Turning Points in the History of St. Mary’s University School of Law (1980–1988)

Vincent R. Johnson
St. Mary’s University School of Law

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ARTICLE


VINCENT R. JOHNSON*

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This article has benefited from the input of my long-time colleague, Geary Reamey, and his wife Kay L. Reamey, Class of 1988. I also discussed my recollection of selected issues with professors Michael Ariens, Bonita Roberts, and Robert Summers, and Dean Emeritus Charles E. Cantú.
The history of any institution tends to vanish unless it is set down in writing. This is true even of law schools, like St. Mary’s, which have existed for almost a century. Founded in 1927 by the San Antonio Bar Association as the San Antonio School of Law, and initially operated in the Bexar County Courthouse, the law school was transferred to the care of St. Mary’s University during the depths of the Great Depression. The program of legal education was housed for decades in the university’s historic building on the San Antonio River at 112 College Street, where resources were few. 

During the 1920s the number of American law students increased significantly. This was also true in Texas, where the number of law schools increased dramatically. By 1934 the Annual Review of Legal Education indicated that fifteen law schools were operating in Texas. Most of them disappeared within a few years, victims of the Great Depression, and by the end of the 1930s Texas had four law schools affiliated with universities—Baylor University School of Law, Southern Methodist University School of Law, St. Mary’s University School of Law (founded in 1934), and the University of Texas School of Law—and one independent school, South Texas College of Law.

Id.
and facilities were modest.  Circumstances improved dramatically in 1967 when the School of Law, with the help of President Lyndon Baines Johnson, moved across the city to three beautiful new law

5. In November 2001, when I was the law school’s Associate Dean for Administration, I prepared an article for publication in connection with the forthcoming seventy-fifth anniversary of the School of Law, which was marked in 2002. That article was never published. My draft of that article states:

Former [D]ean Ernest A. Raba wrote in 1972:

“When [the law school] opened its doors at 112 College [in 1934], it did so without a Law Library. These were the days of the depression. Tuition income was low; the chill Winter and the heat of Summer were very pronounced within the old Limestone walls, and the lighting facilities reminded one of a bleak and misty January day. Yet there was enthusiasm, a dedicated and self-sacrificing law faculty, and a will on the part of the students and their professors to survive . . . and to make an enduring institution of professional and academic excellence.”

Originally offering only evening classes, the law school’s day division was not established until 1936. But shortly thereafter World War II intervened. The day program was suspended, and the school again became only a part-time law school. During that period Dixon Gulley, Leslie Merrem, and Judge Raymond Gerhardt heroically undertook to keep the school from closing by teaching practically all of the law courses with only slight remuneration.

A newsletter reported in 1975 that “From 1946 until 1965 the School of Law was in dire financial straits and [Dean Raba], together with Paul Casseb, Judge James Norvell, Sol Casseb, Charles Smith, and James Castleberry beat the pavement and called on all the law firms to help make up the budgetary deficit because tuition did not pay the cost of operation.”

Vincent R. Johnson, Becoming a Great Law School (Nov. 25, 2001) (unpublished article) (on file with author). I no longer have the source materials on which I relied for the above quotes.

6. However, overcrowding of the Law Center was a problem at least until the opening of the Sarita Kenedy East Law Library in 1984.

According to a 1979 interview, Castleberry, reflecting on his first year as dean, lamented that “The one goal he did not achieve was his failure to obtain a commitment from the University to lower the law school enrollment target.” While the law faculty believed that the student body should be capped at 575 students, the university mandated enrollment of 660. According to Castleberry, the seating capacity in the library was “grossly inadequate” and the 41:1 student to teacher ratio had to be improved.


8. See Aloysius A. Leopold, A Tribute to Ernest A. Raba, Dean (1946–1978), ST. MARY’S UNIVERSITY SCHOOL OF LAW, 40 ST. MARY’S L.J. 3, 3–5 (2008) (“Dean Raba was instrumental in obtaining financing for three new buildings: a library, a classroom building, and a faculty office building which were . . . built in 1967 on the University’s Woodlawn campus. The funding for these buildings came from a $610,000 grant and a $912,000 loan from the U.S. Department of Health, Education, and Welfare
buildings that were part of a multimillion-dollar expansion at the university’s main campus at One Camino Santa Maria. That location has been the home of the law school for more than fifty years.

Thus far, there have been seven important—albeit partial—written histories of St. Mary’s University School of Law. The first to appear was Dean Ernest A. Raba’s sixty-four-page paperback book, published in 1983. That handsome work is a simple affair, fastened not with a binding but by two staples that join its unnumbered pages. There is no table of contents, no index, and thirteen single-asterisk footnotes. When spread open, the front and back covers of the history display a beautiful color picture of the northeast façade of the Law Center’s iconic round building (which was rechristened in 1985 the “Ernest A. Raba Law Building”). In the photograph, that structure, which then housed the law library, stands behind tall palm trees. The photograph was taken on a day with a clear blue, cloud-dappled sky, the kind of day that is typical of San Antonio throughout much of the year. Locally published in limited


11. RABA, supra note 3.

12. See infra Part XI.


quantities for distribution by Raba and the law school. Raba’s history contains classic photos related to legal education at St. Mary’s up to 1981 and the best record of information about the early days of the law school (not to mention a complete listing of the persons who graduated between 1935 and 1981). A digital copy of the text of Raba’s book can be found on the website of the law school’s Sarita Kenedy East Law Library.

According to WorldCat, Raba’s history is held by only three libraries. The other six histories of the law school have been published—or soon will be published—in the *St. Mary’s Law Journal* or *The Scholar: St. Mary’s Law Review on Race and Social Justice*, and thus are available in print in scores of law libraries and electronically via Westlaw, LexisNexis, and HeinOnline. The most significant of those works is Dean Emeritus Charles E. Cantú’s richly

15. For years after its publication, boxes of extra copies of Raba’s history were stashed in closets in the law classrooms building. I sometimes came across them when I was looking for things. Some, but not all, of the copies I have seen contain a pasted-in half sheet listing the names of graduates that were omitted from the original printing.

16. See RABA, supra note 3 (“This history is restricted to the years 1927 through May 31, 1981. Only those photos of the faculty during this time appear in it.”).


18. See The St. Mary’s University School of Law: A Personal History, WORLDCAT, https://www.worldcat.org/title/st-marys-university-school-of-law-a-personal-history/oclc/9509675 &referer=brief_results [https://perma.cc/V7XB-9JC5] (indicating that The St. Mary’s University School of Law: A Personal History, by Ernest A Raba, was published in San Antonio, Texas by St. Mary’s University School of Law in 1983, and is available in the Sarita Kenedy East Law Library at St. Mary’s University, and the Howard W. Hunter Law Library and Harold B. Lee Library, both at Brigham Young Library in Provo, Utah).

One other book by Dean Raba is part of the Kenedy Library Collection: E RNEST RABA & CARROLL SIERK, TEXAS CASES OF THE LAW OF AGENCY (1962–1963). The book consists of two thin volumes (containing 119 and 103 pages, respectively) of edited case opinions and statutes that were probably used as teaching materials at St. Mary’s University School of Law. The book is typewritten (seemingly with a manual typewriter) and printed on one side of a page. There is no explanatory text. Except for a few stray introductory sentences at various junctures, all of the material is quoted from other sources. Since volume one is dated 1962 and volume two is dated 1963, the books may have been used as student reading materials for teaching a two-semester course. The preface in each volume is by Sierk, not Raba, so it is possible that Raba’s name was added to the volumes as a courtesy, and that Sierk was mainly responsible for editing the cases and statutes. Id.

detailed oral history, publishing in edited form in 2019 and covering his more-than-half century at the law school as a student and faculty member.20

The other five historical works focus on special law school programs or constituencies. In 2015, former clinical professor of law Sue T. Bentch published in the *St. Mary’s Law Journal* a comprehensive thirty-five-page account of the founding of the law school’s clinical operations.21 The article is an excellent work that could only have been written by one who participated in that complex and important transformational process. In 2019, Barbara Nellermoe, a Senior Texas District Judge and former editor in chief of the *St. Mary’s Law Journal*,22 is publishing a history of the journal’s first fifty years.23 That engaging article tells the story of the journal’s founding and its growth into a leading American law review. In 2019, Regina Stone-Harris, an instructor at the law school and former editor in chief of the *St. Mary’s Law Journal*,24 will publish a history of women at St. Mary’s University School of Law, which documents an important story of female engagement with the law dating back to the early days of legal education at St. Mary’s.25

In 2017, a ten-page history of the founding of *The Scholar* was published in that law review by Bill Piatt, who as dean of the law school was instrumental in the creation of the law school’s second journal in 1998.26 Finally, my forty-four-page history of Chief Justice William H. Rehnquist’s four summers teaching for St. Mary’s University School of Law in our summer program in Innsbruck, Austria, appeared in the *St. Mary’s Law Journal* in 2006.27

These seven histories offer the fullest written record of the life of the law school. They are augmented by the occasional tributes or memorials

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20. Cantú, supra note 19.
22. Judge Nellermoe was editor in chief of Volume 14 of the *St. Mary’s Law Journal*. Nellermoe, supra note 19, at 1.
23. Id.
25. See Stone-Harris, supra note 19.
27. Johnson, supra note 19.
celebrating faculty members,28 friends,29 or programs30 of the law school that have appeared in the St. Mary’s Law Journal or The Scholar. However, no
one has yet attempted to write a comprehensive history of the law school, nor have any members of the faculty published autobiographies.31

Having taught law at St. Mary’s since 1982, I am now (in September 2018) tied for tenth longest-serving faculty member in the history of the School of Law.32 Much of this article is a first-hand account of what I remember. In


31. At least one exception should be noted: Professor L. Wayne Scott co-authored a book about growing up in Lockhart, Texas. See Jim Stedman, Introduction, in LOCKHART MEMORIES: GROWING UP IN SMALL TOWN TEXAS IN THE 1940S AND 50S, at 7 (Jim Stedman ed., 2015) (“This collection of memories and stories started as a project dreamed up by Wayne Scott and Jim Stedman with the aim of collecting the recollections of our peers about growing up during the 1940s and [50s.”).

32. My count of the lengthiest full-time service records at the law school is set forth below (* indicates deceased; ** retired; *** still in service). The hiring and retirement dates that are shown in
parentheses were provided to me by the St. Mary’s University Human Resources office, except as noted below. E-mail from Elsa Ybanez, Dir. of Human Res., St. Mary’s Univ., to author (Aug. 21, 2018) (on file with author); E-mail from Elsa Ybanez, Dir. of Human Res., St. Mary’s Univ., to author (Oct. 25, 2018) (on file with author). As of November 1, 2018, the sixteen longest serving members of the law faculty were:

1. Charles E. Cantú** (September 1, 1966 to December 31, 2016), 50 years and 4 months.
2. Aloysius A. Leopold** (June 1, 1967 to May 31, 2015), 48 years.
3. L. Wayne Scott*** (August 20, 1971 to present), 47 years and 2 months.
4. David A. Dittfurth*** (September 1, 1975 to present), 43 years and 2 months.
5. Ernest A. Raba* (June 1, 1946 to May 31, 1987), 41 years.
6. Robert L. Summers Jr.*** (June 1, 1981 to present), 37 years and 5 months.
10. (tied) Vincent R. Johnson*** (August 23, 1982 to present), 36 years and 2 months.
11. (tied) Gerald S. Reamey*** (August 23, 1982 to present), 36 years and 2 months.
12. David A. Schlueter*** (August 19, 1983 to present), 35 years and 2 months.
13. (tied) Mark W. Cochran*** (August 26, 1985 to present), 33 years and 2 months.
14. (tied) Victoria M. Mather*** (August 26, 1985 to present), 33 years and 2 months.

In compiling this list, I have ignored sabbaticals, leaves of absence, medical leaves, and phased retirement. Occasionally, a retired member of the faculty has been engaged to teach a course for the law school. In my calculations, I have ignored such post-retirement service.

In the list set forth above, the hiring and retirement dates for Dean Ernest Raba were calculated as follows: The information provided by the Human Resources office indicated that Raba was hired on September 15, 1938 and retired on May 31, 1992. However, the HR spread sheet expressly noted, with respect to Raba, “[D]ates found but unable to determine all work was full time.” E-mail from Elsa Ybanez, Dir. of Human Res., St. Mary’s Univ., to author (Aug. 21, 2018) (on file with author). Therefore, the dates supplied by HR for Dean Raba were deemed unreliable for purposes of defining the length of his service as a full-time faculty member. A tribute to Dean Raba, published by Professor Al Leopold at the time of Raba’s death, states:

Dean Raba attended St. Mary’s University in San Antonio where he graduated summa cum laude in 1934. He then went on to attend St. Mary’s University School of Law where he graduated in 1937 at the top of his class.

From law school he began a practice of law, while at the same time teaching in the law school as an adjunct professor. After serving in the Judge Advocate General Corps during World War II, he returned to San Antonio in 1946. Soon thereafter, Mr. Raba was appointed dean of St. Mary’s University School of Law.

Leopold, supra note 8, at 3 (emphasis added). Thus, it appears that Raba did not begin to work at the law school on a full-time basis until 1946. For purposes of my calculations, I have set Raba’s starting date as June 1, 1946, on the assumption that Raba would have been hired at least a few months prior to the start of the academic year. Several of the longest serving faculty members listed above had June 1 starting dates.

Raba retired from full-time teaching at the end of the 1986–1987 academic year. Geary Reamey and I, and many of our colleagues, attended the retirement dinner at The Bright Shawl in May 1987, which honored Raba and Orville Walker, both of whom were retiring. Michael Ariens, who joined the
writing this article, I have, of course, checked my files, talked with colleagues, and conducted research where that seemed appropriate.

This work attempts to capture details—often small details—about the life of the law school during most of the 1980s (specifically 1980 to 1988). That period encompasses the bulk of the deanship of James N. Castleberry, Jr. His presence looms throughout this work.

Some of the moments discussed here have proved to be turning points in the history of the law school. At the time, they were “tumultuous.” Other moments were not so important, but explain what life was like at the law school during a certain era. I have assumed that the reader is generally familiar with the law school and the City of San Antonio, Texas, the geographic home to which St. Mary’s University is inextricably linked. Additional information about common institutional history markers, such as persons, dates, buildings, and programs can be found in the seven histories mentioned above.

Although I did not arrive until 1982, the article begins a bit earlier in 1980. This is because it is not possible to fully appreciate the events that took place at the law school in the mid- and late-1980s without understanding the hiring boom that took place between 1980 and 1983. The story ends in 1988 with the non-reappointment of Castleberry because, at that point, the focus shifts from Castleberry to the search for his successor, Barbara Bader Aldave.


The law faculty grew tremendously in the early eighties. Between 1980 and 1983, ten persons were added to the ranks of the full-time faculty.

faculty at the start of the 1987–1988 academic year vividly recalls that he was hired “to replace Raba” in teaching Constitutional Law, and that Raba never taught that subject again. Interview with Michael Ariens, Professor of Law, St. Mary’s Univ. Sch. of Law, in San Antonio, Tex. (Oct. 23, 2018). After his retirement in 1987, Raba retained the title of dean emeritus, and continued to have an office at the law school until the early 1990s, but he was not a full-time member of the faculty. Thus, Raba’s retirement date has been calculated as May 31, 1987, the end of the 1986–1987 academic year.

33. After reviewing a draft of this article, Geary Reamey commented:

[You’ve described Jim [Castleberry] and his actions accurately. I think the reader will get a strong sense of the climate at the school during those tumultuous years, although there’s always the risk that a reader will think much of this has been exaggerated. That can’t be helped, I believe. Having lived it, I sometimes have trouble believing some of it myself.

E-mail from Geary Reamey, Professor of Law, St. Mary’s Univ. Sch. of Law, to author (Aug. 16, 2018) (on file with author).
The growth started slowly in 1980, when Doug Haddock joined the faculty. Then the boom arrived in 1981, when six new professors—Glen Ayers, John Schmolesky, Bonnie Roberts, Gerry Beyer, Bob Summers, and Henry Johnson—were added to the faculty in a single year. That momentous spurt of hiring six full-time, tenure-track law professors has never again been duplicated at St. Mary’s. Then, in 1982, Geary Reamey and I were hired, and in 1983 David Schlueter joined the faculty.

Bringing ten new persons onto the faculty in four years was nothing short of astounding, for the voting faculty in 1983 totaled only twenty-five persons. Thus, at the start of the 1983 academic year, 40% of the full-time

34. Glen Ayers, who was a visiting professor at the law school in 1977–1978, joined the faculty with a full-time appointment in 1981. He arrived on campus before the other five new hires, perhaps in time to teach in the summer session, and was the first to leave the faculty when he was appointed by the Fifth Circuit to be a bankruptcy judge in 1985 at the age of thirty-seven. See Chief Justice Ronald B. King, Roderick Glen Ayers, Jr. (1947–2017), SAN ANTONIO LAW., Mar.–Apr. 2018, at 7–8 (“[Ayers] began teaching at the law school at Ole Miss” and “in 1981 . . . moved to San Antonio to teach UCC and bankruptcy courses at St. Mary’s Law School”); Gargotta & Davis, supra note 28, at xvii (“Glen was enormously proud of his students and delighted in their success. Glen’s wit, inspiration, and humor is the reason why a number of his students went into bankruptcy practice . . . .”).

35. John Schmolesky served as a Fulbright Scholar to Brazil (1988) and was a consummate expert in criminal law. He died in 2018. “The U.S. Supreme Court was among the many state and federal courts to quote or cite Professor Schmolesky’s scholarship. For [twenty-eight] years, he was the sole author of the State Bar of Texas’s weekly Criminal Law Digest. With Professor George Dix of the University of Texas, he co-authored a six-volume treatise, Criminal Procedure Law, published by Thompson/West, which he updated twice yearly.” Memorandum from Stephen Sheppard, Dean, St. Mary’s Univ. Sch. of Law, to St. Mary’s Univ. Cmty. (July 26, 2018) (on file with author).


37. Henry Johnson, who was known in written memos as “H. Johnson” during the years that we overlapped on the faculty, taught business-related courses. He died in 2008. Roberts, supra note 28, at 7.

38. According to Raba’s history, the faculty had eighteen members as of May 31, 1981, in addition to himself. See RABA, supra note 3 (identifying “[f]the Faculty as of May 31, 1981” in photographs). If all nineteen members of the May 31, 1981 faculty had remained on board, the addition of six new faculty members would have meant that the faculty increased by more than 30% in a single year. However, two members of the May 31, 1981 faculty (Sr. Teresa Trimboli, F.M.I. and James E. Godwin) did not continue as members of the faculty after that date. See 13 ST. MARY’S L.J., no. 2, 1981, at faculty page (showing Trimboli and Godwin are no longer listed as members of the faculty). Thus, in academic year 1981–1982, more than 25% of the faculty members (6 divided by 23) were new.

39. There are different types of faculty members, including among other categories, full-time, part-time, and special status. At St. Mary’s, the core of the law faculty is comprised of the faculty members who can vote on academic matters at faculty meetings. That excludes adjunct
professors at the school had been on board three years or less. Perhaps more significantly, all ten new faculty members were young, and they hailed from places more far-flung than the rest of the faculty.

Why did the faculty change so quickly between 1980 and 1983? The need for so much hiring appears to have been two-fold. First, financial pressure from the university had forced the law school to enroll more students than the law faculty wanted to admit. According to documents from the era, by the late 1970s the student–faculty ratio had risen to an utterly unacceptable 41:1, far beyond the conventionally accepted 20:1 balance. It was essential to add faculty to achieve a more reasonable ratio in order to maintain accreditation.

Second, I was told by a San Antonio lawyer who taught on the law faculty just prior to the 1980–1983 hiring wave that salaries were so low that it was hard to retain good professors. Hence, one or more vacancies may have arisen for that reason.

A good source for determining who was on the law faculty during a particular year is the listing of faculty members published at the front of each issue of the *St. Mary's Law Journal*. That listing is normally updated by the business manager for the *Law Journal* at the beginning of each academic year. When Volume 12, Issue 1 of the *St. Mary's Law Journal* was published, presumably in the fall of 1980, the listing of the faculty included, among others, Archie S. Brown, Shirley W. Butts, Sheila E. Cheaney, George E. Glos, and Paul B. Renner. Those five persons were no longer on the faculty when Issue 4 of Volume 12 was published, presumably in the summer of 1981. The financial pinch at the law school may also explain why the school hired young professors, some of whom, like myself, had little

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40. *See Johnson, supra note 5* (quoting Castleberry as stating that the student-to-teacher ratio during his first year as dean (1978–1979) was 41:1 and had to be improved).
41. However, occasionally one can deduce that the list was not updated until later in the year.
43. *See 12 ST. MARY'S L.J.*, no. 4, 1981, at faculty page (indicating that Archie S. Brown, Shirley W. Butts, Sheila E. Cheaney, George E. Glos, and Paul B. Renner are no longer faculty members).
or no full-time teaching experience and only recently graduated from law school.\textsuperscript{44} It is normally cheaper to fill entry level positions than to retain experienced faculty members or laterally hire senior professors.

Whatever the reasons for the burst of hiring between 1980 and 1983, the effect of those decisions was dramatic. First, the hiring proved to be a permanent commitment of institutional resources, for not only did ten new professors come to the school, but as events turned out, nine of them all stayed for at least two decades. Five are still on the faculty. Thus, a rapid sequence of ten employment decisions in a short span of time greatly influenced how productive the faculty would be over the next twenty years, for it defined to a significant extent the human capital of the faculty.\textsuperscript{45}

Most of the new faculty came from places far beyond San Antonio or even Texas. Several had been raised or educated in the Midwest, the East, the South, or the West. Not surprisingly, the new hires brought with them not merely new energy but different ideas about legal education, politics, and social issues. With the making of the new appointments, the seeds of change were sown.

It was not that the ten new hires thought alike; they didn’t. Nor was the new group in any sense radical. An observer at the time would have said that among the ten new faculty members there were more conservatives than liberals. Today, an observer would probably say that the so-called “liberals” were simply left-leaning progressives. Nevertheless, there was enough in the way of new ideas among the new faculty—especially ideas about how students should be treated—to shake things up. It was not

\textsuperscript{44} The financial bind made itself manifest in other ways. When Geary Reamey and I joined the faculty in the fall of 1982, we needed pencils. Supplies were parcelled out by the dean’s office. I went there and told the dean’s assistant, Ms. Sophie Olfers, what we needed. She gave me one pencil for Geary and a second pencil for myself.

\textsuperscript{45} The hiring of ten professors between 1980 and 1983 was part of a larger change in the composition of the faculty. In 1986, an internal report prepared in preparation for an ABA inspection stated:

Fifteen new full-time faculty members have been hired since 1979 and are still on the faculty. A stated goal was to hire young faculty with at least three years of practice experience. Fourteen of these fifteen faculty members are under [forty-five] years of age. Eight of the fifteen practiced law for three or more years, five had some practice experience, and two did not practice before going into teaching.

The general recruiting goals of 1986 are similar to those advanced in 1979: locate and hire academically qualified graduates of good law schools that have some practice experience.

unexpected when, a few years later, several of the ten new professors encountered difficulties when they applied for tenure and their applications were voted on by senior colleagues who were more “Texan” and less progressive. Four of the ten new professors were denied tenure at least once.

One of the important attitudes that some of the new hires brought with them was a strong commitment to research and publication. This might seem to be a rather minor matter, but it is difficult to think of a more fundamental shift in the professorial mindset. Writing takes time, and books and articles require a huge commitment of energy and resources. It is not hard to picture that those committed to scholarly productivity as the means for institutional advancement expect similar productivity on the part of their colleagues, including those previously hired at a time when research and publication were lower priorities, or not priorities at all.46 The tension that developed between those who expect professors to publish regularly and those who are less committed to that goal has played an important role in many subsequent hiring, promotion, and tenure decisions.

II. SHARED OFFICE, 1982–1984

I am inclined to think that the history of St. Mary’s University School of Law might have turned out differently if Geary Reamey and I had not been assigned to share a windowless, concrete-block office when we arrived in 1982. We started to work at the university on the same day—August 23.47 Because the full-time faculty had expanded by six persons the previous year, there were no offices available in the small Law Administration Building, which normally housed the faculty. Geary and I were sent to the second floor of the law library, which was then located in the round building. A few other faculty members were officed there, including Bob Summers (the library director), Bonnie Roberts, and Henry Johnson. However, in contrast to our windowless cell, their offices were on the outer perimeter of the building and had windows. In each of those offices, there were two tall, narrow windows looking out to the campus, and larger interior windows located beside their office doors, which looked into the staff area of the library, toward the middle of the building.

46. See Cantú, supra note 19, at 348 (“A serious faculty commitment to scholarship and publication was slow in coming [under Deans Raba and Castleberry].”)
47. E-mail from Elsa Ybanez, Dir. of Human Res., St. Mary’s Univ., to author (Aug. 21, 2018) (on file with author).
The office that Geary and I shared sat midway between the center of the second floor (where the circulation desk was located, bounded by two gracefully curved stairways from the first floor) and the outer walls of the circular building. Shaped somewhat like a foldable fan or a piece of pie with the point of the wedge missing, I thought that the room must have been intended to be a storage area or work room. Indeed, after the round building was renovated in 1984–1985 and turned into the main faculty building, our office was transformed into a photocopier room with a large walk-in closet for office supplies—purposes it still serves today. However, I eventually learned that the windowless room had been used as the library director’s office when Paul Ferguson, a ruddy northeasterner with a broad Haaa-vaaad accent, served as the new library director when the Law Center opened.

Our windowless office had three solid oak doors with a blonde wood finish that matched the doors and woodwork in the three original Law Center Buildings. The enclosed space was peculiar. The concrete block

48. The library in the round building had a panopticon arrangement not unlike Jeremy Bentham’s prisons. A librarian at the circulation desk could look out through the spokes formed by the stacks of books and keep an eye on most parts of the second floor of the building, just as the guards in the central tower of Bentham’s round prisons could look out into each inmate’s cell. The penitentiary at Statesville, Illinois, is patterned on Bentham’s design. Sometime between 1980 and 1982, Chief Judge Thomas E. Fairchild of the Seventh Circuit U.S. Court of Appeals took me and his other law clerks to Statesville so that we could observe firsthand the prison conditions.

49. Ferguson was well liked by his colleagues and often taught courses on Torts and Admiralty.

50. Beginning with the renovation of the round building in 1984–1985, all of the woodwork in the three original buildings of the Law Center was re-stained in a rich, dark finish, in keeping with changing styles. The notable exception was the mighty retractable walls on the south side of the Law Classrooms Building. Those walls can be opened to convert three classrooms (101, 102, and 103, each with roughly ninety-four seats) and the moot courtroom into an impressive amphitheater seating more than 300. That space has often been used for first-year orientations, major guest speakers, and the demonstration round of freshman moot court.

When the great walls are closed to separate the rooms, they are extraordinarily effective in blocking the transmission of sound. However, the walls have not been without trouble. Repairs must be made regularly, due in part to the great weight of the walls and the stress that the opening and closing processes place on the mechanisms that drive the walls one way or the other.

Yet with all the trouble that the walls have caused, nothing could have been more effective in making the south side of the classrooms building a multipurpose space. In part, the success of classrooms 101, 102, and 103 (and 104 on the north side of the building) is due to the fact that the rooms are exceptionally well designed. There are great lines of sight from the teacher to the students, and vice versa. The angled walls and ceiling baffles and the rising tiers make the space so irregular, but intimate, that one can imagine one is inside a finely cut gem. The dimensions of the rooms are outstanding. The rooms are large enough to reflect the importance of teaching law, and small enough to make it feel that no one is far away, and that everyone is involved. None of the other classrooms at
walls were painted, the floor was carpeted, and the florescent lighting was good. Most notably, however, the room was bisected by modular furniture, which provided only a modicum of privacy for conversations with visitors. The fabric-covered panels running down the center of the room were exactly five feet tall. If I walked to the partition and stretched just a little, I could rest my chin on the top rail and converse with Geary while making eye contact, rather than communicate as a disembodied voice of a person unseen on the other side of the room. We had many such neck-stretching conversations, in both directions as I recall.

The lack of privacy in the office was a problem because often, on the other side of the partition, there was a distressed student who was in academic trouble.51 Sometimes the student was in tears. There must have been some expectation on the part of students that such meetings were confidential. Yet, in many instances, there was another faculty member within ready earshot, who could not help but hear what was being said. On such occasions, the unnecessary faculty member would usually try to remain quiet, unobtrusive, and invisible.

During the two years that Geary and I shared that room, I do not recall learning anything embarrassing about a student, although when there were simultaneous conversations on both sides of the office things could be chaotic.52 What I did learn from what I overheard from the other side of the law school come close to matching the effectiveness of classrooms 101 to 104, which remain largely as they were built in 1967.

51. In the 1980s, students at the law school faced serious academic challenges.

In 1984, Castleberry reported to alumni that although there were 278 students in the entering class, there were only 170 in the second year due to “unusually heavy attrition,” which included “14 students in the first year class [who] voluntarily withdrew from school during the first month” and “approximately 30 additional members of the class [who] did not survive academically after the first year.”

Johnson, supra note 5 (alteration in original).

52. I remember a faculty meeting in 1982–1983, where Dean James N. Castleberry, Jr. said that he wanted to hire two new faculty members, and that they could be housed along with Geary and me in our windowless office. Physically, that was possible because on each side of the dividing partition, there was an extra desktop. However, I thought having four faculty members in the small office would have been entirely unmanageable. I spoke up at the faculty meeting to make that point and urged that any additional hiring be given further consideration. I thought the matter was so important that I followed up with a memo. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Jan. 19, 1983) (on file with author) (“With three professors [in the office] seeing students all day long, it would be almost impossible to devote appropriate attention to class preparation and legal scholarship.”). No additional faculty member was ever added to the office.
the room was that Geary Reamey gave excellent advice. In a sense, Geary had arrived at the law school fully formed—probably attributable to the guiding influence of his mentor, Professor Walter Steele at Southern Methodist University. Geary had a very coherent theory of legal education, and what he told students was academically solid.

When we started teaching at St. Mary’s, Geary was thirty-four and I was twenty-eight. Geary exuded maturity; I was much younger and less mature. Having served in the military and graduated (B.A.) from Trinity University in San Antonio, Geary had earned his J.D. and LL.M. at Southern Methodist University and served as managing editor of the *Journal of Air Law and Commerce.* He also had been a partner in a small law firm, the founder of a legal clinic, the police legal advisor for the City of Irving, Texas, and taught courses via long-distance communications technology for a Dallas-area university. Geary was an expert in criminal law and procedure, and that is what he was hired to teach. Indeed, less than two months after Geary joined the faculty, he submitted a four-page memorandum to the

53. See Gerald S. Reamey, *Professor Steele’s Opus*, 64 J. AIR L. & COM. 657, 657 (1999) (“Professor Walter W. Steele, Jr. . . . was one of my first-year teachers, part of that unforgettable cadre that makes such an impression on the relatively innocent and untrained mind. Not content with just one exposure to Professor Steele’s dry wit and obvious impatience with sloth, gullibility, and illogic, I enrolled in more of his classes after I succeeded, much to my surprise, in passing the first year of law school. . . . [Steele] conveyed, as he did in every class, every encounter, every conversation, that we were doing the most important work in the world, and that nothing less than the very best—not just our very best, but the very best—would ever be good enough for the clients we were lucky enough to represent.”).

54. See *id.* at 657 n.* (“Reamey graduated from Southern Methodist University School of Law in 1976 (J.D.) and 1982 (LL.M.), and was Managing Editor of the *Journal of Air Law and Commerce.*”).

55. See Gerald S. Reamey, *Life in the Early Days of Lawyer Advertising: Personal Recollections of a Bates Baby*, 37 ST. MARY’S L.J. 887, 890 (2006) (“I teamed up with an entrepreneurial law school classmate who also had a ‘regular’ law job, to create a new kind of practice. It was one in which we would be managers, but not the attorneys providing the legal services, and we financed the venture from our traditional ‘day jobs’ as lawyers. After hiring an even-more-recent law graduate to staff the new office, we opened a ‘Legal Clinic’ in the midst of a middle-class neighborhood.”).

56. See Reamey, *supra* note 53, at 658–60 (“Having always been interested in becoming a law teacher myself, I decided to work on an LL.M. degree on a part-time basis while practicing law full-time and teaching business law as an adjunct professor at a local university. . . . And so I found myself once again in the classroom of Walter Steele, taking graduate law courses and appreciating from a different perspective how he could infuse the driest doctrine with lessons about ethics, compassion, and justice. . . . At the very end of my LL.M. work, I undertook the researching and writing of a thesis, and Walter Steele was my thesis adviser. . . . Throughout my teaching career, and to this day, I would seek [Steele’s] counsel on any topic concerning legal education, knowing I would receive sound, no-nonsense suggestions and appraisals to guide me.”).
Curriculum Committee arguing persuasively for the establishment of a new course on Texas Criminal Procedure. 57

By contrast, I was struggling. I had received my B.A. from Saint Vincent College in Pennsylvania, J.D. from the University of Notre Dame, and L.L.M. from Yale University. I had clerked for Judge Bernard S. Meyer at the highest state court in New York, and for Chief Judge Thomas E. Fairchild at the United States Court of Appeals for the Seventh Circuit in Chicago. That was all good preparation for teaching, but I did not know any subject matter in particular, least of all Criminal Law or Torts, my assigned subjects. Nor did I know any Texas law, having been born and raised in Pennsylvania and otherwise spent my entire life in the Northeast and Midwest.

If anyone had looked when Geary and I left the law school each day at perhaps 5:30 p.m., they would have noticed that we made an odd couple. Geary typically walked to the parking lot burdened by nothing—not a book, not a sheet of paper. By contrast, I trudged along lugging two Samsonite brief cases, one in each hand, loaded to the max with casebooks, hornbooks, study guides, and notes. At my apartment near the medical center, I spent the entire evening, every evening, trying to figure out how I would fill fifty minutes of class time the next day. Each Saturday and Sunday, I spent almost all of my time at my apartment or the law school trying to master my subjects and learn how to teach.

Five days a week, I needed a new “show” when I walked into the classroom, but I had no reservoir of relevant legal information or teaching experience to dip into. During the fall of 1982, I taught Criminal Law on Mondays, Wednesdays, and Fridays, and Torts on Tuesdays and Thursdays. It was a brutal schedule, and I look back on that academic year as the toughest year of my work life. 58 I was spending about eleven or twelve

57. Memorandum from Gerald S. Reamey, Assistant Professor of Law, St. Mary’s Univ. Sch. of Law, to Curriculum Comm., St. Mary’s Univ. Sch. of Law (Oct. 14, 1982) (on file with author).

58. However, my first clerkship, at New York’s highest court, would be a close second. See Vincent R. Johnson, Judge Bernard S. Meyer: First Merit Appointee to the New York Court of Appeals, 75 ALB. L. REV. 963, 1002 (2012) (“Working for Bernard S. Meyer was physically demanding, as well as intellectually challenging. However, to say only this is to offer a pale reflection of reality. The demands of clerking for Judge Meyer during his first year on the New York Court of Appeals (1979–1980) were relentless. This was true because of the heavy caseload of the court, the peripatetic nature of the work, the obstacles to accessing, using, and communicating information in a [pre-computer] age, the challenges of learning a new job, and the high standards of the judge himself.”).
hours outside of class to get ready for every hour in class.\textsuperscript{59} I was treading water as fast as I could.

I knew so little about my assigned subjects that I did not even know what I could or should omit from the textbooks I was using. I eventually concluded that the criminal law textbook I had chosen to use was “unteachable.” Nonetheless, we raced through more than 900 pages of material during one semester because I was not sure what I could leave out.

In my two courses, we were covering so much doctrinal territory quickly that I started forgetting what I had taught the week earlier. To remedy that problem, I began dictating a good set of notes after each class and asked a secretary to type them up. The notes were very useful, and I intended them only for my personal use. However, I eventually began sharing some of those notes with my classes. During later years, my torts notes were published locally by Alamo Reprographics under the titles \textit{Torts I: Notes and Comments} and \textit{Torts II: Notes and Comments} and sold to interested students by Mrs. Katie Lee at the off-campus bookstore on the northeast corner of Woodlawn and NW 36th Street. That store was universally known as “Mrs. Lee’s bookstore,” though officially I think it was called The Texas Law Book Company, or something similar. Mrs. Lee’s bookstore was popular with students because prices there were a bit less than at the on-campus bookstore. Eventually, my torts notes were published by Carolina Academic Press, as part of my trio of basic torts books, under the title \textit{Mastering Torts: A Student’s Guide to the Law of Torts}.\textsuperscript{60} That book has been in print for twenty-five years and is now in its sixth edition.\textsuperscript{61} Nothing I have written has been more popular with students. \textit{Mastering Torts} has also found an audience in China, where it has appeared in four translations over the past fourteen years.\textsuperscript{62}

\begin{itemize}
  \item \textsuperscript{59} During my second year of teaching of Torts, I only needed to spend five or six hours outside of class to get ready for each class.
  \item \textsuperscript{60} \textsc{Vincent R. Johnson}, \textit{Mastering Torts: A Student’s Guide to the Law of Torts} (1995).
  \item \textsuperscript{61} \textsc{Vincent R. Johnson}, \textit{Mastering Torts: A Student’s Guide to the Law of Torts} (6th ed. 2018).
\end{itemize}
I found that the most useful thing that I could do in preparing for classes was to assemble a list of questions and hypotheticals that I could remember in class and use to spark dialogue with students. I kept those lists of questions for many years, and if a query or example worked well once, it was likely to be used again and again in the future. The material that was part of the lists eventually formed the core of *Teaching Torts*, the teacher’s manual that I wrote for the torts casebook (*Studies in American Tort Law*) that I first published with Carolina Academic Press in 1994. After more than three decades of teaching torts, I have almost no notes for the course. Everything that is useful for teaching is periodically incorporated into *Teaching Torts*.

Somehow I survived my first year of law teaching. Most importantly, I learned to have fun in the classroom. If I was enthusiastic and enjoyed the material, the same was true of the students. I still have fun every time I teach torts. As I tell my new students on the first day of class, “There is nothing I would rather do than teach torts,” and “if you have half as much fun as I have, we will have a great semester.”

Perhaps the most surprising thing about my first semester of teaching is that when I was asked by Associate Dean Edwin Schmidt what I would prefer to teach the following year, Torts or Criminal Law, the answer was not immediately clear to me. As it happened, I chose Torts (in addition to a new preparation in Professional Responsibility). Now, after having spent a career writing torts books and articles, I can see that teaching torts was

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63. VINCENT R. JOHNSON & CHENGLIN LIU, TEACHING TORTS: A TEACHER’S GUIDE TO STUDIES IN AMERICAN TORT LAW (6th ed. 2018). Liu has been a member of the St. Mary’s law faculty since 2007. He is an outstanding torts teacher and an expert on Chinese tort law and the safety of food and products imported from China. He joined me as co-author of the sixth edition of my torts casebook and teacher’s manual.


the absolutely right choice. As the result of my choice, I never taught Criminal Law again after my initial baptism of fire. I soon discovered that my chosen principal teaching areas, Torts and Professional Responsibility, intersect at the junction called Legal Malpractice Law. Eventually, I developed real-world expertise in that area by serving as an expert witness for plaintiffs or defendants in scores of legal malpractice cases over the last thirty years, and that experience has enriched the books66 and articles67 I have written on that subject.

In part, I survived the first year of teaching because Geary Reamey was on the other side of the partition in our office. I listened to what Geary told students and I gave my students the same good advice. That efficiency in counseling gave me time to learn substantive material and develop teaching skills.68 It was important to have that time because in those days, new

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68. See Vincent R. Johnson, *Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors*, 37 *J. LEGAL EDUC.* 97 (1987) (explaining how teaching can be improved through the use of audio and video recordings, overhead transparencies, and the like); Vincent R. Johnson, *The Video Essay Question: An Experiment in Teaching Professional Responsibility*, 50 *MO. L. REV.* 591 (1985) (describing a final examination where students were required to write an essay after watching a video of a simulated law office transaction and identifying the ethics issues it raised).
professors “received virtually no assistance in acquiring teaching skills or preparing or presenting classes.” 69 In that era, there was no Faculty Development Committee to assist new members of the faculty. 70 In addition, as I wrote to a friend teaching at another law school, “Virtually no professor here ever attends another professor’s classes. Many would regard it as an invasion of privacy.”71

Geary and I thought alike about how students can succeed in law school, so it was easy for us to deliver a consistent message to students. We wrote a pamphlet on How to Study in Law School, which was printed in various forms and distributed at first-year orientation for at least twenty years.72 I still make that handout available to my students every year and urge them to take it seriously.

Geary and I spoke about how to succeed in law school at freshman orientation pretty much every year.73 We divided up the subtopics and took turns at the podium every five or so minutes to keep students’ attention. Those hour-long sessions were infused with a potent mix of humor, advice, concern, and hope.

In addition, for at least two decades—in fact, according to my notes, as late as 2012—Geary and I held sessions each January about “How to Get Back on Track” after receiving disappointing first-semester grades. We usually played to a packed house in a large classroom, because there was never a shortage of disappointed students under the tough grading regime at St. Mary’s.74 The message at the “Back on Track” sessions was the same

69. Letter from Vincent R. Johnson, Assistant Professor of Law, St. Mary’s Univ. Sch. of Law, to Comm. on Prof'l Dev., Ass’n of Am. Law Schs. (May 11, 1983) (on file with author) (responding to a survey on “what the experience of becoming a teacher is like in American law schools today” and providing candid “answers . . . in reliance on the [AALS] committee’s guarantee of confidentiality”); see also id. (“[T]here was virtually no assistance as to the type of grading of examinations [I should use in my courses].”)

70. That changed for the faculty members hired after the fall of 1984. See Recruiting and Evaluation Procedures for the Faculty of the School of Law (Oct. 2, 1984) [hereinafter Recruiting and Evaluation Procedures] (on file with author) (“A committee of three faculty members should be appointed by the Dean to assess the performance of, and provide assistance to, new faculty members during their first year.”).

71. Letter from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Alan Raphael, Professor of Law, Loyola Univ. in Chi. Sch. of Law (Apr. 10, 1985) (on file with author).


73. My notes show that we conducted this type of session as late as 2010.

74. When I arrived at the law school there was numerical grading regime: A 86–99, B 78–85, C 70–77, D 60–69, F 55–59. Castleberry expected first-year courses to have a grade average of roughly 73 or 74. A student who had a grade average of 80 was exceptional; anything approaching 86 was
one we had pitched to the students a few months earlier at orientation: work hard, work smart, prepare for class, ask questions, seek advice from professors, write good outlines. We acknowledged to the students that our advice was just what we had told them before because we really believed what we had said at the beginning of the year. In recent years (up until at least 2015), we have regularly held programs to help students prepare for final exams.

There were other programs that Geary and I collaborated on which became a staple of law school life for about twenty years. A documentary had been made about the New York Court of Appeals when I clerked there shortly before entering law teaching. It was called *Three Appeals*, and we showed it, and dissected it, each year before audiences of first-year students who were preparing to compete in Professor Bonnie Roberts’ freshman moot court competition. Also, after I started teaching Professional Responsibility in 1983, Geary was a regular guest in my classes when we covered the law of lawyer advertising. Before becoming a law professor, Geary had been one of the first lawyers in Texas to exercise the newly recognized constitutional right of lawyers to advertise the terms and availability of legal services. He brought to my classes the hard-gained

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75. *Three Appeals* (W.N.E.T. television broadcast Apr. 28, 1980). *Three Appeals* was “hosted by Harvard law professor Charles Nesson and produced by Eric Salzman.” Johnson, supra note 58, at 995 n.198. “The arguments were taped in Albany at the New York Court of Appeals on October 16, 1979, and aired on public television stations on April 28, 1980.” *Id.*; *see also Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Bonita Roberts, Robert Summers & Linda Schlueter, Professors of Law, St. Mary’s Univ. Sch. of Law (Jan. 23, 1984) (on file with author) (discussing how *Three Appeals* could be used in conjunction with the Legal Methods course).

76. *See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to First-Year Students (Feb. 26, 1987) (on file with author) (announcing the fourth annual showing of *Three Appeals*).*


78. What I think of as my “tenure piece”—a 125-page article about constitutional protection of speech related to legal services—was dedicated to Geary Reamey, in part because of his assistance to me each year in teaching that part of my course. *See Johnson, Solicitation of Law Firm Clients, supra*
personal wisdom of what that meant. 79

Outside of the law school, for a couple of years, we both lectured for the Texas Municipal Court Training Center each month at locations throughout the State. 80 That is how I first saw Texas. Our careers moved along pretty much in sync. Geary won the Phi Delta Phi Outstanding Teacher Award in 1985; I won it the following year. 81 Geary received the university’s distinguished faculty award in 1992; I had in 1991. 82 In the mid-1990s, Geary served as Associate Dean (1993–1997); I did the same in the early 2000s (2001–2005). 83 I was elected to the American Law Institute in 1995; Geary was elected in 1996. 84 I was awarded the Order of Art and Culture by the City of Innsbruck, Austria (the home of the law school’s flagship summer program); later, Geary was similarly honored.

note 65, at 1 n.* (“The Article is dedicated to Professor Gerald S. Reamey for his many insights into the legal profession and the delivery of legal services.”).

79. See Reamey, supra note 55, at 890–91 (“We began with a small, relatively inexpensive ad in the city’s leading newspaper. . . . [I]n the late ’70s and early ’80s [advertising made] a lawyer wildly unpopular with her or his peers. . . . Although I did not advertise in the town in which I maintained my ‘regular’ practice, a lawyer in that town who had seen the ad with my name in the other city’s newspaper called and said I was ‘taking food out of the mouths of his children,’ and that I would be sorry if I continued. Other lawyers refused to talk with me. I had been asked to be an officer in our local bar association, which is quite an honor for a young lawyer. After our advertisements appeared. . . . I was told by the chairperson of the nominating committee that my name was being withdrawn because I was advertising. . . . One lawyer I previously had considered a friend, made physical threats.”).

80. See News Release, St. Mary’s Univ. (Sept. 22, 1985) (on file with author) (stating that Geary Reamey and I would be providing continuing education to judges in Lubbock on constitutional law and professional responsibility, respectively). While I always lectured on judicial ethics, Geary was more flexible and at times dealt with criminal law, criminal procedure, and constitutional law. On one occasion, at the last minute, the Texas Municipal Courts Training Center’s speaker on evidence law had failed to show up. With little more than a moment’s notice, Geary was asked to fill in. He soon walked before a large audience and delivered a half-hour or hour-long lecture on the law of evidence. It was dazzling. That was not a subject that he normally taught, and as I recall, extensive changes had recently been made to that part of Texas law.

81. See Letter from Jack D. Hunter II, Eschequer, Tarleton Inn, Phi Delta Phi Fraternity, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Apr. 4, 1986) (on file with author) (“I am pleased to inform you that Professor Vincent Johnson has been selected by our inn as the Outstanding Instructor for the academic year 1985–1986.”); News Release, St. Mary’s Univ. (May 7, 1986) (on file with author) (announcing the selection of Professor Johnson as the Outstanding Instructor for the 1985–86 academic year); Letter from Rev. John A. Leies, President, St. Mary’s Univ., to author (May 21, 1986) (on file with author) (extending “a personal note of congratulations”).


83. Id.

84. E-mail from Geary Reamey, Professor of Law, St. Mary’s Univ. Sch. of Law, to Ricardo Salinas, Staff Writer, St. Mary’s Law Journal (Sept. 17, 2018) (on file with author).
It is possible that I might have developed into a different kind of law professor without constant exposure to Geary’s wisdom about law teaching. Geary and I bonded during our two years in the windowless office, and that had many consequences. It led to our creation of the law school’s amazingly successful study abroad program in Innsbruck, Austria, which has operated every summer since 1986. It led to vigorous debates at faculty meetings about the nature and requirements of legal education at St. Mary’s. It led to the development of an academic culture at the law school that is seriously supportive of faculty research and scholarship. Most importantly, it led, I believe, to the end of harsh treatment of students by an authoritarian law school administration.

The only other faculty member who was relegated to a windowless office during 1982 to 1984 was John Schmolesky, who was housed in what is now a file room in the Law Administration Building. John had joined the faculty in 1981, the year before Geary and me. John, Geary, and I played as large a role in toppling the deanship of James N. Castleberry, Jr. as anyone at the law school. However, that struggle was not quick, nor was the outcome certain for many years.

If I had been assigned to an office in the Law Administration Building, rather than to a shared office in the law library, I might easily have fallen under the sway of the traditionalists on the faculty, rather than the reformers. I had never thought of myself—a product of Catholic schools and the Boy Scouts of America—as a trouble-maker or a revolutionary. Yet, that was how Castleberry would soon view me and certain others.

III. RAINY GROUNDBREAKING, 1983

Before the Kenedy Law Library was built in 1983–1984, the three original buildings of the Law Center marked what was essentially the southwest corner of the developed university campus.85 There were no buildings to the south of the Law Administration and Law Classrooms Buildings. The Athletics and Convocation Center, the tennis courts, and the dormitories that now comprise The Village at St. Mary’s would not be built until many years later. Nor was there any development to the west of the Law

85. The St. Mary’s University Woodlawn campus is comprised of 135 acres. Campusology, ST. MARY’S U., https://www.stmarytx.edu/about/campusology/ [https://perma.cc/27PH-6FF4]. It is bounded by Camino Santa Maria on the east, NW 36th Street on the west, Culebra Road on the south, and the alley south of Marquette Street on the north. Campus Map, ST. MARY’S U., https://www.stmarytx.edu/map/ [https://perma.cc/9GNB-7TGZ].
Classrooms Building, except for a distant stadium then called V.J. Kefee Field and a small house (now gone), near the NW 36th Street entrance to the campus. The soccer field that is today immediately west of the Law Classroom was labeled on a map in the 1981–1982 School of Law Bulletin as the “football field.” But that was merely a field of waist-high weeds that no one ever used for playing football.

86. See LAW BULLETIN, supra note 9 (displaying map of the campus on the inside cover). Before I flew from Chicago to San Antonio in January 1982 to interview for a position on the St. Mary’s law faculty, I carefully studied the School of Law Bulletin which contained a few simple photographs and a campus map. When I was taken to dinner by professors Tom Black and Gerry Beyer, I asked about the “football field.” They looked at one another in amazement. They had never heard of a “football field.” After I began teaching torts, I wrote a practice exam question involving a university advertising non-existing or misrepresented facilities. It is now part of the teacher’s manual for my torts casebook. JOHNSON & LIU, supra note 63, at 458–59.

St. Mary’s University has not fielded an inter-collegiate football team since 1941. Brian Magloyoan, Thanksgiving Throwback: Football at St. Mary’s, RATTLER ATHLETICS (Nov. 24, 2016) http://rattlerathletics.com/news/2016/11/24/general-thanksgiving-throwback-football-at-st-marys.aspx [https://perma.cc/JM6H-U565]. In 1916, Dwight D. Eisenhower—future Supreme Allied Commander of NATO and President of the United States—coached football at St. Mary’s University. See id. (“In 1909, St. Mary’s University, then known as St. Louis College, organized its first football team. Coached by a group of priests, the early years of the program were met with unfavorable results. From 1911–1915, St. Louis College went without a win. . . . Eisenhower was named the new St. Louis College head football coach in 1916. Eisenhower made an immediate impact, leading the squad to a tie in his first game at the helm. The next five games saw even better results as St. Louis College reeled off five consecutive victories, en route to a 5-1-1 record.”).

87. Around the time that the Kenedy Law Library was built, there were efforts to move the Fourth Court of Appeals from downtown San Antonio to the law school campus. It was reported that a majority of the justices favored the move. The idea was to build a multi-story structure that would house both the Court of Appeals and dormitories or apartments for law students. It was suggested that the new facility would be housed immediately west of the Law Classrooms Building (on what the campus map labeled the “football field”). Dean Castleberry was the chief proponent of this plan. The idea was that law students would benefit from being able to watch cases argued on campus on a regular basis, and presumably would intern and clerk for the justices. Glen Ayers was an enthusiastic supporter of the plan before his departure from the faculty in 1985 to accept a bankruptcy judgeship. Presumably, the plan lost momentum when the Texas economy turned sour around 1984. The plan was never resurrected. The Fourth Court of Appeals remained in downtown San Antonio. It moved to better quarters when the Cadena-Reeves Justice Center was built in 1988. Cadena-Reeves Justice Center, EMPIRIC, https://www.emporis.com/buildings/1172815/cadena-reeves-justice-center-san-antonio-tx-usa [https://perma.cc/8DG8-P56C]. The Justice Center is named in honor of two chief justices of the court with strong connections to St. Mary’s University, Carlos Cadena (who taught on the faculty from 1952 to 1954 and 1961 to 1965) and Blair Reeves (who graduated from the law school in 1951). Carlos Cadena, TARLTON L. LIBR., http://tarlton.law.utexas.edu/first-year-societies/carlos-cadena [https://perma.cc/84UQ-LLVH]; Interview by Sterlin Holmesly with Judge Blair Reeves (Aug. 19, 1994) http://digital.utsa.edu/edm/ret/collection/p15125coll84/id/1752 [https://perma.cc/9YX5-VWXT]. St. Mary’s law students intern at the Fourth Court every semester, and numerous St. Mary’s graduates have served as justices and briefing attorneys at the court.
Before the Kenedy Law Library was constructed, the courtyard between the three extant law buildings ended abruptly as it approached the southern edge of an imaginary line running between the southern most points of the Law Administration Building and the Law Classrooms Building. The land fell off about four or so feet, and weedy fields stretched toward the southwestern corner of the campus, unbroken by any building, save for an old, small caddy shack on what was once the nine holes of the Lawrence Welk Golf Course, which was situated on university property just north of Culebra Road.

It was on the rough, uneven, upkept field south of the law school courtyard that the future of the law school took shape in the spring of 1983. The momentous event was the groundbreaking for the new Sarita Kenedy East Law Library. The completion of that expansive facility launched the law school into a new era of legal education, and literally transformed the way that students used the campus every day.

The groundbreaking was scheduled for a day that, according to the calendar, should have enjoyed beautiful weather. The keynote speaker for the ceremonies was no less than the Chief Justice of the Texas Supreme Court, Jack Pope, a long-time friend of St. Mary’s University School of Law.88 An outdoor stage had been erected on the field on the south side of the Law Classrooms Building. Portable chairs for the faculty, special guests, and other attendees faced north toward the stage.

To say that the weather did not cooperate is an understatement. The clouds massed in a brooding gray sky, the winds blew from the west, and the rain began to fall. Chief Justice Pope was not to be discouraged. He held forth with an inspiring oration that was worthy of the occasion. Indeed, it brought to mind the building of the great library of ancient times at Alexandria, Egypt. Pope invoked the nobility of the Rule of Law, the importance of legal education, and the mission of St. Mary’s University to make plain that this day was an important step toward greatness for the law school.

Pope’s forceful declamation made clear that he believed the day was historic and important for the people of Texas. Ultimately, the results seemed to justify Pope’s heroic efforts on that ugly ground-breaking day.

88. See Castleberry, supra note 29, at 292 (“Chief Justice Pope . . . made valuable contributions to legal education as a lecturer at the School of Law of St. Mary’s University and as author of significant law school course material in the area of evidence and procedure.”). He was honored by St. Mary’s with “an honorary Doctor of Law degree,” as well as with the “Rosewood Gavel Award (1962) and St. Thomas More Award (1982).” Id.
When the library opened in the summer of 1984, it was regarded by all as an architectural success. Students and faculty loved the building, and it became the center of life at the law campus. A full-page advertisement in the Texas Bar Journal proclaimed, “It’s a Landmark.”

When the completed Sarita Kenedy East Law Library was dedicated in the fall of 1984 by the Honorable Rex Lee, the Solicitor General of the United States, the weather was more accommodating. It was a brilliant fall day. This time the seating for the audience was set up on the law courtyard plaza in front of the Law Classrooms Building facing the new library, before which a podium had been set up. To the accompaniment of music performed by university musicians, the faculty, in academic robes, marched up to the courtyard from the west side of the classroom building, moving through the triumphal arch, up the scalloped walkway on the north side of the Kenedy Law Library, and into the courtyard. It was a splendid occasion.

The Kenedy Law Library is a fine example of post-modern architecture. Most notably, the building’s exterior stonework is exuberant and playful. Just a few years earlier, Philip Johnson’s model for the AT&T headquarters in New York City had broken with the strict dictates of modern architecture by adding an ornamental Chippendale pediment to the building’s roof line. It became the “most famous unbuilt building of the 1970s” and was eventually completed in 1984. Similarly, the Kenedy Law Library eschewed a sober and symmetrical arrangement of architectural elements, in favor of a more playful exterior design in which pre-cast stone arches confidently bounce across the north facade, and then around the west side, eventually ending mid-way on the south facade. The energy that the inset stone arches bring to the exterior is amplified by other stone and brick arches that wrap around the curved enclosure leading to the main entry of the building, the balconies overlooking the courtyard, and the colonnade-like wall that originally extended east from the northeast corner of the Kenedy Law Library almost as far as the Law Administration Building. The

91. Id.
new library symbolized a bold, energetic, modern approach to legal education.

Inside the library, the most prominent feature is the horizontal bands of windows that wrap the building and offer sweeping views of the campus from both floors. Upon entering most areas of the library, there was a pervasive sense of well-designed space. Bob Summers, the director of the law library when it opened, and the architects, Jones Kell, deserve a great deal of credit for designing an outstanding law library. The members of the building committee were Dean Castleberry, former Dean Ernest A. Raba, Associate Dean Ed Schmidt, and professors Harold Reuschlein and Robert Summers.

Summers played a major role in the design of the law library, which he describes as having been an “incredible opportunity” for a young law librarian. Summers had joined the St. Mary’s faculty in June 1981. By October, the funds from the Kenedy Foundation had become available, and by December 1981, as Summers put it, “We were off and running.” Castleberry had told Summers to “get it right.” To accomplish that mission Summers talked to many people to solicit their ideas and traveled “all over the country,” visiting libraries at places like Berkeley, Hastings, and the

93. As is common with architectural projects, changes were made during construction. An artist’s rendering of the plans for the Kenedy Law library, which now hangs in the library director’s office, shows that four rows of skylights with curved hoods were intended to indirectly channel light into the second floor. The skylights were dropped as a cost-saving measure when other aspects of the project entailed increased expenditures.

I recall being told that one difficult part of the project was that it took much longer than expected to sink the cement piers on which the building rests to bedrock. This may suggest that there is a significant geological change between the land on which the three original law buildings rest and the land beneath the Kenedy Law Library. There is circumstantial evidence to support this conclusion. Many utility lines run beneath the law school courtyard. Those lines have broken with great regularity, such that portions of the plaza have had to be dug up roughly once per year. The problem is most common at the start of a new academic year—which makes a bad impression on new students. The most recent disruption lasted for weeks. See E-mail from Michael Barry, Assistant Dean, St. Mary’s Univ. Sch. of Law, to law.allper@stmarytx.edu & law.students@stmarytx.edu (Sept. 6, 2018) (announcing a leak eight feet underground); E-mail from Michael Barry, Assistant Dean, St. Mary’s Univ. Sch. of Law, to law.allper@stmarytx.edu & law.students@stmarytx.edu (Sept. 24, 2018) (discussing plans “to finalize the water work in front of the library”). Cost estimates for re-routing the lines have run into the millions of dollars, and no law school administration has been tempted to engineer a permanent solution. In recent years, I have joked with my classes that the digging has to do not with ruptured water lines, but with money. When the budget gets tight, the administration once again begins excavation to try to find the gold that, according to legend, Dean Raba buried when the complex was built.

Naval Academy, and furniture manufacturers in Canada. Summers worked closely with the architects, Jones Kell, and made many adjustments to the plan as the building took shape. The end result was a great building that is open and bright, but with many quiet spaces.

When I chaired the university’s Facilities Master Planning Committee from 2001 to 2005, I could see that the Kenedy Law Library had begun the important process of blending the disparate architectural styles that, over the decades, had become part of the campus. Three styles were prominent by the beginning of the twenty-first century: (1) the Victorian-style in white brick (notably St. Louis Hall and Reinbolt Hall); (2) the international-style (i.e., Bauhaus-style) with white brick and horizontal bands of windows (e.g., Garni Science Hall and Marian Hall); and (3) a modern Texas Colonial style with salmon-colored brick, which prominently incorporated arched exterior doorways and arcades (e.g., the three original buildings of the Law Center, the Louis J. Blume Library, and other buildings erected in the 1960s). The Kenedy Law Library married the use of horizontal bands of windows with salmon-colored brick, arched windows, and arcades, and did so quite successfully.

IV. COMPUTER FOR THE FACULTY, 1983

When I arrived at the law school in 1982, there was no modern technology. The secretaries had IBM Selectric typewriters, and there were a few simple photocopiers for faculty or student use. However, there were no computers—except for one Wang computer in the law journal office. When I started to write a law journal article, I gave a handwritten draft on yellow tablet paper to a secretary for typing. Revising the draft was a tedious process. Letters of recommendation for students likewise started with a handwritten draft.

I wanted to use audio-visual equipment in my classes, but there was none at the law school. Eventually I persuaded the law school administration to borrow equipment from the university’s academic library. The overhead

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95. The committee produced a fifteen-year, $125 million plan for facilities development that was approved by the university board of trustees in November 2004.
96. See Nellermoe, supra note 19, at 39 (“The Law School hired a business manager who presided over the Wang and was responsible for inputting all the hidden codes that went into the production process.”).
97. See, e.g., Letter of Recommendation for Michael Scalon from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law (July 15, 1984) (on file with author) (drafting a six-page, handwritten letter of recommendation).
projector that we secured on loan looked as though it was military surplus material from WWII that might have been used to plan the D-Day invasion. Nevertheless, it worked, and I used it. A nineteen-inch television monitor and video cassette player (VCP) from the academic library were wheeled countless times on a tall metal cart across the pebble-aggregate sidewalks that surrounded the Law Center. I often feared that if the television monitor or VCP did not fall off of their precarious metal perch they would simply shake apart as they rumbled across the campus. Occasionally, I took my Professional Responsibility classes to the media viewing room in the academic library where we could watch American Bar Association productions called Dilemmas in Legal Ethics projected onto a large screen.

Bob Summers had been hired in 1981 as the new library director. Because he was playing a key role in the building of the Sarita Kenedy East Law Library, he appeared to have the ability to get things done. Like everyone else, Geary Reamey and I knew that the computer era was coming. Sometime around 1983, we tracked down Bob and begged him to buy one computer that could be used by faculty in an enclosed carrel in the round law library. Miraculously, he did so. It was a feeble machine by today’s standards—it seemed weak even then—but it was a step in the right direction. There was not much that we could do with the computer, but I remember playing games that allowed me to practice my touch-typing skills.

The real break-through came in 1984, the new Sarita Kenedy East Law Library’s first year of operation. About seven faculty members needed to be squeezed into a small warren of enclosed “faculty research carrels” in the northeast corner of the second floor of the new library while the old library (the round building) was being renovated. Our senior colleague, Al Leopold, who continued to have an office in the Law Administration Building, referred to us as “the faculty of the diaspora.” The research carrels were small rooms (typically 7.5’ by 9.5’). They were ideal for a professor doing research in the library but were not intended to double as offices. Nor were they large enough to accommodate visitors easily. The

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98. Sidewalks with a pebble-aggregate finish were common in San Antonio in the 1960s and 1970s. They look great, but are treacherous when wet. Around the time I arrived at St. Mary’s, I heard that the university had a thirty-year plan to replace all of the pebble-aggregate sidewalks with new sidewalks that have a much safer brushed concrete finish. The replacement process has made extensive progress, but thirty years have passed and there is a long way to go.

library’s new, handsome, real-wood furniture made by Gunlocke\textsuperscript{100} was massive.\textsuperscript{101} It made for a tight fit in such tiny spaces.

At the start of the 1984–1985 academic year, the faculty members housed in the Kenedy Law Library shared a single computer with Leading Edge software that was loaded onto the computer via a “floppy disk.” Soon, there were two computers for the faculty housed on the second floor of the library,\textsuperscript{102} and one for the secretary the faculty members shared. Then, when all of the non-administrative faculty moved to the renovated round building at the start of the 1985–1986 academic year, everyone who wanted one received a new IBM desktop computer.\textsuperscript{103} Bob Summers had chosen the best machines on the market.\textsuperscript{104} That brought us into a new technological era and greatly advanced the cause of scholarly productivity. Over the years, Bob continued to pull off little technological miracles, such as new overhead projectors for every classroom, a large screen television and an AV closet in the largest teaching room (LC 104), and “letter-quality” printers to replace the Okidata dot matrix printers that scrolled out long streams of fuzzy print on perforated paper. Bob served as director of the law school physical plant for about ten years, and he kept everything in good shape.


\textsuperscript{101} When the Kenedy Law Library was completed in 1984, the law school made a million-dollar furniture purchase to outfit both the library and the soon-to-be-renovated round building. The furniture, which gave those two buildings a very professional look, was heavy and massive. Desks and other items could be disassembled and moved, but only by professionals. The furniture in the Kenedy Law Library today is mainly what was purchased in the mid-1980s, because that furniture was built to last, but the furniture in the faculty offices was replaced in the early 2010s. However, the Gunlocke furniture was not discarded, but rather moved to another part of the university for continued use.

\textsuperscript{102} See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Robert Summers, Professor of Law, St. Mary’s Univ. Sch. of Law (July 3, 1984) (on file with author) (expressing concern over a “vile rumor” the computers were going to be moved to the first floor of the library).

\textsuperscript{103} See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (Aug. 23, 1985) (on file with author) (offering the choice of an IBM-PC or a typewriter).

\textsuperscript{104} See also Cantú, supra note 28, at 2 (“What may have been forgotten . . . is that Jim Castleberry brought technology to our campus. He was instrumental in ensuring that every member of the law faculty had his own computer, even at an early stage of the personal computer phenomenon.”).
V. REUSCHLEIN’S RED MASS, 1983

When I arrived at St. Mary’s in 1982, there was one member of the faculty who was especially notable, Harold Gill Reuschlein. He was a “grand old man,” a pillar of the Church (twice made a Papal knight), and an elder statesman of the faculty. Reuschlein had been the founding dean of Villanova Law School in Pennsylvania. After nineteen years in that position (1953–1972), he moved to St. Mary’s for the final years of his teaching career (1972–1984), where he was the Katherine A. Ryan Distinguished Professor of Law.

Reuschlein looked like FDR and acted with the confidence of Churchill. He had a commanding presence and liked to “hold forth.” He regaled young faculty members with stories about how he built Villanova. We heard some of those tales more than once, but I always enjoyed them.

I was told to call Reuschlein by his first name, “Harold,” because we were colleagues. That was a bit difficult for me because Harold was nearly fifty years my senior, and almost three times my age.

When Reuschlein and his wife Marcie entertained, they were a grand team. Marcie cooked, and Harold poured the drinks (Manhattans, Martinis, that sort of thing). He played the piano for his guests and sang old “standards.” The conversation never lagged. It was easy to picture how Harold and Marcie had performed those hosting roles for an endless stream of guests over two decades of deaning at Villanova.

Reuschlein was a nationally prominent figure in legal education and the author of books on corporate reform, jurisprudence, agency and

105. Much of the material in this Part was published by me in a student newspaper at St. Mary’s University School of Law in 2011. Vincent R. Johnson, Red Mass in an Earlier Era, LEGAL MINUTE, Oct. 2011, at 5.
108. Johnson, supra note 105, at 5.
109. See James P. White, Dedication, Dean Harold Gill Reuschlein, 45 VILL. L. REV. 13, 14 (2000) (“[Reuschlein] believed that a lawyer should not only be well versed in the law, but also in good food, wine, conversation, the arts and humanities.”).
110. See Justice Sandra Schultz Newman, Dedication, Dedication to Dean Harold Gill Reuschlein, 45 VILL. L. REV. 9, 9 (2000) (“No individual has given more to the cause of American legal education
partnership law, and regulation of insurers.\textsuperscript{111} However, his great love, his passion, was the Red Mass, that ancient tradition of the Catholic Church that invokes God’s blessings on the judiciary and members of the legal profession.\textsuperscript{112} Harold talked about the annual Red Mass all year long.

When Reuschlein moved to San Antonio, the style of the local Red Mass was not to his liking. Too plain, too little pageantry, not enough pomp and circumstance. Harold preferred the Catholic Church in all of its Roman glory—incense rising, music enveloping the rafters, the clergy at their ceremonial best. So, Reuschlein did the logical thing. He wrested control of the event from its erstwhile caretakers and ran it in High-Church style until he retired. This was fine with San Antonio church leaders. Harold was on a first name basis with San Antonio archbishops, bishops, and other prelates. I remember an Easter dinner at the Reuschlein home where the pastor of the local church was the honored guest.

With Reuschlein in charge of the Red Mass, nothing was overlooked. He took a special interest in coaxing out of the St. Mary’s University music department the most spectacular instrumental and choral performances. He himself was an accomplished organist and had played regularly for his parish church during the years when he was a law professor at the University of Pittsburgh.

Reuschlein hired a carpenter to build a large wooden mace for the law school. When he led the Red Mass procession into the Cathedral holding that symbolic weapon, he looked as though he could use it. Faculty members in their colorful academic robes and the priests in their red vestments followed in his wake. Marcie sat up front in the pews reserved for faculty spouses—which in those days meant faculty wives.

During the Red Mass, Reuschlein quietly paced up and down the side aisles in his bright red Cornell academic robes, keeping an eye on everything. Decked out in a red mortar board and red gown, and with natural patrician bearing, he looked like a member of the College of Cardinals, a prince of

\textsuperscript{111} See Steven P. Frankino, Dedication, \textit{One of the Last Big Time Deans}, 45 VILL. L. REV. 1, 2 (2000) (discussing Reuschlein’s publication of four books in five years).

\textsuperscript{112} The Red Mass is a Catholic legal tradition that evolved in Medieval Europe but eventually took root in the United States. Widely celebrated today in a multitude of cities, this special votive mass of the Holy Spirit annually seeks to invoke God’s blessings on all those who play a role in the legal system. See Melissa Pawlikowski, \textit{What is the Red Mass?}, HIST. NEWS NETWORK (Oct. 8, 2005), https://historynewsnetwork.org/article/16677 [https://perma.cc/4JPW-CLMG] (explaining the history and traditions surrounding Red Mass).
the Church. It was certainly possible to picture him sitting in the Sistine Chapel voting for a new pope.

Reuschlein enlisted an army of student helpers to assist in running the Red Mass. Many of those law students went on to leadership positions in the legal profession. When I see some of those persons today, I remember them for what they did when Reuschlein ran the Red Mass. I look at a judge and think, “He was the crucifer.” I look at a former city attorney and think, “He was a thurifer.”

Harold had strong opinions about what made for a great Red Mass. One of those things was the National Anthem sung as a final hymn. It was a powerful blending of Church and State, which has since gone out of favor with those who think that the Star-Spangled Banner is too militaristic.113

In the Kenedy Law Library at the St. Mary’s Law Center (and reproduced in Raba’s history), there is a framed selection of aging color photographs from the 1977 Red Mass and Dinner, with hand-lettered inscriptions. Those events marked the fiftieth anniversary of the law school’s founding and the twenty-fifth anniversary of the San Antonio Red Mass. In the photo at the bottom right, you can see Reuschlein beaming, standing behind Dean Raba. Harold was in his glory.

During Reuschlein’s last year as maestro of the San Antonio Red Mass (1984), the featured speaker was Professor Thomas L. Shaffer, former dean of Notre Dame Law School. Shaffer was my mentor at Notre Dame and is more responsible for my being a law professor than any person I know.114 In 1982–1983, as the new kid on the St. Mary’s law faculty, I had no standing to nominate anyone for anything. So, I encouraged Reuschlein to nominate Shaffer, one of the nation’s most prolific legal scholars, for the law school’s St. Thomas More Award. Harold did that one better, and at the 1983 Red Mass, which, at the urging of campus ministry, included a different recessional hymn. He sent me a hand-written letter in beautiful script which stated in part, “As to the Red Mass, I am wondering what has become of a bit of patriotism?” Letter from Harold Reuschlein to author (Nov. 25, 1985) (on file with author) (writing to “Vincent” on Cosmos Club stationary).

Tom once said in jest that his letter of recommendation on my behalf had “a circulation just slightly less than Time magazine.” Tom’s letter opened the right doors. When I did my LL.M. at Yale immediately after graduating from Notre Dame, I walked into the assistant dean’s office at Yale. The first thing he said to me was, “You’re Tom Shaffer’s boy.” I knew why I had gained admittance to Yale’s small class of about sixteen American and foreign LL.M. students. Later, when I was a finalist for a U.S. Supreme Court Fellowship interviewing at the Court, Noel Augustyn, the Administrative Assistant to the Chief Justice said, “You have a letter of recommendation in your packet from the man I admire more than anyone else, Tom Shaffer.” I got the fellowship.
Mass Shaffer was presented with both the St. Thomas More Award and an honorary doctorate\(^1\) from St. Mary’s University, while his wife Nancy looked on with pride from the audience.\(^2\) Shaffer, interestingly, had taken law classes at St. Mary’s decades earlier at 112 College Street when he was stationed at a San Antonio military base.

When Reuschlein retired from St. Mary’s in 1984, he received the St. Thomas More Award from the faculty and was the commencement speaker.\(^3\) A San Antonio newspaper ran an article that intended to say Reuschlein, who had taught law for fifty-one years, was finishing a distinguished career of “more than a half century of teaching law.” That was an impressive record. It was made even more so by the fact that the article accidentally left out the word “half.”

As a young member of the faculty, it fell to me to run Red Mass for the first three years after Harold’s departure. It was an assignment with endless details. Each year, no one was more pleased than I was to hear the choir intone the recessional song of the Red Mass. After the 1986 Red Mass, I was happy to hand off the organizational duties to David Schlueter.

The Reuschleins retired to Pennsylvania, near the Villanova campus. I visited them on what happened to be Harold’s eighty-fourth birthday in early December 1989. In the Reuschlein’s large apartment, there were three Christmas trees set up in different rooms to remind everyone of Advent and the approaching Christmas holiday. Harold was still on his game. The two of us walked the Villanova campus for four hours. He talked for four hours; I listened eagerly the whole time.

It was not surprising to see that Harold’s portrait was hung in the Villanova law school. However, what was special was that there was a portrait of Marcie Reuschlein, too. She was not a lawyer and had never taught on any faculty. But Marcie had been part of the team that founded a

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1. See Memorandum from Harold Gill Reuschlein & Vincent R. Johnson, Professors of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Apr. 18, 1983) (on file with author) (including a draft resolution stating why Thomas L. Shaffer should be awarded an honorary degree).

2. As a law student at Notre Dame, I was invited to Tom Shaffer’s house several times with other students for class-related seminars. I got to know his wife Nancy, and she eventually appeared as the chief witness in my third-year mock trial in an ornate South Bend courtroom. My relationship with the Shaffers has spanned decades. The dedication in my advanced tort law book reads, “To Tom and Nancy Shaffer at Notre Dame, good friends for more than thirty years.” Vincent R. Johnson, ADVANCED TORT LAW: A PROBLEM APPROACH iii (2d ed. 2014).

3. When I asked Marcie Reuschlein after the graduation exercises what she thought of Harold’s speech, she commented simply, “I have heard that one before.”
great law school. The Villanova alumni had recognized her efforts. A reproduction of Harold’s Villanova portrait hangs today at St. Mary’s in the rotunda on the second floor of the Raba Law Building. When Reuschlein turned ninety, his birthday was celebrated by his friends in San Antonio, even though he was observing the occasion on the East Coast.

Today, Red Mass is as much of a “production” as it was in Reuschlein’s time. Sister Grace Walle is now in charge. The style is different, but it is still grand, and even more colorful. (A wag might say, “less ex cathedra,”118 and more “Vatican II.”119) Almost thirty-five years after Harold and Marcie left San Antonio, the annual Red Mass is still the most splendid public occasion of the law school year.

VI. LAW CENTER SIGN, 1984

Ever since the Law Center was built in the late 1960s, there has been a free-standing sign not far from the northwest corner of the Law Classrooms Building that identifies the law school to visitors arriving from the NW 36th Street entrance to the campus. Initially, the sign was made of wood and painted with the name of the School of Law. It had something of a homemade appearance.

Later, the wooden sign was replaced by a large brick-and-stucco sign, with a small planter at the base. This permanent addition to the campus landscape had a clean mid-century-modern design, with letters sculpted into the stucco that stated simply “Law Center.” This construction may have been designed and paid for by a student-related group, perhaps an association of law spouses.

The problem with the Law Center sign was that the bricks did not match the three original law buildings. Consequently, when the Kenedy Law Library was built (1983–1984) with bricks that reasonably matched the original law buildings, the Law Center sign was unbricked, then re-bricked with matching bricks. It was the right decision architecturally, but at the time it seemed extravagant.


119. See Christopher T. Carlson, Church and State: Consistency of the Catholic Church’s Social Teaching, 35 CATH. LAW. 339, 355 (1991) (“Vatican II made a concerted effort to reach all Christians in order to bring them back into one fold. Vatican II avoided undue divisiveness among Christians in an attempt to achieve one of the Church’s chief concerns—the restoration of Christian unity.”).
One might have expected the renovated Law Center sign to endure unimpaired, but in the early 1990s cracks developed in the stucco. They were covered over with a skim coat of stucco, which was troweled on in a way that for many years gave the sign the unfortunate appearance of being covered by icing.120

In the early 2010s, the Law Center sign was replaced with a brick wall (designed to block the view of an electrical transformer behind the sign) when the west side of the classroom building was extended. The metal lettering on the wall that stated simply “School of Law” was later augmented with the words “St. Mary’s University” and a large cross-shaped university logo. The new sign is lighted at night, and flowers are planted nearby each season. In all, this part of the campus now looks better than it ever has. The saga of the law school sign—now spanning more than fifty years—seems to illustrate that progress is possible, but sometimes very slow.

VII. WOMEN AND HIRING, 1984–1987

In 1984, Bonnie Roberts was the only woman at the law school who held a full-time, tenure-track position.121 On October 2, there was a faculty meeting in Room 224 of the Kenedy Law Library at which faculty hiring needs were discussed. Specifically, the question was whether to adopt a resolution to give “the highest priority” to hiring qualified female teaching candidates, or whether the resolution should merely say that such hiring should be given “high priority.” After a vigorous debate, a majority of the faculty voted to give hiring qualified women “the highest priority.” However, when Dean Castleberry wrote and circulated the minutes, they said that the resolution that passed was merely to give such hiring “high priority.”122 In light of the vigorous debate that had occurred at the faculty meeting, it seemed clear to me that the discrepancy between the vote at the meeting and the contents of the minutes was not accidental. According to

120. In the early 2000s, when I was associate dean, a law student who was an architect recommended that the Law Center sign be replaced with something more attractive. He prepared an interesting set of drawings which incorporated features that echoed the metalwork arches over the main doors to the Kenedy Law Library. The Student Bar Association was willing to contribute substantial funds toward the cost of erecting a new sign. However, the university (correctly, I believe in retrospect) refused to approve the design in order to avoid a proliferation of different types of signage on campus.

121. As late as the start of 1990, Roberts was the only woman to ever receive tenure at the law school. The second woman to receive tenure was Victoria Mather, in the spring of 1990.

122. Minutes of the Meeting of the Faculty of the School of Law (Oct. 2, 1984) (on file with author).
a long-time staff member who worked for Castleberry during the last two years of his deanship, Castleberry personally wrote the minutes of his faculty meetings.

At the same faculty meeting, the faculty adopted Recruiting and Evaluation Procedures for the Faculty of the School of Law. Those rules provided that, “The [d]ean, or his representatives, shall proceed to locate and employ new members of the law faculty . . . .”123 This was an important change in the hiring practices that had recently been followed at the law school. When I was a faculty candidate, I interviewed with a faculty committee at the Association of American Law Schools hiring conference in Chicago in November 1981. Then, when I was invited to the campus in January 1982, I interviewed with all of the available members of the faculty. The dean informally consulted those faculty members throughout the day before making me an offer of employment (at the handsome salary of $32,000) before I left the campus at the end of the day. Thus, the faculty was actively involved in the hiring process. Faculty members were consulted and provided advice.124

The rule adopted on October 2, 1984, gave the dean great room to ignore the wishes of the faculty in adding new members to the full-time faculty. Under the new rules, the members of the faculty were formally consulted only about whether a new faculty voting member of the full-time faculty would be retained at the end of the initial year of a two-year contract.125 Moreover, these rules applied only to “faculty members without significant experience.”126 While it was “suggested that an ad hoc committee be appointed to recommend a procedure for hiring experienced teachers as full[-]time faculty members[,]”127 there were no limits on the dean’s exercise of discretion.

These changes in law faculty hiring practices seemed to come about rather casually. At the faculty meeting in October 1984, Tom Black, a senior and well-respected member of the faculty, had argued that it made little sense to give faculty members a role in the initial hiring process because they

123. Recruiting and Evaluation Procedures, supra note 70.
124. As late as the fall of 1986, law school documents talked about active faculty involvement with identifying hiring priorities, screening applications, and participating in candidate interviews at the AALS hiring conference and on campus. See St. Mary’s Law School Self-Study, supra note 45, at 174 (describing the recruiting process for new faculty members).
125. Recruiting and Evaluation Procedures, supra note 70.
126. Id.
127. Id.
ordinarily had spent such a short amount of time with the candidate, and had so little other relevant knowledge, that they could not form a reliable opinion. Black said that it made more sense to seek the opinion of the faculty after they had become well acquainted with the new faculty member during the initial year of a two-year appointment. Black’s argument was well intentioned, and carried the day, but planted the seeds of trouble. As Castleberry’s hold on the deanship weakened, he packed the faculty with new hires who were likely to side with him on issues and support his re-appointment. For the 1986–1987 academic year, Castleberry announced three new “permanent additions” to the faculty (Richard Flint, Marsha Huie, and Marsha Merrill) and one visiting professor who later stayed on the faculty for several years (Paul Bartlett). In the early 1990s, battles were fought over whether certain decanally-chosen professors were qualified. Several were denied tenure, and at least two lawsuits against the university were litigated. Those difficulties might have been avoided if the faculty had played an active role in the initial appointment of those faculty members.

By the fall of 1987, Black and others saw the emerging problem. Although Al Leopold, a towering figure on the faculty during the Castleberry era, opposed any change to the 1984 statement of “policy concerning the hiring of inexperienced beginning faculty [members],” on November 10, 1987, the hiring rules were amended to state:

129. See Memorandum from Thomas Black, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Oct. 28, 1987) (on file with author) (“I believe that a basic principle of faculty recruitment in any law school is and should be that no person should be hired as a full-time faculty member without approval of the full-time faculty.”). In a later memorandum, Black wrote:

[A] few inquiries have been made as to whether . . . [this] will take us back to the old days when we briefly interviewed faculty prospects and then hastily voted on whether to hire them. The answer to these questions is “no[.]” My proposal contemplates a vote simply on resumes and credentials prior to making an offer to or hiring an individual and then a vote on retention after a year of observation.

Memorandum from Thomas Black, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law & Full-Time Law Faculty (Nov. 3, 1987) (on file with author).

130. Memorandum from A. A. Leopold, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law & Full-Time Faculty (Nov. 5, 1987) (on file with author) (“I do not believe that our present procedure violates the accrediting regulations because after the period of probation, the professor involved cannot continue without the affirmative vote of a majority of the faculty. Further, . . . I believe that the procedure espoused, that a majority vote be received before the Dean may offer a position[,] unduly restricts and limits the ability of the
5. That no person, regardless of experience, be given an offer or hired as a member of the full-time faculty without first circulating that person’s resume to each member of the full-time faculty and obtaining the prior approval of the full-time faculty by at least a majority vote at a faculty meeting called for that purpose.131

VIII. Three-Hour Truce, 1985

By the spring of 1985, Geary Reamey and I had begun to lose favor with Dean Castleberry. The main source of the conflict was that we believed that students at the law school deserved better treatment. The administration was excessively strict and unnecessarily harsh on a whole range of issues running from curriculum requirements, academic standards, and grading rules to whether shorts or food were permitted in the classrooms. Rules were applied in ways that were likely to aggravate diligent, hard-working students. The students rightfully resented this—and some still resent it decades later. Initially, I did not believe what the students were telling me, and I defended the administration. I quickly came to see that the students were not exaggerating, and usually had genuine complaints. Some of those students ultimately became permanently disaffected graduates of the law school. That is a tragedy.

I believe in hard work and high standards, but I saw no reason for a quasi-militaristic environment at the law school. I was interested in building the law school at St. Mary’s into a great, nationally recognized institution, and knew that would never be possible if students were treated poorly as a matter of customary practice.

When Geary Reamey and I were promoted from Assistant Professor of Law to Associate Professor of Law in the spring of 1985,132 we took

Memorandum from Henry F. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law & Law Faculty (Nov. 5, 1987) (on file with author).

131. Recruiting and Evaluation Procedures for the Faculty of the School of Law (Nov. 10, 1987) (amending the October 2, 1984 procedures).

132. See Letter from Rev. John A. Leies, Acad. Vice President, St. Mary’s Univ. Sch. of Law, to author (Apr. 26, 1985) (on file with the author) (informing author of his “promotion to the academic rank of Associate Professor”).
ourselves out to lunch at a nice restaurant at the Colonnade. Perhaps because I had read something in an American Bar Association magazine about law school study abroad programs, I said “why don’t we start a foreign program where we could teach each summer.” Geary and his wife Kay listened, but the conversation wandered. I forced the discussion back to study abroad, and we began to talk more seriously about places we would like to operate a program.\footnote{\textit{See Johnson, supra note 19, at 9 n.30 (“Reamey and I conceived the idea for the Innsbruck program at lunch with his wife, Kay L. Reamey ‘88, in May 1985, as we marked our promotions from assistant to associate professors.”).}}

I had traveled extensively across Europe as part of a semester-long independent study of art and architecture during my senior year in college. Geary and Kay had lived in Germany and traveled widely in other countries. We had some sense about which locations were desirable in terms of topography, climate, and culture. We thought mainly about places in Switzerland, Austria, and Greece. However, there were at least two great obstacles. The first was that we had no connections with potential host universities in Europe. The second was that we would need Castleberry’s blessing for this kind of initiative.

Eventually, we scheduled a meeting with Castleberry. The prospects for winning his approval seemed dim because we were regarded as troublemakers\footnote{\textit{It is hard to say when Castleberry began to subscribe to this view. In my case, it might have been much earlier. Yet there were times when the pendulum swung the other way. For example, in the spring of 1984, I (like Geary Reamey) received a memo stating that the “members of the Harlan Society have voted to invite you to join us as a new member.” Letter from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to author (Apr. 16, 1984) (on file with author). Being invited to join the law school’s honor society was not to be taken for granted. Oddly, some more senior members of the faculty had never been invited.}} for having raised new ideas and sometimes questioned the administration’s practices. However, the meeting with the dean was splendid and lasted for three full hours. The three of us shared a love of travel, which took precedence over law school politics. We talked and talked about the options. Castleberry was keen on locating a summer program in Regensberg, Germany, a beautiful cathedral town where he had an academic connection. I argued that would never work because, in order to attract students, the destination city had to have cachet. Innsbruck had that because it had recently gained global prominence for hosting both the 1964
and the 1976 Winter Olympics. We may also have talked about locating a program in Mexico, but the discussion focused mainly on Europe. Ultimately, Castleberry allowed us to proceed with our investigation of options.

Geary found an old book in the library called something like “Law Schools of the World,” circa 1960. I then wrote “Dear Dean” letters to unnamed deans at perhaps a dozen law schools in Austria and Switzerland telling them what we had in mind and offering to visit their universities while I was in Europe that summer for the ABA annual meeting. We only received a few responses. The most favorable one was from a young law school dean at the University of Innsbruck, Fritz Raber. To make arrangements in a timely fashion I had to communicate with Raber by telegram. My mother and I traveled to Innsbruck, toured the university’s facilities, and had lunch with Raber at Villa Blanca on a hill overlooking the city. It was clear to me that Innsbruck, which is located at the crossroads of Europe (near the Brenner Pass, which connects central Europe with the Mediterranean), would be ideal, and that the university facilities were excellent.

In the fall of 1985, Geary and I took a proposal to the faculty to create a study abroad program in Innsbruck, Austria. I augmented our presentation with a simple poster showing photographs of Innsbruck that I had taken earlier that summer. It was not clear how the faculty would vote, and Castleberry did nothing to promote approval. Although the law school had offered international and comparative law classes in the past, and had once


136. The Sarita Kenedy East Law Library today contains a book by Henry P. Tseng: HENRY P. TSENG, THE LAW SCHOOLS OF THE WORLD (1977). That may have been the book, but I think the one Geary found was older.

137. Greece had fallen out of the running, perhaps because it is too hot in the summer. Though Switzerland is beautiful, we are lucky we did not end up there. Since the mid-1980s, the exchange rate for Americans has been unfavorable. It is almost always more expensive to travel in Switzerland than Austria. That would have been a constant obstacle to recruiting students and faculty.

138. Unfortunately, I did not save that telegram. But a memorandum written a year later shows that I sought reimbursement for sending another telegram to Raber when “[w]e were unable to reach him by phone” and he needed an immediate response about something related to computer facilities in Innsbruck. Memorandum from Vincent R. Johns, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Aug. 14, 1986) (on file with author).
had at least two genuine international experts on its faculty, no such courses were being taught when the Innsbruck program was proposed, and no one of the faculty specialized in international or comparative law. Nevertheless, the faculty voted unanimously in favor of the proposal. The summer program in Innsbruck has operated every summer since 1986 and has been extremely popular with students. Many members of the St. Mary’s law faculty have branched out into international or comparative law fields related to their main courses simply so that they could teach in the Innsbruck program. Thus, the Innsbruck program has enabled students to study important fields of law and caused the faculty to grow. It is possible that no program at St. Mary’s University School of Law had ever been more successful in achieving its educational and institutional objectives.

The three-hour truce in the deteriorating relations between a dean and two young faculty members was a major turning point in the history of St. Mary’s University School of Law. The annual Innsbruck Institute on World Legal Problems has been so successful, so popular, and so visible that it is difficult to imagine the law school without it.

Interestingly, although Geary and I had won faculty approval for a program in Innsbruck, it was not clear that we would be allowed to teach in the program, rather than more senior professors. However, the dean

139. Arthur Yao, a beloved St. Mary’s law professor who is still fondly recalled by alumni almost four decades after he left the faculty, was born in China in 1906 during the waning days of the Qing dynasty. Yao earned his LL.B. in 1928 from Soochow University, a great law school in Suzhou, China, and later received both an LL.M. and an S.J.D. from the University of Michigan. See ASSOCIATION OF AMERICAN LAW SCHOOLS, DIRECTORY OF LAW TEACHERS 1974, at 757 (1974) (indicating that in 1974, Yao was teaching at St. Mary’s only domestic law subjects, namely Contracts, Trusts and Estates, and Future Interests). Yao served on the faculty until 1981. He is listed as a member of the faculty in Issue 4 of Volume 12 of the St. Mary’s Law Journal, which was published in 1981. See 12 ST. MARY’S L.J., no. 4, 1981, at faculty page (listing the faculty for the school of law during the time of publishing, including Arthur Yao). Yao’s name does not appear in the law journal in the second issue of the next volume of the journal, which was also published in 1981. 13 ST. MARY’S L.J., no. 2, 1981, at faculty page.

George E. Glos was born in Czechoslovakia in 1924. ASSOCIATION OF AMERICAN LAW SCHOOLS, supra, at 307. He earned numerous degrees in Europe (in Prague, during and immediately after WWII and the related Nazi occupation of Czechoslovakia), Australia (University of Melbourne, LL.M. 1959), and the United States (Yale University, J.S.D. 1960). Id. He began teaching at St. Mary’s in 1964. See id. (indicating that in 1974, Glos taught Comparative Law, Admiralty, Domestic Relations, Conflict of Laws, International Law, Personal Property, and Jurisprudence). Glos appears to have left the faculty in 1980. He is listed as a member of the faculty in Volume 12, Issue 1 of the St. Mary’s Law Journal, which was published in 1980, but not listed in Volume 12, Issue 2, which is also dated 1980. Compare 12 ST. MARY’S L.J., no. 1, 1980, at faculty page (listing George E. Glos as a faculty member), with 12 ST. MARY’S L.J., no. 2, 1980, at faculty page (showing the absence of George E. Glos from the list of faculty members).
followed the reasonable course and allowed the proponents of the program to run it. Indeed, Geary and I ran the initial program so smoothly that while we were in Innsbruck with the dean in the summer of 1986, he invited us to return again for the second year. However, that did not mean there was no trouble ahead.


Between 1946 and 1978, Dean Raba ran the law school as a “one-man show” in which there was little room for faculty participation in decision-making processes. Dean Castleberry was able to do much the same for at least the first four years of his deanship, roughly from 1978 to 1982. During my visit to the campus as a faculty candidate in January 1982, there was an illuminating event. I was interviewing with Bonnie Roberts and Henry Johnson in Bob Summers's office, when another young faculty member, Glen Ayers, walked into the office and kicked the door shut with his cowboy boots. All four of these faculty members had been hired the prior year. Glen looked at me and said quite emphatically, “There is something you have to understand about this job; the dean is a dictator.” The others seemed to be a bit embarrassed, but no one contradicted Glen. I did not take the warning as a fact, but perhaps I should have. In any event, my interest in St. Mary’s was not diminished.

By the early 1980s, American legal education was beginning to change. The days of autocratic deans were giving way to the idea of shared decision-making. This picture of the autocratic dean is still pervasive in popular culture . . . . I grow misty-eyed thinking about it, for those days are long gone. Today, . . . the average tenure of a dean is three and a half years.”

140. See Cantú, supra note 19, at 337–38 (“[Raba] was definitely a strong man. He was a one-man rule. He was the individual who hired and fired. There were no committees. Admissions was handled by an admissions dean, overlooked by Dean Raba.”).

141. Ayers was a colorful character. His office was in the Law Administration Building. When a visitor walked in the main door on the north side of the building, the visitor looked right into Ayers' office, if the door was open. Prominently hung on the wall, and clearly visible, indeed unavoidable, was a Confederate flag. Today, that would be unthinkable, but in the early 1980s it was unremarkable. Texas, after all, had been part of the Confederacy. Decades later, during the Cantú administration, there was an aesthetic counterpart to Ayers’ flag. Whenever a visitor walked into the dean’s suite of offices, there was a clear view of the famous Obama “HOPE” poster in a staff member’s office. That, too, was unexceptional.

142. The word might have been “tyrant.” Either way, I have confirmed my recollection of this statement with Bonnie Roberts. Interview with Bonita K. Roberts, Professor of Law, St. Mary's Univ. Sch. of Law, in San Antonio, Tex. (Aug. 10, 2018).

143. See Richard A. Matasar, The Maccrate Report from the Dean’s Perspective, 1 CLINICAL L. REV. 457, 458 (1994) (“This picture of the autocratic dean is still pervasive in popular culture . . . . I grow misty-eyed thinking about it, for those days are long gone. Today, . . . the average tenure of a dean is three and a half years.”).
governance, a collaborative regime in which both the dean and the faculty have roles to play. By 1982, the idea of a dean as a “one-man show” or “dictator” was increasingly out of step with prevailing practices in law schools nationwide. Many of the young faculty members recently hired at St. Mary’s expected to have their views about legal education and the law school’s program of study heard and considered. The time was ripe for a rift to develop in the faculty between those who were willing to defer to Castleberry’s autocratic practices144 and those who were not. This soon led to the formation of divergent camps consisting of the supporters and opponents of Castleberry.

The polarization of the law faculty was accelerated by the loss of what might be called the flexible middle of the faculty. Soon after I arrived at the law school in 1982, it became clear to me that at faculty meetings there were three groups: the Progressives (who wanted to change things); the Traditionalists (who wanted things to stay the same); and the Centrists (who were somewhere between the two camps and voted one way or another depending on the issues, the arguments, and other factors). David Dittfurth, Tom Black, Doug Haddock, Geary Reamey, John Schmolesky, and I were the main Progressives.145 When Mark Cochran and Victoria Mather joined the faculty in 1985, they soon allied with the Progressives. The rest of the faculty were Traditionalists—with the exceptions of Joe Anderson, Glen Ayers, Bob Hobbs, Colin Kaufman, and Harold Reuschlein (the Centrists), all of whom were open-minded, and some of whom were occasionally independent, if not simply quirky.

In debating issues related to academic standards or hiring priorities, if the Progressives could win the votes of the Centrists, they could sometimes cobble together a majority and prevail on an issue. This did not happen often, but it happened enough that the Progressives did not feel hopelessly outnumbered. The existence of the Centrists made faculty debates important. It was worth making a good argument because one just might persuade enough colleagues to prevail. That was educationally and professionally beneficial for all sorts of reasons. Thus, the Centrists, though

144. See Cantú, supra note 19, at 356 (“Jim Castleberry carried the one-man rule further than Rahn. . . . What amazes me now, after all these years, looking back on it, is why did the faculty accept that? I have no idea, other than the fact that the majority of us were accustomed to it. . . . The younger faculty started saying why? That started the arguments that eventually led to Castleberry’s downfall.”).

145. However, I sometimes voted with David Schlueter on academic standards issues, and David was very much a Traditionalist.
few in number, played an important role in encouraging thoughtful faculty deliberations.

Faculty members like Reamey and me were not afraid to argue our positions, whether in person or on paper. For example, after an article on Catholic law schools had been distributed to the faculty, Geary wrote a two-page memorandum to the dean arguing in favor of expanding clinical education, promoting the teaching of Jurisprudence, and diversifying the approaches for teaching Professional Responsibility.146 On a different occasion, he wrote another two-page memorandum on “suggested incentives for scholarship and writing,” which made six recommendations reflecting his views and the views of others.147 I wrote memos about all sorts of things, including library resources,148 secretarial support,149 cigar smoking in the faculty building,150 increasing judicial clerkships,151 and office equipment. We thought that was what good faculty members were supposed to do: actively participate in building a better law school. Sitting quietly on the sidelines never crossed our minds.

The problem was that the Centrists essentially disappeared from the faculty before the start of the 1987–1988 academic year—the year that Michael Ariens, a highly independent Progressive, joined the faculty.

146. Memorandum from Gerald S. Reamey, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (May 23, 1984) (on file with author).
147. Memorandum from Gerald S. Reamey, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Jan. 24, 1986) (on file with author).
148. For example, when I started my second year on the faculty, I wrote a page-long memo to the dean (with a cc to the director of the law library) lamenting the suspension of distribution to each faculty member of an individual copy of publications called Recent Law Review Received and New Acquisitions Lists. Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Oct. 4, 1983) (on file with author). In that age, when information moved much more slowly, those publications were quite useful. I saw nothing wrong with saying that.
149. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Tom Black, Professor of Law, St. Mary’s Univ. Sch. of Law (Aug. 23, 1985) (on file with author) (noting the “COIF Committee Recommendation on Secretaries” and arguing in favor of correcting “long-extant deficiencies in secretarial support”).
150. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Oct. 20, 1987) (on file with author) (asking that the issue be placed on the agenda for the next faculty meeting because “[t]he problem is that when anyone smokes cigars in the Law Faculty Building the cigar smoke is distributed throughout the entire building through the ventilation system”).
151. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Feb. 1, 1988) (on file with author) (discussing ideas that emerged from a discussion with Mike Bassett ’87 during a field trip to the Texas Supreme Court).
Reuschlein retired in 1984. Ayers became a bankruptcy judge in 1985. Kaufman left the faculty around 1987 to run (unsuccessfully) for a seat on the Texas Supreme Court and never returned. Hobbs retired that same year, stating softly but bravely at his retirement dinner at the Grey Moss Inn that the law school needed to treat its students better. Consequently, by mid-1987, the faculty had hardened into two groups: the Traditionalists, who regularly (if not unfailingly) supported Castleberry, and the Progressives, who wanted to oust Castleberry and move into a more modern era of legal education. The existence of two entrenched camps on the faculty made life difficult for many years to come. The law school might have developed in more productive ways if there had been a substantial group of Centrists on the faculty in the late 1980s and early 1990s.

X. GATHERING STORMS, 1985

The fall of 1985 should have been a happy, optimistic time in the life of the law school, and in many respects it was. The physical plant of the law school had never been better. Bar passage results were good. Charles Smith, a graduate of the law school, was the president of the State Bar of Texas. San Antonio was a vibrant, growing city, with a dynamic young mayor, Henry Cisneros. Wayne Scott, who had long been the law

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152. Bob Hobbs had won the Phi Delta Phi Outstanding Teacher Award three straight years in the late 1970s. He set an excellent example for young faculty members. After retiring to Fort Worth, he established a $50,000 scholarship endowment at the law school. See Scholarships, ST. MARY’S SCH. L., https://law.stmarytx.edu/admission/financial-aid/scholarships/ [https://perma.cc/9SHP-CAJ4] (listing the “Robert Hobbs Law Scholarship Fund”).

153. See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time & Part-Time Law School Faculty (May 23, 1984) (on file with author) (reporting that St. Mary’s had a 92.5% first-time pass rate on the February 1984 Texas Bar Examination, the second highest rate out of the eight Texas law schools); Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time & Part-Time Law School Faculty (Nov. 7, 1984) (on file with author) (reporting that St. Mary’s had an 83.5% first-time pass rate on the July 1984 Texas Bar Examination, the third highest rate out of the eight Texas law schools); Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time & Part-Time Law School Faculty (May 13, 1985) (on file with author) (reporting that St. Mary’s had an 82.6% first-time pass rate on the February 1985 Texas Bar Examination, the second highest rate out of the eight Texas law schools).


155. See Elaine Ayala, Henry Cisneros: Former Mayor’s Position a Springboard to National Stage, in SAN ANTONIO: OUR STORY OF 150 YEARS IN THE ALAMO CITY 270 (2015) (“A White House Fellow during the Nixon administration, Cisneros was elected to the City Council in 1975. By 1981, he was mayor, leading the city on a course of growth and economic development.”). Cisneros spoke at the
school’s best connection to the State Bar of Texas and the Texas Supreme Court, continued to direct a rich program slate of continuing legal education programs, the most successful of which drew audiences of more than 500 lawyers. Students in the class of 1985 had been hired for plum jobs with big law firms not only in San Antonio but in Dallas and Fort Worth. Other St. Mary’s graduates had landed judicial clerkships with Texas courts at all levels and with federal courts as prestigious as the Fifth Circuit. The *St. Mary’s Law Journal* was publishing solid articles that would eventually earn it the honor of being named the law review published in Texas that was

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156. The programs directed by Scott in the 1980s included: Foreclosure Litigation (State Bar of Texas), November 1989; Alternate Dispute Resolution Methods and Practice (State Bar of Texas), May 1989; Second Advanced Appellate Procedure Course (State Bar of Texas), June 1988; Tort Reform (State Bar of Texas/St. Mary’s University School of Law), June 1988; Alternate Dispute Resolution (State Bar of Texas/St. Mary’s University School of Law), March 1988; Civil Procedure: Rules and Statutes (State Bar of Texas/St. Mary’s University School of Law), November 1987; The Tort of Breach of Contract (The Duty of Good Faith and Fair Dealing) (State Bar of Texas/St. Mary’s University School of Law), June 1987; Appellate Practice (State Bar of Texas/St. Mary’s University School of Law), November 1986; Tort Damages (State Bar of Texas/St. Mary’s University School of Law), June 1986; Procedural Aspects of Family Law (State Bar of Texas/St. Mary’s University School of Law), November 1985; Current Status of Tort Law (State Bar of Texas/St. Mary’s University School of Law), June 1985; Discovery (State Bar of Texas/St. Mary’s University School of Law), November 1984; Venue (State Bar of Texas/St. Mary’s University School of Law), November 1983; Judgments (State Bar of Texas/St. Mary’s University School of Law), October 1982; Current Problems in Procedure (State Bar of Texas/St. Mary’s University School of Law), March 1981; Settlements and Beyond (State Bar of Texas/St. Mary’s University School of Law), March 1980.

157. I remember a *Law Journal* banquet on the top floor of the Wyndham (now Omni) hotel at the Colonnade, where the outgoing editor in chief detailed the jobs the members of the editorial board had accepted for after graduation, including several jobs in Dallas and Fort Worth. It was a very impressive list of positions.

158. See Letter from Stephen S. Goodman, Outgoing Editor in Chief, St. Mary’s Law Journal, to author (June 15, 1985) (on file with author) ("I have accepted a position as briefing attorney with the Fifth Circuit Court of Appeals for Judge Robert M. Hill of Dallas."). When I took students from my classes to visit the Texas Supreme Court, our graduates who were serving as briefing attorneys for justices took us on tours that included a justice’s chambers and the court conference room. See Letter from Vincent R. Johnson, Assoc. Professor of Law, St. Mary’s Univ. Sch. of Law, to Jamie Parker (Feb. 3, 1987) (on file with author) (thanking Parker, a 1986 graduate, who was clerking for Justice Ted Z. Robertson). Parker was hired in 1988 as staff counsel to the United States Supreme Court. He worked at the Supreme Court for two years. See James M. Parker Jr., NAMAN, HOWELL, SMITH & LEE, [http://www.namanhowell.com/Attorney-Profiles/San-Antonio/James-M-Parker-Jr-.aspx](http://www.namanhowell.com/Attorney-Profiles/San-Antonio/James-M-Parker-Jr-.aspx) [https://perma.cc/QDB2-8CYT] (showing the profile and employment history of James “Jamie” Parker).
most frequently cited by state and federal courts. The St. Thomas More Society was continuing to host a diverse and vibrant series of speakers on campus, which addressed important issues, such as “Urban Problems, Stress Management, American Indian Rights, Chemical Castration, the Death Penalty, Pornography, The Religion Clauses of the First Amendment, Religion in Legal Education, and The Sanctuary Movement.” In addition, the newer members of the faculty had brought energy and ideas to the campus, and were beginning for the first time to establish a culture of scholarship at the law school. Yet storms were gathering that would rage mightily for the next four years.

On the one hand, there was continuing and widespread resentment of the Castleberry administration by the students. They objected to harsh grading practices, high exclusion rates, and required upper level courses that deprived students of a choice of professors. Specifically, they complained about “inadequate use of practice exams, inadequate warning as to what the professor wanted on the final exam, and inadequate explanation or review of final exams.” But these were only a few of a long list of complaints. I think the students objected to the tone of Castleberry’s communications as much as anything. He talked down to students, and some of his letters were belittling. Castleberry generally ignored student views when formulating rules. The law school did not have to operate that way. For example, when the Student Handbook Committee, chaired by John Schmolesky, was writing a new Code of Student Conduct, it contacted the SBA officers and Honor Court members, indicating that “[t]he Committee


160. Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Feb. 19, 1988) (on file with author). For years, I was the advisor to the St. Thomas More Society. Because I take a broad view of the First Amendment, I welcomed the diverse range of topics that the student leaders of the St. Thomas More Society wanted to explore. Castleberry seemed to view the group as a subversive organization, so I took pains to call to his attention potentially controversial topics (related, for example, to programs on “Religion, Atheism and the Law” or “The Sanctuary Movement”) so that he could voice any objections. Castleberry never attended any of the twenty or more programs the Society presented, “even when invited to welcome special guests,” such as the mayors of three major Midwestern cities (Indianapolis, St. Paul, and Rockville). Id.

161. Notable leaders in that regard were Garey Reamey, David Schlueter, and Gerry Beyer.

162. Memorandum from David Dittfurth, Professor of Law, St. Mary’s Univ. Sch. of Law & David Schlueter, Assoc. Dean, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr, Dean, St. Mary’s Univ. Sch. of Law (Feb. 15, 1985) (on file with author).
is most interested in soliciting comments from the student body prior to any consideration of the [proposed new code] at a faculty meeting[,]” and stating that “student recommendations could be incorporated [into] the proposed draft or, if not incorporated, at least carried to the full-time faculty.”

Castleberry’s rule against wearing shorts on campus was extremely unpopular, as were his rules against food or drinks in the Law Classrooms Building and Kenedy Law Library. Indeed, even the faculty objected to rules against food or drinks in their offices in the new law library. Some faculty members were unsure whether the dean could be trusted, and others were sure that the dean could not be trusted. Each year Castleberry circulated a memo that said he intended to continue his policy of basing “faculty salary increases solely on the basis of merit.” But there was doubt among the faculty about whether that was how things played out. When awards for outstanding service were given out by Castleberry each year at the university faculty appreciation dinner, they often looked more likely loyalty awards than awards based on merit.

On the other hand, there was struggle over who would be forced out. Would it be the dean, or would it be the young reformers who had somehow erroneously been added to the faculty (particularly Reamey and myself)?

163. Memorandum from Student Handbook Comm., St. Mary’s Univ. Sch. of Law, to S.B.A. Officers, Honor Court Members & Investigator (Nov. 18, 1983) (on file with author) (listing the Student Handbook Committee as “Professor Schmolesky, Chairman, and Professors V. Johnson, Leopold, Raba, Reamey, and D. Schlueter”). Later, “a meeting was held with representatives of the student body.” Memorandum from Student Handbook Comm., St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (Feb. 6, 1984) (on file with author).

164. See Cantú, supra note 19, at 356 (recounting how the “no shorts” rule “sent the student body almost into revolution[,]” but “[t]he dean said ‘no shorts,’ and therefore no shorts”).

165. See id. (“We had just re-carpeted the classroom building at a tremendous expense. [Castleberry] did not want coffee stains on those rugs. An edict went out, ‘No coffee,’ and that was expanded to ‘No drinks, no food.’ Then he took out the candy machines from the classroom building.”).

166. See Memorandum from Vincent R. Johnson, Gerald S. Reamey, Colin K. Kaufman, Henry F. Johnson, Bonita K. Roberts, Gerry W. Beyer & Mary Anne Crosby, Professors of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Oct. 3, 1984) (on file with author) (“We respectfully request that the faculty research carrells in the new Law Library . . . be exempted during the period of renovation from the rule banning food and drink in the building.”). Castleberry requested a meeting with the unhappy faculty members on the following day. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Gerry W. Beyer, Mary Anne Crosby, Henry F. Johnson, Colin K. Kaufman, Gerald S. Reamey & Bonita K. Roberts, Professors of Law, St. Mary’s Univ. Sch. of Law (Oct. 4, 1984) (on file with author). As a result of the meeting, the rules were made less strict as applied to the faculty.

167. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. School of Law, to Full-Time Faculty (Feb. 22, 1985) (on file with author).
This issue raised itself in colorful terms on a surprising occasion, the rededication of the round building as the Ernest A. Raba Law Building.

XI. RABA BUILDING, 1985

The $7.5 million grant that provided the funds to build the Sarita Kenedy East Law Library was received by the law school in the early 1980s. The law school was able to invest those funds for a year before needing to disburse the money to pay for the new library. Interest rates on bank deposits were phenomenally high during that period of time, sometimes reaching 14%. Thus, in the course of a single year, the law school earned a million dollars in interest on the grant funds, and that money was used to create a fund that would help to pay for the maintenance of the Kenedy Law Library.

Part of the $7.5 million grant was used to renovate the round building, converting its chief use from law library to faculty building. The renovation was very successful, and even today, more than thirty years later, the faculty offices that ring the second floor are excellent.

168. See Leopold, supra note 8, at 5 (“Dean Raba was instrumental in laying the framework for a $7.5 million grant from the Sarita Kenedy East Foundation, which financed the building of a new law library and the renovation of the old library into the faculty office building.”). The story about the generous grant for the new library is recounted by Charles E. Cantú. Cantú, supra note 19, at 362–63.


170. On the second floor, there is an outer ring of faculty offices that look out toward the campus, and an inner ring of rooms (surrounding the central rotunda) that house the faculty and staff lounges, research carrels, and seminar rooms. The overall arrangement is excellent. The second floor is quiet and light-filled. There are four round skylights in the secretarial areas in the outer ring and twelve more skylights in the rotunda. It is easy to get from one part of the second floor to any other part in a few moments. Everything is close, but nothing is too close. The atmosphere is very professional. However, during the design phase of the renovation process there was almost a serious error. The original plan was for the inner ring of rooms on the second floor to consist of modular furniture with five-foot partitions, rather than walls to the ceiling. That would have ruined the privacy and quietude that are so important to scholarly work. David Schlueter wrote a memo calling the plan for modular partitions “wholly inadequate.” See Memorandum from Dave Schlueter to Robert Summers (Nov. 7, 1983) (on file with author) (“They provide no privacy and will diminish the esthetic value of the faculty office area.”). A few days earlier, I had sounded a similar concern. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Robert Summers, Professor of Law, St. Mary’s Univ. Sch. of Law (Nov. 1, 1983) (on file with author) (“I know that [in a room with five foot partitions] it is almost impossible to work productively if a person nearby is carrying on a conversation, dictating a memo, or typing. I strongly recommend that the walls separating [the research carrel] areas go the whole-way to the ceiling.”).
The round building is a superb faculty building, not only functionally, but symbolically. As one walks into the Law Center from the parking lot, the faculty building looms over the Law Administration Building the way some round medieval towers loom over the other battlements. Symbolically, that signals (perhaps erroneously) that the faculty is superior to the administration. At St. Mary’s University School of Law, that has sometimes been true, as on three occasions when the faculty has risen up to topple deans. However, symbolism notwithstanding, St. Mary’s has generally been ruled by strong deans—though the recent history has been somewhat to the contrary.

The floor plan of the second floor of the round building consists of an outer ring of offices separated by a circular hallway from an inner ring of seminar rooms, research carrels, and lounges. In the middle, there is a spacious rotunda with a receptionist’s desk. The rotunda is flooded with natural light from skylights and artificial illumination from modern fixtures that accentuate the circular geometry of the space. On the walls that encircle the rotunda hang the portraits of former faculty members, which stare out at one another across the rotunda.

The offices that line the perimeter of the round building’s second floor are nicely sized, quiet, and, except for concrete block exterior walls in most of the offices, professionally appropriate. The faculty offices come in two sizes: large and medium. When they were originally occupied in 1985, the medium-size offices came with an enclosed research carrel across the hall or not far away.

When the round building was renovated in 1984–1985, the architects proposed that the area that became the inner ring of rooms should be open and furnished with modular carrels with five-foot-high walls. The building committee undoubtedly made the right decision in rejecting that plan and insisting on rooms with lockable doors and walls that stretched to the ceiling. Thus, the plan that was ultimately implemented on the second floor separates the impressive rotunda in the center from the faculty offices by creating an inner ring of permanent rooms, which look good and reduce the transmission of noise. Until renovations that occurred in the early 2010s, there were four main passages that led from the rotunda to the outer ring. There were three direct connecting hallways on the east, north, and west.

171. On a few occasions, during the roughly ten years that I was director of the physical plant at the law school (1995 to 2005), a faculty office came open. We sometimes seized the moment before the new occupant moved in to sheet rock the exterior wall of the office.
sides, and access (for faculty members) between the rotunda and south side of the building via double doors on both sides of the crescent-shaped faculty library. When the faculty library was decommissioned in the early 2010s due to lack of use (since so much material is available online in faculty offices), the library space was made into seminar rooms. Today, when one of the seminar rooms (called the dean’s conference room) is not in use, it is still possible to cut between the south side and the rotunda, if the doors are open. The great beauty and convenience of the second floor is that nothing seems far from anything else, and nevertheless is a great deal of the kind of quietude and privacy that is conducive to academic work.

The renovation of the first floor of the round building was much less of a success than the second floor. When the Law Center was originally built, the rotunda on the first floor was part of the library on the second floor. There was a glass wall that separated the circular carpeted area in the center of the first-floor rotunda from a hallway with a brick floor that ran around the perimeter of the rotunda, outside of the glass wall. Two solid oak doors\textsuperscript{172} led from the western lobby of the first floor into the first-floor library area, which housed more than a half dozen large tables at which students could work, but no books. The first floor of the library was connected to the second floor by a matching set of curved stairs.

During the renovation of the round building, the circular glass wall in the lower rotunda was removed. The result was that the center of the first floor became spacious. The western fan-shaped lobby led to the central rotunda, which then opened into the eastern fan-shaped lobby. The space served as a lounge and could easily be adapted to host events of various sizes. Unfortunately, the eastern lobby was enclosed in the early 1990s to create office space for faculty. Those offices have been reconfigured several times and have always seemed cramped.

\textsuperscript{172} Someone descending the stairs from the second floor normally had enough time while walking across the rotunda to look through the glass wall and judge whether anyone would be walking behind one of the solid oak doors when it was pushed open. However, one day when I pushed the door open, I heard a thud and a gasp, and soon saw my elderly colleague, Bill Francisco, slumped down in his walker, whispering “get my pills.” Bill, probably then near seventy, had been creeping behind the door in his walker, so slowly that I did not see him while crossing the room. I apologized for setting back his convalescence from an earlier fall. But we both taught torts, and Bill quickly admitted that he was contributorily negligent for walking right behind the opaque door in a walker. We remained on good terms. In the mid-1980s, Bill absolutely mesmerized the first-year students he taught. They talked about “Francisco” incessantly. Why? Bill’s teaching method was some odd mixture of cheerfully speaking in riddles, never answering questions, and occasionally reducing students to tears.
As originally built, the round building had an arcaded, outdoor, first-floor walkway that ran the whole way around the building. In order to gain more classroom space, the arcades on the north and south sides of the building were enclosed by Castleberry, over Raba’s objection, during the renovation. Two classrooms (107 and 108) were added on the south side that were generally despised by the students and faculty. The rooms had great arched windows at the back of the seating area. But the rooms were squatty, building support columns blocked sight lines, AV facilities were poor, and the small teaching areas at the narrow front of the rooms were obstructed by a platform that was dysfunctional and dangerous. The ineffective portable wall that was originally positioned between those rooms was soon replaced by a permanent wall that was better at blocking sound. But the other problems remained until Dean Stephen Sheppard, in the 2010s, converted those spaces to office use, generally related to the Legal Writing and Law Success programs.

On the north side of the round building the enclosed arcade became small classrooms, large enough to house thirty or so students each. For years, the rooms were always crowded with too many portable desks and never offered optimal teaching space. One of those rooms is now occupied by Law Computer Services. The other was very nicely incorporated into the Terrorism Law Center when the enclosure of the northeastern part of the arcade was expanded in the early 2000s.

When the renovation of the round building was completed, the building was named in honor of former Dean Raba. I looked forward to the dedication of the Ernest A. Raba Law Building, which took place on a weekend that marked “both ancient traditions and new beginnings.” On Friday evening November 8, the annual Red Mass was held at San Fernando Cathedral, followed by “a reception for students, alumni, and friends of the law school . . . in the elegant Crystal Ballroom of the Gunter Hotel.”

173. See Cantú, supra note 19, at 364 (“As part of the renovation, Castleberry enclosed part of the outdoor arcade that wrapped the first floor of the round building. Dean Raba was not happy; he made a special trip up the hill to speak with the president and ask him not to approve those alterations. But, Jim Castleberry prevailed and, as a result, he added quite a lot of square footage to that building.”).

174. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Robert Summers, Professor of Law, St. Mary’s Univ. Sch. of Law (Mar. 10, 1988) (suggesting improvements in Classrooms 107 and 108).

175. Memorandum from Vincent R. Johnson, Assoc. Professor, Chairman, Special Events Comm., St. Mary’s Univ. Sch. of Law, to Member of the Class of ’88 (Oct. 22, 1985) (on file with author).

176. Id.
rededication of the round building took place the following day on campus at 3:00 p.m.

Because I was chair of the law school’s Special Events Committee (which essentially meant Red Mass and graduation), I promoted attendance at the rededication by distributing flyers to more than 600 student mailboxes in the eastern lobby of the Law Classrooms Building. The flyers, which also promoted the Red Mass, stated in part:

[T]he newly renovated law faculty building will be re-dedicated, marking the beginning of a new chapter in the history of the law school. It will be named in honor of Professor Ernest A. Raba, who for more than forty years has served on the faculty of this school. It was during his [thirty-two] year deanship that the three original buildings of the present law complex were built and through his persistent efforts spanning nearly two decades that St. Mary’s secured the grant to build the law library and to renovate the round building. Following the ceremonies, a reception will be held on the plaza. Hundreds of alumni and friends of the School have been invited to attend this great occasion. We hope you will make plans to join the festivities.

177. During my first two or three years on the faculty, the law school commencement was held at the NISD Paul Taylor Field House, near the intersection of Culebra Avenue and NW Loop 410, more than a ten-minute drive from the campus. One year, I arrived early at the facility, and it was discovered that the staff had brought only some of the diplomas to the graduation site. Kay Windrow, a genteel woman who worked in the dean’s office, and I raced back to the campus in my car to see if we could locate the university registrar and the missing documents on that Saturday. Somehow, we found him, secured the missing diplomas, then dashed to the Field House, barely in time for the ceremonies. Kay never forgot that high speed drive up and down Culebra. She told many about it.

178. My notes show that I requested 250 copies on green paper, 220 on blue paper, and 170 on gray paper. The green copies were for the first-year class of ’88, the blue for the second-year class of ’87, and the gray for the third-year class of ’86. The difference in color must have been intended to draw attention to the mailboxes when the flyers were inserted into the vertical slots. The number of copies that I requested suggests that the enrollment at the law school in 1985 was about 640, which is consistent with what I remember. The drop in the size of a class from first-year to second and third is a representative indication of the way things normally work at St. Mary’s. Academic attrition and transfers generally reduce the size of the class each year, although in some years more students transfer in than transfer out.

When the dedication day arrived, Geary Reamey and I noticed that the faculty offices and other parts of the building were locked up tight and that visitors to the building would not be able to see much. We opened our offices and research carrels and turned on the lights so that visitors could have at least a glimpse of the fine furniture and other amenities.

Raba was then seventy-two years of age and would still teach on the faculty for two more years. When he was called on to speak at the re-dedication, he took aim at the young faculty members whom he apparently regarded as unwanted interlopers. He said that if they were not happy with the law school and its leadership, they should go directly to NW 36th Street, “head north or head south, and get the heck out of town.” It was a remarkable performance by an aging professor.

I did not regard Raba’s remarks as particularly disturbing because he was the voice of the past, not the future. But the dark clouds were gathering.

At faculty meetings, the younger members were often told that it was not their job to run the law school. They were informed, expressly and implicitly, that they should accept the decisions of the dean, and as was often said, “dance with those that brung ya.”

There was a notorious faculty retreat outside of San Antonio at the Gallagher Ranch in the late summer of 1987, where the general message was that younger members of the faculty had no right to a say in how the law school would operate, and really no personal stake in the future of the institution. When Michael Ariens, a brand new member of the faculty, voiced his thoughts on a subject under discussion, Raba asked, “Why does he have a right to speak?”

XII. **TOUGH GUY, 1978–1989**

Castleberry had a softer, more congenial side, but it almost never showed. I remember the alumni dinner at The Bright Shawl in 1985, where Castleberry received the Distinguished Law Graduate Award. He gave an acceptance speech that was laced with humor, grace, wit, and humanity. He

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180. See Csicska, *Dance with the One that Brung Ya*, WORDREFERENCE (Feb. 4, 2017) https://forum.wordreference.com/threads/dance-with-the-one-that-brung-ya.3284084/ [https://perma.cc/2X3Y-64UE] (“One of [Ronald Reagan’s] favourite political sayings came from a song popular in his youth: ‘Dance with the one that brung ya.’ Reagan’s point was simple: in politics, as in life, you support those who support you. You are loyal to those who have made you. And that’s not just in good times, or when it suits you.”).

181. Interview with Michael Ariens, Professor of Law, St. Mary’s Univ. Sch. of Law, in San Antonio, Tex. (Aug. 8, 2018).
talked about how Raba had recruited him right off the sidewalk to attend law school as he was walking past 112 College Street. He also gently needled his wife Mary Ann, who was active in historic preservation, by recalling the neon sign that once hung outside the old law school, and asking, “Where was the Conservation Society when that sign needed saving?” The speech was a huge success. There was a standing ovation. The speech was all soft corners, and no hard edges. I knew as I listened that the speech was a once-in-a-lifetime performance. I would never see that side of Castleberry again in public.

I also remember having drinks with Castleberry and his wife in 1987 at their summer rental apartment in Innsbruck, Austria, then going to dinner with them at an outdoor beer garden near the river. Castleberry was entirely gracious and told fascinating tales about his role flying in the Berlin Airlift after WWII and traveling over the Andes, by car I think, one New Year’s Eve. Castleberry was interesting. He probably would have been a nice neighbor to live next door to.

Even when Castleberry voted against me for tenure, his handwritten ballot contained measured words that were far milder than the memorandums I often received from him when he thought I had done something wrong. Those missives tended to read as though they had been shouted into a Dictaphone. Later, when I became associate dean in 2001, Castleberry sent me a kind, handwritten congratulatory note.

182. Of course, Castleberry never conveyed those sentiments to me personally. The only reason I know is that after Barbara Aldave became dean in 1989, I asked to see my personnel file. In it I found a copy of Castleberry’s ballot, which said:

Although Prof. Johnson is well on his way to the point at which he will deserve, and I am sure will be granted tenure, he is not yet there. He has just now [met] the minimum required years of service. He has, within the past year and a half begun to publish [some] really scholarly contributions to legal literature in the area he teaches—torts. He is maturing professionally. I believe in another year or two the University should take another evaluation look at tenure for him.

Ballot for Tenure for Vincent R. Johnson by James Castleberry, Dean, St. Mary’s Univ. Sch. of Law (Mar. 9, 1987) (on file with author). It is possible the generous language on my tenure ballot was part of a good cop, bad cop routine used by Castleberry to make his votes against Geary and me seem balanced. I saw the ballot that Castleberry wrote urging that Geary be denied tenure, too. (Geary had also requested his personnel file.) The language in that ballot was harsher.

183. Letter from Jim Castleberry to author (June 7, 2001) (on file with author). The note read:

Dear Vince:

....
Unfortunately, as an administrator, Castleberry liked to project a tough-guy image. He believed that was the way to effectively manage budding professionals. He had a penchant for decreeing inflexible rules not only on important subjects (such as faculty cancellation of classes, use of the media viewing room, building security, or use of locally produced materials for classes), but also on relatively minor subjects as well (such as whether a research assistant for a professor could sit in the professor’s office chair).

With respect to your appointment as Associate Dean for Administration, I will extend both my sincere congratulations and best wishes, and, at the same time, my condolences. I know you must have accepted this appointment with both a realization of what it will be like to be the target of all sorts of complaints and blame for every kind of problem you can imagine, and, at the same time a unique opportunity to exercise your excellent leadership and planning experience, and, hopefully help bring about our much needed resurrection of St. Mary’s Law School—what a hell of a challenge!

Id. 184. See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (Oct. 12, 1982) (on file with author) (requiring prior submission of a form or a phone call to the receptionist to provide pertinent information).

185. See Media Viewing Room Policy Statements, St. Mary’s Univ. Sch. of Law (1984) (on file with author) (“Classes are not scheduled on a semester basis. . . . No personal use. . . . No scheduling is made for non-campus affiliated use. . . . No smoking. . . . No food or drinks.”).

186. See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Law Faculty & Staff in the Raba Building (Feb. 11, 1986) (on file with author) (mandating that the outer stairwell doors and the door to the elevator on the first floor of the Raba Building be locked at all times so that visitors have to access the second floor through the receptionist).

187. See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to All Faculty (Oct. 14, 1981) (on file with author) (laying out procedures for ordering supplemental materials).

188. Castleberry had proposed a detailed set of rules regulating the conduct of research assistants. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (Sept. 3, 1985) (on file with author). I agreed that some of the rules were “appropriate and desirable,” but said that others went too far, such as one proposed rule that stated: “Faculty research assistants are not permitted to use the telephone, or sit at the desk of any professor unless the professor for whom the assistant works is personally present.” Id. Addressing the quoted provision, I wrote: “[T]he keys to efficiency are flexibility and common sense. There are times when it is important to have a research assistant make calls on a professor’s behalf, for example, to track down docket numbers of unreported cases or to determine whether pieces of legislation have been acted upon.” Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Sept. 5, 1985) (on file with author). Although Castleberry was not a man who was easily persuaded, he responded:

After having considered [the entire faculty’s] suggestions and comments [which were excellent and appreciated], it clearly appears that the faculty is in agreement that the following rules should govern faculty research assistants:
As Dean Emeritus Charles E. Cantú has recalled, Castleberry regularly issued “edicts” to both the faculty and the students. It was a style of management particularly ill-suited to modern legal education. In retaliation, students circulated fake newsletters on campus that mocked Castleberry’s “hard ass” regime. However, it is only fair to remember that Castleberry worked hard to improve numerous aspects of law school operations, such as secretarial support, wireless microphones in the

1. Faculty research assistants are not permitted in Room 216 (faculty research carrels) in the Sarita Kenedy East Law Library Building unless the professor for whom they are working is personally present.

2. Faculty research assistants are not permitted in the Faculty Library in the Law Faculty Building except for the limited purpose of either obtaining or returning library materials for the professor for whom they are working.

3. Faculty research assistants are not permitted on the second floor of the Law Faculty Building on week-days after 5:00 p.m. or on weekends unless the professor for whom they are working is personally present.

4. Faculty research assistants are not permitted in the Law Faculty or Staff Lounges.

5. Each professor is personally accountable and responsible for the conduct of his or her faculty research assistants, not only in the office of the professor, but also in the Law Faculty Building generally, while the faculty research assistants are on duty.

Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (Sept. 26, 1985) (on file with author).

189. See Cantú, supra note 19, at 356 (“Jim Castleberry carried the one-man rule further than Raba. He started issuing these edicts from the dean’s office. For example, ‘No food or drink in the classrooms.’”).

190. See Letter from Ima Sunk, Your First Year Law Student, to Mom & Dad (1984) (on file with author) (“Each day . . . at 8 AM, Dean Castleberry locks us in our classes where we must endure for hours on end that which makes the green berets look like a quilting ‘B’. . . . Dean Castleberry says if we work [twenty-eight] hours a day, sleep standing up, and eat dicta (fancy word for judge manure) we can just barely, just maybe, just possibly, FAIL! Dean Castleberry is very reassuring! Rumor has it he was a talent scout for Hitler’s SS.”); Memorandum from Dean James N. Cashincarry, Jr. to Law Students (Oct. 16, 1984) (on file with author) (stating, on authentic-looking, dean’s-office stationary, that “[a]nyone suspected of unprofessional foot placement [on library furnishings] will be subject to disciplinary action, including, but not limited to, parent-faculty conferences, public spankings by the entire library staff, immediate confiscation of all footwear, books and lunch cards, and garnishment of parent’s income”); Memorandum from Chairman, Not a Dime Comm., to All Comm. Members (Mar. 18, 1985) (on file with author) (stating, on law school stationary, that compliance with “the Committee’s policy which PROHIBITS donations of time, care, concern or money (especially MONEY) to the Law School” was “absolutely essential for the preservation of our intent to keep the Law School dependent on rich old widows and exorbitant tuition”).

191. See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Faculty & Staff (Sept. 3, 1986) (on file with author) (regarding improved secretarial services).
classrooms, the availability of research carrels, and scheduling of events.

Often, Castleberry overreached. Some letters that he wrote were demeaning. In a letter to a law student who apparently had complained about a registration late fee, Castleberry wrote:

If it was more convenient for you to register late, you should not complain about being charged a “late fee.” A lawyer attempting to file the transcript of the record with an appellate court, at a more convenient time after the deadline for such filing, is not permitted to do so—there is no “late fee” for filing available. Hopefully, the willingness of the university to permit you to register “late” with such a modest “late fee” will not inhibit your proper understanding and appreciation of the rationale for our policy, or the importance, of compliance with established rules in a timely manner.

Castleberry sought to ensure that full-time members of the faculty were in compliance with ABA Standard 402, which then stated:

A full-time faculty member is one who during the academic year devotes substantially all working time to teaching and legal scholarship, has no outside office or business activities and whose outside professional activities, if any, are limited to those which relate to major academic interests or enrich the faculty member’s capacity as scholar and teacher, or are of service to the public generally, and do not unduly interfere with one’s responsibilities as a faculty member.
However, when Castleberry required faculty members to disclose their outside income and work hours for the prior three years, their plans in that regard for coming year, and other details, he may have gone too far. I complied with his request because, as a young faculty member, I had almost nothing to disclose. More senior members of the faculty voiced resistance, and Castleberry seemed to drop the issue. At least he did not press it further publicly.

Castleberry worked to secure a chapter of the Order of the Coif for St. Mary’s University School of Law. He believed that would confirm the law school’s intellectual bona fides. However, his dream never came to pass, in part because during Castleberry’s era a large portion of the faculty did not engage in significant legal scholarship.

XIII. ILLUSORY VICTORY, 1987

At St. Mary’s, law deans normally serve a three-year term. Before a dean is re-appointed, the president of the university will consult faculty members at the School of Law, and other persons within the university. The consultation normally takes the form of a secret, non-binding, written ballot, although some faculty members have met with the president personally, either individually or in groups, during various decanal consultations.

In the fall of 1987, after conducting a consultation in which Castleberry’s re-appointment was vigorously contested, University President John A. Leies sent out a long-awaited memo about re-appointment. It seemed to say that Castleberry’s opponents had won. Castleberry was given a limited two-year contract. The Academic Vice President of the University, Dr. Charles L. Cotrell, then wrote to the law faculty, stating:

The President, Rev. John A. Leies, S.M., and I would like to consult with you on the question of the timing of a Dean’s Search in the School of Law. As you know, Dean James N. Castleberry’s term as Dean expires as of June 1,
1989. The process and timing of this important search are integral to the continuation of high educational quality in the School of Law.

We also would like to discuss with you the composition of a search committee. A meeting has been scheduled for these purposes on Wednesday afternoon, November 11 from 4:00 to 5:30 p.m. in Room 104 of the Law Classroom Building.²⁰⁰

Two days later, nine untenured members of the law faculty responded to Father Leies and Dr. Cotrell, stating:

As non-tenured members of the Law School faculty, we have [a] strong interest in the Law School’s future. At the same time, our non-tenured status makes many of us reluctant to articulate our views as emphatically as we might if we enjoyed the security provided by tenure. This reluctance is especially prevalent in the context of meetings of the full law school faculty. Therefore, we are writing this memorandum to apprise you of our feelings regarding the pending dean search process.²⁰¹

A memorandum from Professor Al Leopold two days later, November 5, 1987, said that “the present is not a good time to be looking for a new dean”²⁰² because thirty deanships had recently been filled, and approximately ten more schools were looking for deans. He suggested that a search “not be commenced until sometime in the spring of next year.”²⁰³ Leopold’s memo suggested both that he believed that Father Leies’s first memo terminated Castleberry as dean at the end of his current appointment and that the university had the power to commence a dean search. This was comforting to Castleberry’s opponents because Leopold was a formidable figure at the university whose opinions typically rested on solid grounds, and therefore counted.

However, on the same day, Castleberry interjected a new line of argument. He distributed a memorandum to the law faculty stating, “I have

²⁰⁰. Memorandum from Dr. Charles L. Cotrell, Acad. Vice President, St. Mary’s Univ., to All Full-Time Faculty Members of St. Mary’s University School of Law (Nov. 2, 1987) (on file with author).
²⁰¹. Memorandum from Vincent R. Johnson, Geary Reamey, Mark Cochran, Marsha Huie, Lee Lyntin, George Flint, Victoria Mather, Marsha Merrill, Michael Ariens, Assoc. Professors of Law, St. Mary’s Univ. Sch. of Law, to Rev. John A. Leies, President & Dr. Charles L. Cotrell, Acad. Vice President, St. Mary’s Univ. (Nov. 4, 1987) (on file with author).
²⁰². Memorandum from A.A. Leopold, Professor of Law, St. Mary’s Univ. Sch. of Law, to Rev. John A. Leies, President & Dr. Charles L. Cotrell, Acad. Vice President, St. Mary’s Univ. (Nov. 5, 1987) (on file with author).
²⁰³. Id.
not resigned, and have never had, and do not now have, any intention to resign.”\textsuperscript{204} More importantly, he argued that ABA Standards and AALS Bylaws prevented the university from changing deans at present. Quoting various rules and standing them on their heads, Castleberry wrote: “It seems to me that these rules and regulations clearly express the view that the Dean of a law school should not be changed unless ‘a substantial majority of the faculty’ is opposed to the retention of that person as Dean.”\textsuperscript{205} There had been no such vote.

This was a totally bogus argument, but it achieved its objective. It created doubt and uncertainty about what the accrediting entities required and what the university had the power to do. It even created uncertainty as to the meaning of Father Leies’s initial memorandum: was it a declaration that Castleberry would not be reappointed, or was it something else? To his advantage, Castleberry had muddied the waters by asserting a construction of the ABA and AALS rules that no one at St. Mary’s had ever previously espoused, and for which there was probably no support anywhere in the country. Even Leopold, a loyal Castleberry supporter, had interpreted Father Leies’s original memorandum as meaning that Castleberry would not be continued as dean past the stated date and a dean search would commence. Now, everything was in doubt.

The meeting of the law faculty with Father Leies and Dr. Cotrell on November 11 was a disaster. Father Leies declined to say what his initial memorandum meant, but simply asked the persons present for their views on what they thought the memorandum meant. The reformers on the law faculty were beside themselves. The untenured faculty members were in an untenable position. They were damned if they expressed their anti-Castleberry views, and damned if they did not. Bob Summers (who had tenure) argued that Castleberry was doing a fine job and needed more time to complete his work. I argued that the date that Castleberry’s deanship would end had already been announced, and that to retreat from that decision would be seriously harmful to the young, untenured faculty members at the law school.

After the meeting, it only got worse. A memorandum issued by Father Leies made clear that nothing had been decided with respect to Castleberry’s future as dean. In that writing, Father Leies stated:

\textsuperscript{204} Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (Nov. 5, 1987) (on file with author).
\textsuperscript{205} Id.
Dr. Cotrell and I discussed at length the issue and decided that we would present the matter as the first item of business to the new President upon his appointment in April. We believe that it should be the prerogative of the new Chief Executive of the University to indicate the kind of Dean he would want to see at the Law School and that he be involved in the selection of that Dean.206

When the great upheaval finally came, it played out in three major battles before a brief skirmish and finally a decision. The first battle related to the non-hiring of a new faculty member, the second battle related to a Student Bar Association survey, and the third battle related to the non-termination of two existing faculty members.

XIV. DEFEAT AT A FACULTY MEETING, 1987

The first incident occurred in December 1987. There were rumors within the faculty that Castleberry was under pressure from lawyers in San Antonio to hire another207 Hispanic professor, and that if changes were not made in that regard, the university would be sued.208 Under the new amendments209 to the faculty recruitment rules, Castleberry no longer had authority to hire new faculty members without a favorable vote by the faculty on the candidate’s credentials. Castleberry therefore had to place the matter on the agenda for a faculty meeting.

Castleberry proposed a faculty candidate who was a recent law graduate of St. Mary’s University School of Law, a person with whom many of the faculty were acquainted, but whom few knew was Hispanic. There were several problems with the hiring proposal. First, non-elite law schools, like St. Mary’s, are often reluctant to hire their own graduates, preferring instead to recruit professors from nationally prominent law schools. Second, there had been no competitive search to fill the position that seemed to be available. Third, most members of the faculty had not been involved in

206. Memorandum from Rev. John A. Leies, President, St. Mary’s Univ., to Members of the Faculty, St. Mary’s Univ. Sch. of Law (Nov. 18, 1987) (on file with author).

207. Carlos Cadena had taught on the law faculty in the 1950s and 1960s. BRANDON, supra note 1, at 55. “Carlos Cadena (1917–2001) was the only Mexican-American in his class when he received his LL.B. summa cum laude from the University of Texas School of Law in 1940, after serving as an editor of the Texas Law Review,” Carlos Cadena Society, U. TEX. SCH. L., https://law.utexas.edu/student-affairs/societies/cadena/ [https://perma.cc/5GY-2FWN]. Charles E. Cantú served on the faculty from 1966 to 2018. Cantú, supra note 19, at 315.

208. I have no knowledge about whether these rumors were true.

209. See supra Part VII.
interviewing or recommending the candidate. These were all fair objections to hiring the proposed candidate. However, the most important factor was that it looked like the dean was trying to pack the faculty with one more vote that would be loyal to him.

For all of these reasons, there was broad opposition to the candidate. At the faculty meeting, Tom Black very forcefully argued the case against hiring the faculty candidate. In a stunning rebuke to the dean, the proposal to hire the faculty candidate was defeated. It was the first time that Castleberry had ever been repudiated on an important issue by a vote of the faculty. After that loss, Castleberry never called another faculty meeting.210 In protest of the faculty vote, Al Leopold resigned from the Dean’s Advisory Committee on Faculty Recruitment the following day saying that he could not be of any use, but urged the creation of “a special committee . . . constituted to seek out and bring to the faculty for action, prospective Hispanic heritage persons, preferably women, who meet the desired high standards and qualifications.”211

XV. THE SBA SURVEY, 1988

Ultimately, student resentment at the law school peaked in a Student Bar Association survey in the spring of 1988, which documented, in blistering terms, student grievances.212 There were two parts to the survey. The first part consisted of short, neutrally-worded questions with standardized

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210. I know that was true for the remainder of the 1987–1988 academic year because I was on campus. Even though I was on leave during 1988–1989 academic year, I think that was still true. My recollection is that previously Castleberry had held faculty meetings once a month—that is, three or four during each semester, fall and spring. However, my files contain a letter indicating that at one juncture we had meetings every two weeks. See Letter from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Alan Raphael, Professor of Law, Loyola Univ. Chi. Sch. of Law (Apr. 10, 1985) (on file with author) (“The faculty meetings are much better recently. The Dean has had the good sense to call them only monthly, rather than bi-weekly.”).

211. Memorandum from Aloysius A. Leopold, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry Jr., Dean, St. Mary’s Univ. Sch. of Law & Law Faculty (Dec. 4, 1987) (on file with author).

212. Memorandum from Outgoing Vice President, Student Bar Ass’n, St. Mary’s Univ. Sch. of Law, to Richard Noll, Alumni Bd., St. Mary’s Univ. Sch. of Law (Apr. 8, 1988) (on file with author). The memorandum stated:

You will find enclosed the results of the student side of the alumni questionnaire you asked the Student Bar Association to formulate and administer. Of the second and third years questioned, about [50%] responded: of the 192 second years, 129 responded, and of the 172 third years, 66 answered the questionnaire.

Id. The survey contains data relating to 38 questions and 26 pages of typed student comments. Id.
choices ranging from “strongly agree” to “strongly disagree.” The second part invited free-style comments about whether students would donate money to the law school as alumni and other subjects.

The compilation of answers to the first part showed that there were things about which students were generally happy, including: the way classes gave them practical insight into lawyering; the availability of teachers outside of class; the quality of teaching in first-year courses; the library; and the classrooms. The survey also showed that the students thought that the curriculum should be focused on Texas law, but that the law school should strive for a national reputation. However, the responses to other questions in part one reflected very serious student discontent about: the law school administration; the placement office; and parking facilities.

No less than four questions probed the depths of student resentment to Castleberry’s rule that shorts could not be worn on

213. On question 4, which stated “Most of the classes that I have taken have given me practical insight into lawyering,” 7 strongly agreed, 84 agreed, 38 were neutral, 51 disagreed, and 12 strongly disagreed. Id.

214. On question 9, which stated “Most teachers that I have had were available outside of class,” 32 strongly agreed, 120 agreed, 25 were neutral, 16 disagreed, and 2 strongly disagreed. Id.

215. On question 10, which stated “Overall, I was pleased with the teaching of my professors during my first year,” 24 strongly agreed, 106 agreed, 23 were neutral, 33 disagreed, and 9 strongly disagreed. Id.

216. On question 15, which stated “Overall, I am pleased with the library,” 84 strongly agreed, 95 agreed, 2 were neutral, 10 disagreed, and 3 strongly disagreed. Id.

217. On question 18, which stated “Overall, I am pleased with the classrooms,” 37 students strongly agreed, 120 agreed, 12 were neutral, 20 disagreed, and 6 strongly disagreed. Id.

218. On question 8, which stated “The curriculum should be centered on Texas law,” 58 strongly agreed, 94 agreed, 14 were neutral, 23 disagreed, and 6 strongly disagreed. Id.

219. On question 14, which stated “St. Mary’s School of Law should strive to achieve a greater degree of national recognition,” 130 students strongly agreed, 53 agreed, 6 were neutral, 3 disagreed, and 2 strongly disagreed. Id.

220. On question 25, which stated “The law school administration adequately meets the needs of students,” 3 students strongly agreed, 24 agreed, 20 were neutral, 55 disagreed, and 91 strongly disagreed. Id.

221. There were three questions about the placement office. On question 27, which stated “The placement office adequately meets the needs of students interested in obtaining positions with large firms,” 12 students strongly agreed, 55 agreed, 23 were neutral, 32 disagreed, and 70 strongly disagreed. Id. On question 28, which stated “The placement office adequately meets the needs of students interested in obtaining positions with small firms,” 5 students strongly agreed, 24 agreed, 22 were neutral, 44 disagreed, and 96 strongly disagreed. Id. On question 29, which stated “The placement office adequately meets the needs of students interested in obtaining judicial clerkships,” 3 students strongly agreed, 25 agreed, 63 were neutral, 31 disagreed, and 69 strongly disagreed. Id.

222. On question 21, which stated “The parking lot is a reasonably secure place to park,” 5 students strongly agreed, 17 agreed, 15 were neutral, 48 disagreed, and 107 strongly disagreed. Id.
campus at any time, and the answers showed that students strongly favored shorts.223 The final question on the first part of the survey revealed a level of student disaffection that would handicap fundraising at the law school for decades to come.224 Question 38 stated “Based on my experience at St. Mary’s, I would be willing to contribute money and/or time to the law school as an alumnus.”225 The tabulation of answers showed that 5 students strongly agreed, 21 agreed, 27 were neutral, 41 disagreed, and an astounding 93 strongly disagreed.226

The numbers that tabulated the students’ responses to the first part of the survey were bland on their face and to some extent capable of being interpreted (or misinterpreted) and ignored. In contrast, the narrative comments to part two of the survey were damning on their face and impossible to ignore. They stated a strong indictment of the law school administration.

One student wrote: “This Law School’s administration is small-minded and mean spirited. It manipulates the students through fear, with its twisted grading policy . . . .”227 Another student said: “The administration is insensitive, self-serving, and self-centered . . . .”228 A third student vented: “There is no way this school will get a dime until Castleberry and his petty tyrants are gone and we get some reasonable people in the administration

223. For example, on question 16, which stated “Shorts should be permitted to be worn in the library all of the time,” 107 students strongly agreed, 39 agreed, 14 were neutral, 21 disagreed, and 14 strongly disagreed. Id.

224. In his oral history, Dean Emeritus Charles E. Cantú said: “Castleberry alienated a segment of the student body that has never gotten over it. No question about it. Some of the students formed a ‘not a dime club.’” Cantú, supra note 19, at 356–57.

225. Memorandum from Outgoing Vice President, Student Bar Ass’n, St. Mary’s Univ. Sch. of Law, to Richard Noll, Alumni Bd., St. Mary’s Univ. Sch. of Law (Apr. 8, 1988) (on file with author).

226. Id. Yet there was strong recent evidence to the contrary. A year earlier, in 1987, after some of the students we had taught had graduated, Geary Reamey and I answered the university’s call for fundraising phonathon volunteers. “[W]e called sixty students who graduated in 1985 or 1986. Fifty-four . . . pledged contributions ranging from $25.00 to $100.00.” Letter from Vincent R. Johnson, Assoc. Professor of Law, St. Mary’s Univ. Sch. of Law, to Mike Goodrich, Esq. (Feb. 23, 1987) (on file with author). After a few more calls, the total number of pledges rose to “[sixty-four] first-time contributors, [fifty-nine] of whom graduated in the last two years.” Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Sue Ervin, Campus Dev. Office, St. Mary’s Univ. (Feb. 26, 1987) (on file with author). The final yield was sixty-four pledged contributions from seventy-one graduates who were contacted. Letter from Vincent R. Johnson, Assoc. Professor of Law, St. Mary’s Univ. Sch. of Law, to Shayne D. Moses (Mar. 10, 1987) (on file with author).

227. Memorandum from Outgoing Vice President, Student Bar Ass’n, St. Mary’s Univ. Sch. of Law, to Richard Noll, Alumni Bd., St. Mary’s Univ. Sch. of Law (Apr. 8, 1988) (on file with author).

228. Id.
who realize that at $4000 a semester we are adults, individuals and people with a mind . . . ” A fourth student complained: “The general attitude of the administration towards the needs of the students during my tenure has been that of prison officials over prisoners.”

These comments were typical and many comments were far harsher. The compiled narrative comments went on for 26 single-spaced pages, comprising 110 separately numbered paragraphs related to the alumni donations question, plus 50 separately numbered paragraphs addressing other matters. Following the compilation of narrative answers, there was a final three-page attachment addressing many issues, which may have been written by just one survey taker.

Interestingly, the survey was done at the request of the Law Alumni Board, which must have been well aware of student discontent at the law school. The results were widely distributed to various faculty members, law school administrators, and university administrators. It was also posted on the Student Bar Association bulletin board.

Castleberry was out of town when the survey results came out on campus. When he learned of the contents of the compilation, he went ballistic. He called the SBA leaders who conducted the survey into his office, expressed his outrage, and accused them of defamation. Later, Castleberry exacted his revenge—by not certifying one of the students as eligible to sit for Texas Bar exam. Castleberry’s non-certification of the student caused some

229. Id.
230. Id.
231. See Memorandum from Bill McMurrey, President, Student Bar Ass’n, St. Mary’s Univ. Sch. of Law, to Law Faculty & Admin. (Apr. 14, 1988) (on file with author) (“The Law Alumni Board asked the Student Bar Association to draft and administer a survey that would reflect how current law students feel about the law school.”).
232. I used this idea as the basis for a problem in the defamation chapter of my advanced torts textbook. The problem involves a survey at a fictitious Charles Evans Hughes School of Law for which information is collected electronically, tabulated by Survey Monkey, then disseminated in different ways to various persons. The problem raises issues related to the public figure status of the law school dean, common law privileges, and whether liability for certain publications is barred by the Communications Decency Act. See JOHNSON, supra note 116, at 279 (“Problem 3-10: The SBA Survey”).
233. Castleberry notified the bar as he left town in late June or early July 1988 to participate in the law school’s Innsbruck Program. At that time, the student was studying to take the Texas Bar Examination in late July. The student appealed the non-certification. The hearing on the appeal was scheduled to be heard by the Texas Board of Law Examiners the day before the bar examination in Austin, Texas. However, the matter was resolved approximately two weeks before the July bar examination when the associate dean of the law school (presumably with Castleberry’s acquiescence) certified the student as having good character and fitness for admission to the practice of law.
faculty members, who were otherwise sympathetic to Castleberry, to think that he acted too harshly.234

I had nothing to do with the SBA survey, but I shared the survey results with two of the candidates at the time for the presidency of St. Mary’s University. In my transmittal memoranda I said: “The survey is the first public compilation of student sentiment during my six years on the faculty. I believe that, by and large, it accurately reflects a mood which has been pervasive on this part of the campus for several years.”235

In public, Castleberry’s reaction to the SBA survey was circumspect. In a campus newsletter printed a few weeks after the survey was published, he wrote:

I have had the opportunity to more carefully analyze the SBA survey and the comments that some of our students attached and am in the process of preparing and distributing a response to the survey. I hope that it will provide additional facts which will dispel some of the rumors that have surfaced in the last few months.

I also want to thank the significant number of students who have either written notes, or simply stopped by, to register their appreciation for the fact that the Administration has listened and that communications have continued to improve. As I stated in the Docket last week, I intend to redouble my commitment to discuss specific student needs and concerns with you.236

The article lacked the doubt-free, authoritative tone that was characteristic of Castleberry’s decanal pronouncements. He seems to have been chastened by the scorching anti-administration sentiment that was documented in the SBA survey, which came just a few months after the faculty’s stunning rebuke of Castleberry’s teaching candidate. What came next seems to suggest that Castleberry was desperate to save his deanship.

234. In an earlier, unrelated incident, Castleberry had sought to expel three students who had falsified an attendance sign-in sheet in a course. Some faculty members thought Castleberry was excessively harsh on that occasion, too.
235. Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Rev. John Moder, St. Mary’s Univ. (Apr. 12, 1988) (on file with author); Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Rev. Charles H. Miller, St. Mary’s Univ. (Apr. 12, 1988) (on file with author).
236. From the Dean, DOCKET (St. Mary’s Univ. Sch. of Law, San Antonio, Tex.), Apr. 26, 1988.
XVI. TERMINATING THE TROUBLEMAKERS, 1988

The third battle leading to the fall of the Castleberry deanship concerned whether Geary Reamey and I would be terminated as members of the law faculty. In the spring of 1987, we had applied for and been denied tenure. That was a personal blow, but it did not immediately endanger our positions on the faculty. The law school did not have an “up-or-out policy,” and respected members of the full-time faculty, such as Judge Jack Miller, had never applied for or been granted tenure.237 John Schmolesky and Doug Haddock had also been denied tenure in 1986 but had remained on the faculty.238 In January 1988, I had been selected to be a Fellow at the United States Supreme Court239 during the 1988–1989 academic year, working in the Office of the Administrative Assistant to the Chief Justice. In consequence, in February 1988, St. Mary’s had granted me a leave of absence entitling me to “preferential status” to return to any openings on the faculty,240 and I continued to nationally chair the Teaching Methods Section of the Association of American Law Schools.241 In addition, in late February, the Academic Vice President had awarded both Geary and me $1,000 research grants to support work that we would complete during the coming academic year—which seemed to envision that we would remain on the faculty.242 Moreover, in the spring of 1988, Geary and I had been promoted to the rank of full professor,243 so it seemed that there was not

237. See Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (May 12, 1988) (on file with author) (discussing Miller).

238. Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Members of the Full-Time Faculty & James N. Castleberry, Jr., Dean, St. Mary’s Univ. School of Law (May 10, 1988) (on file with author). Schmolesky reapplied for and was granted tenure in 1987.


240. See Memorandum from John Schmolesky to Dean Castleberry & Full-Time Faculty (May 13, 1988) (on file with author) (discussing leave of absence).

241. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law (Feb. 24, 1987) (on file with author) (indicating that my two-year term would run until the annual meeting in early 1989). I may have been the first member of the St. Mary’s faculty to chair an AALS section.

242. See Letter from Dr. Charles L. Correll, Acad. Vice President, St. Mary’s Univ., to author (Feb. 29, 1988) (on file with author) (announcing the Fellowship Award).

243. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Dr. Charles L. Correll, Acad. Vice President, St. Mary’s Univ. (Apr. 19, 1988) (on file with author) (thanking him for supporting my promotion and Geary Reamey’s).
much doubt about our qualifications, competence, or teaching. Indeed, in spring 1988, Geary had applied for tenure again, and when the student body learned of that fact, the Student Bar Association, *sua sponte*,244 conducted a poll about whether he should be granted tenure. Stunningly, the vote was something like 250 in favor and 1 opposed.

The drama about whether we would be terminated played out against the backdrop of the receptionist desk on the second floor of the Raba Building. At that location there was a faux-woodgrain, cardboard mailbox with perhaps three dozen pigeon holes that held the incoming mail for each member of the faculty. It sat on a credenza. With a quick glance across the sun-filled rotunda, one could see whether a new memo on white paper had been distributed to all of the members of the faculty. Over the course of one month—May 3 to June 2, 1988—nineteen memos would tell the story of our fate as members of the faculty.

There was nothing ominous about the first memo, dated May 3. It announced a reception that would be held on Friday, May 6 to honor a number of faculty members for their achievements, including Geary and me for our promotion to full professor.245 However, the second memo on May 6 was unusual and urgent, and for that reason concerning. In it, Castleberry requested that all members of the faculty provide him with contact information so that they could be reached during the summer if there was an “urgent need or necessity” related to the School of Law.246 In the third memo, on May 9, Castleberry’s objective became clear. He invited all members of the faculty to submit to him in writing a recommendation indicating whether Geary and I should be terminated or offered a “specific non-tenured contract”—which is to say demoted.247 This occurred three

244. Memorandum from Bill McMurrey, President, Student Bar Ass’n, St. Mary’s Univ. Sch. of Law, to Law Faculty & Administration (Apr. 14, 1988) (on file with author). According to McMurrey:

> [T]he Student Bar Association was approached by a large faction of law students concerned about the tenureship of Professor [Reamey]. Those students requested that a poll be taken so that the student body’s opinion would be voiced. A majority of the SBA Executive Committee agreed to honor the students’ request.

*Id.*

245. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (May 3, 1988) (on file with author).

246. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (May 6, 1988) (on file with author).

247. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (May 9, 1988) (on file with author).
days after the party celebrating our promotions. Castleberry said in his memo to the faculty, “After I receive your recommendations, I will then consult with the members of the tenured faculty of this law school at a special meeting called for that purpose prior to making a decision on these matters.” Castleberry intended not to be bound by any vote of the faculty—or even of the tenured faculty—but to unilaterally decide our fate.

The battle was joined, and it was waged on paper—though only by the brave or by those seeking to curry favor with the dean. As I said in a memo to Reverend John J. Moder, the Acting President-Elect of the university, on May 11, “many of the untenured members of the law faculty, as well as some of the tenured members, are terrorized by this turn of events.”

The authors of the memos argued like lawyers. They quoted rules, addressed past practices, and focused on issues related to due process. One three-page, single-spaced memo that I wrote included eleven pages of attachments dealing with ABA standards, faculty minutes, and the university faculty handbook. The most fearless memos in support of Reamey and me were written by David Dittfurth.

248. In his memo, John Schmolesky noted, “In light of the recent affirmation of the future promise of Professors Reamey and Johnson in April [when they were promoted to full professor], their proposed demise in May is indeed puzzling.” Memorandum from John Schmolesky to Dean Castleberry & Full-Time Faculty (May 13, 1988) (on file with author).

249. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (May 9, 1988) (on file with author).

250. A memorandum on May 19, 1988, from Reamey and me to Dr. Charles L. Cotrell, stated:

It is well known that Dean Castleberry bears a strong animosity against both of us. Any process which requires members of the law faculty who wish to speak in our behalf with respect to issues of retention to do so at an open meeting or by signed memos addressed to Dean Castleberry force such individuals to submit to retribution . . . .

Accordingly we respectfully request that before any change in the faculty status of either of us is undertaken, that [the vice president’s] office (1) poll the entire law faculty, (2) by written confidential memoranda to your office, (3) on the specific questions of whether (a) we should not be re-appointed or (b) we should be changed to non-tenure-track status.

Memorandum from Vincent R. Johnson & Gerald S. Reamey, Professors of Law, St. Mary’s Univ. Sch. of Law, to Dr. Charles L. Cotrell, Acad. Vice President, St. Mary’s Univ. (May 19, 1988) (on file with author).

251. Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Rev. John J. Moder, Acting President-Elect, St. Mary’s Univ. (May 11, 1988) (on file with author).

252. Memorandum from David Dittfurth, Professor of Law, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty & Dean James N. Castleberry, Jr. (May 10, 1988) (on file with author) (“No one has or could claim that they are not excellent teachers and competent scholars. It is, therefore, more than curious that these professors are now facing the end of their careers at this law school.”).
Castleberry weighed in several times, and drew memos of support from Allan Parker256 and Al Leopold.257 My files show that I copied University President John A. Leies and Academic Vice President Charles L. Cotrell on the memos that I wrote the faculty and other key memos. At some point in the process Dr. Cotrell assured me, by phone, that the problems could be resolved favorably to me and Reamey.258

During the battle of memos, questions had been raised about the status of Doug Haddock and Jack Miller, who had each served on the faculty for several years without receiving tenure. Thus, when Castleberry convened a closed-door meeting of the tenured members of the faculty on May 18, the status of four faculty members was in issue. While our fate was being debated in that secretive session, Reamey and I took a walk in the hot afternoon sun around the perimeter of the St. Mary’s campus. Doing that seemed better than waiting. None of the attendees at the meeting ever spoke to me about it, except Tom Black, whom I called that evening to find out what had happened. Several weeks earlier, Tom had resigned his professorship and would cease to be a member of the faculty in a few days. He said no action relating to me would be taken immediately because I had, a few months earlier, been granted a leave of absence.

According to a subsequent memo that he wrote to the law faculty sometime after meeting with the tenured faculty, Castleberry recommended to Vice President Cotrell, on May 20, that Reamey be given notice of non-reappointment, that Judge Miller be given a specific non-tenured contract, and that action relating to Doug Haddock and me be deferred until

253. Memorandum from Victoria Mather, Professor of Law, St. Mary’s Univ. Sch. of Law, to Members of the Full-Time Faculty & Dean Castleberry (May 11, 1988) (on file with author); see also Memorandum from Mark Cochran, Professor of Law, St. Mary’s Univ. Sch. of Law, to Law School Faculty & Dean Castleberry (May 13, 1988) (on file with author) (concurring “with professor Mather’s memo”).

254. Memorandum from Michael Ariens, Professor of Law, St. Mary’s Univ. Sch. of Law, to Members of the Full-Time Faculty & Dean Castleberry (May 12, 1988) (on file with author).

255. Memorandum from John Schmolesky, Professor of Law, St. Mary’s Univ. Sch. of Law, to Dean Castleberry & Full-Time Faculty (May 13, 1988) (on file with author).

256. Memorandum from Allan Parker, Professor of Law, St. Mary’s Univ. Sch. of Law, to Dean Castleberry, David Dittfurth & Full-Time Faculty (May 12, 1988) (on file with author).

257. Memorandum from A.A. Leopold, Professor of Law, St. Mary’s Univ. Sch. of Law, to Dean Castleberry & Faculty (May 16, 1988) (on file with author).

258. See Memorandum from Vincent R. Johnson, Professor of Law, St. Mary’s Univ. Sch. of Law, to Rev. John J. Moder, Acting President-Elect, St. Mary’s Univ. (May 11, 1988) (on file with author) (discussing assurances from Cotrell).
we completed the leaves of absence we had been granted. On May 31, 1988, “Dr. Cotrell indicated that he intended to take no action with respect to [Castleberry’s] recommendations on the question of the retention of Professors Haddock, V. Johnson, Miller[,] and Reamey, and that the result would be that these professors would continue in their current status as non-tenured members of the law faculty who [were] eligible to apply for tenure.” (Reamey, Haddock, and I were granted tenure in 1990, after Barbara Aldave had replaced Castleberry as dean. Judge Miller never applied for tenure.)

In the end, we had been saved from termination or demotion by Dr. Cotrell. That came at a cost to Cotrell, for it must have made daily dealings between the academic vice president and the dean of the law school more difficult. Castleberry also complained to the ABA and the AALS that the university was interfering with the governance of the law school by the faculty, which must have taken time for the university to address.

Why did Dr. Cotrell intervene? That is difficult to say. Cotrell’s doctorate is in political science, and he plays his cards cautiously. He seems to me to reach destinations by a circuitous route, even when he could take a shortcut. In a detailed memo to the law faculty, Cotrell shared the technical reasons for his decision. But he might have stacked up the rules, the evidence, and the policies differently. I would like to think that he saw that Reamey, Haddock, Dittfurth, Mather, Ariens, Cochran, Schmolesky, and I were the progressives, the reformers, the future of the law school. It probably made some difference that Cotrell saw that there was great faculty opposition to Castleberry’s tactics. On June 14, fifteen members of the faculty, including such senior figures as Joe Anderson, Paul Ferguson, and Wayne Scott, signed a memo to University President John Moder and Vice President Cotrell stating that “[w]hile the dean purports to be acting upon ‘the recommendations of the majority of the members of the full[-]time faculty,’ we wish to make it clear that he does not speak for us and consequently does not speak for the law school faculty as a whole.”

259. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Full-Time Faculty (June 8, 1988) (on file with author).
260. Id.
261. Memorandum from Dr. Charles L. Cotrell, Acad. Vice President, St. Mary’s Univ., to Full-Time Faculty of the School of Law (June 2, 1988) (on file with author).
262. Memorandum from Joe Anderson, Paul Ferguson, Wayne Scott, David Dittfurth, John Schmolesky, Douglas Haddock, Vincent R. Johnson, Gerald Reamey, Mark Cochran, Marsha Huie, Victoria Mather, Marsha Merrill, Michael Ariens, George Flint & Tom Black, Professors of Law, St.
failure of Castleberry to terminate or demote his opponents on the faculty
was a major turning point in the history of the law school.

XVII. END OF THE CASTLEBERRY DEANSHIP, 1988

Rev. John Moder became acting president of St. Mary’s University on
June 1, 1988. Once Moder was in power, the end of the Castleberry
deanship came quickly. On June 13, 1988, Moder wrote to the law faculty,
stating:

Dean James N. Castleberry, Jr., is now in the last year of his current
appointment. I would ask you to help me in making a decision in this regard
concerning reappointment. Would you please fill out the enclosed form and
return it to me by June 27, 1988.

In order to assure confidentiality, after you have filled out the form, please
place it in a sealed envelope and drop it off at my office . . . .

Seven days later, Castleberry publicly questioned the process established
by the new, but still untested, “acting” president, and proposed to
implement his own consultation process. It was a last desperate effort to
snatch victory from the increasing certainty of defeat. Castleberry wrote:

Several members of the law faculty have observed that [the process
established by Father Moder] does not permit the faculty to have access to
this information and to the recommendations.

. . . .

[After citing various provisions in the ABA’s Standards for Accreditation
and the Bylaws of the AALS, Castleberry continued:] As you . . . know, many
law schools ensure the soundness of a decision on a decanal appointment
through [a] vote of the members of the tenured faculty who have been provided
with input from the non-tenured members of the faculty. I suggest that this
is clearly the most rational approach. In the “real world” of the practice of
law, a decision as to whom will become a partner, or be dismissed as a partner,
of a law firm is certainly never made by the associates in the firm who do not
have partnership status. It is equally appropriate, and logical, that the decision
on whether a dean should be appointed or reappointed, or for that matter

Mary’s Univ. Sch. of Law, to Rev. John Moder, President & Dr. Charles L. Cotrell, Acad. Vice
President, St. Mary’s Univ. (June 14, 1988) (on file with author).
263 Memorandum from Rev. John Moder, President, St. Mary’s Univ., to Full-Time Faculty of
the School of Law (June 13, 1988) (on file with author).
whether a non-tenured member of the faculty should be appointed or reappointed, should be determined by the tenured members of the faculty. These are the persons who have a long-term mutual commitment with the University, who have had extensive experience in legal education, and who are likely to remain on the faculty for many years to come. This decision should be made by the tenured members of the faculty after having first received input from the non-tenured members of the faculty.

. . . .

. . . [I]n an effort to provide the faculty, and me, with information and recommendations with respect to whether I should be reappointed as dean, I have scheduled a special consultation meeting of all tenured members of the law faculty at 2:00 p.m. on Thursday, June 23, 1988. I urge all non-tenured members of the faculty to submit their recommendations to Prof. Leopold, who will chair the meeting. A consultation [form] for non-tenured faculty is attached.264

Castleberry’s proposal concerning law school governance was not implausible, but his statement that “many law schools” make decisions on decanal appointments based on the vote of only the “members of the tenured faculty” was a complete exaggeration. Moreover, it was a process that fundamentally differed from past practices at St. Mary’s University, and from the statements of policy that had been formulated to guide such decisions at St. Mary’s.

Not surprisingly, Father Moder stood his ground. The following day he wrote:

I am rather distressed to read a memo from Dean Castleberry essentially changing the consultation process regarding the reappointment of the dean . . .

[After quoting the Faculty Handbook, Moder continued:] Clearly it is the business of the President, and not the incumbent Dean, to determine and direct the process. I have not called for “a special consultation meeting of all tenured faculty members of the law faculty,” nor have I any intention of making public the confidential consultations of the law faculty, tenured or otherwise.

. . . .

264. Memorandum from James N. Castleberry, Jr., Dean, St. Mary’s Univ. Sch. of Law, to Members of the Full-Time Faculty (June 20, 1988) (on file with author).
I am aware of nothing in the ABA Standards or AALS [Bylaws] or Faculty Handbook that gives added weight to the consultations of the tenured faculty. Evidently the granting of tenure is a recognition of commitment and service to the university which ought to and will be taken into account in reading and evaluating the consultations. But “family spirit” demands that the voice of everyone be heard and their civil and familial rights safeguarded.265

The vote in the consultation was 13 members in favor of Castleberry, 14 opposed.266 Moder decided that Castleberry would not be reappointed and that a dean search would commence. After nearly ten years in the spotlight as dean, Castleberry was being shunted off stage. The Castleberry era began winding down and the attention shifted to the search for his successor.

XVIII. EPILOGUE, 2007

After Castleberry’s death in Stowe, Vermont, on June 24, 2008, I attended his funeral at St. Mark’s Episcopal Church. It was a beautiful service, with sunlight flooding in through the stained-glass windows, standing room only. The musicians performed the haunting strains of The Flight of the Condor on their Peruvian wind instruments. Castleberry’s ashes are embedded in the columbarium on the side of the St. Mark’s facing Travis Park. I think of that when I drive by.

Because of the date of his birth (December 28, 1921), Castleberry was one of the last persons at St. Mary’s University to be forced into mandatory retirement at age seventy.267 The legal protections from age discrimination had not yet kicked in.

For years after he had left the deanship and faculty, I would not refer to Castleberry by name, but simply called him the former dean, if I needed to mention him at all. Over the years, we both mellowed. When Castleberry stopped by the campus from time to time, he would normally drop in to see me. I was one of the guys he had hired, an old friend. I enjoyed chatting

265. Memorandum from Rev. John Moder, Acting President, St. Mary’s Univ., to Dean James N. Castleberry & All Law Faculty (June 21, 1988) (on file with author).

266. Interview with L. Wayne Scott, Professor of Law, St. Mary’s Univ. Sch. of Law, in San Antonio, Tex. (Aug. 8, 2018); Interview with Michael Ariens, Professor of Law, St. Mary’s Univ. Sch. of Law, in San Antonio, Tex. (Aug. 13, 2018).

267. See E-mail from Elsa Ybanez, Dir. of Human Res., St. Mary’s Univ., to author (Aug. 21, 2018) (on file with author) (indicating that Castleberry retired from the university on May 31, 1992).
with him. He was still a character, a Texas original, even if he wasn’t born in Texas.\textsuperscript{268}

In later years, I was on Castleberry’s Christmas card list, and he was on mine. Sometime into the new millennium he sent me a nice note about something I had written. He said that he had initially sized me up wrong, and that he was proud how my career had progressed.

In this article, I have tried to leave an accurate record of Castleberry and his time as dean. I hope I have succeeded. Castleberry was a complex man, and it was a difficult period of institutional growth, which left many scars on the combatants. We all fought hard to build a great law school, but our understandings of what that meant differed. Unfortunately, Castleberry’s approach to student relations was so misguided that it is still causing harm to law school alumni relations nearly three decades after he left the deanship.\textsuperscript{270}

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268. On campus, during the time he was dean, Castleberry normally wore a business suit, but in place of dress shoes, he wore ankle-high suede Wallabees by Clarks. Outdoors, he often wore a Stetson. Occasionally one would see Castleberry, if he was late for a university meeting, running from the law school “up the hill,” attired in business suit, Wallabees, and Stetson. It looked uniquely Texan.
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269. See Pope, supra note 28, at 764 (“The story begins in Chatam, Alabama, a small rural village in southwest Alabama. James was born on December 28, 1921 into a family of high achievers and of parents who were both teachers.”).
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270. On July 27, 2018, while writing this article, I received a text from a partner in a North Texas law firm who graduated in the class of 1985, which stated:

Professor[,] I said exactly what I meant about St. Mary’s and most of my classmates’ disdain for the school based on how we were treated. It was a very adversarial relationship except for you and Reamey. I believe we got the best law school education available in Texas at the time. Through a series of dumb moves, our reputation has crumbled and hurt our graduates.
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