disciplines. On the other hand, they are probably more ensconced in the higher reaches of academe than we were in the old days. Once I showed my faculty ID to cash a check, and I was asked if it was a ticket to a football game. I don't think that happens anymore.

