Pursuing Truth

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Published by Cornell University Press

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Pursuing Truth: How Gender Shaped Catholic Education at the College of Notre Dame of Maryland.


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CHAPTER 5

Sectarian or Free?
Catholic Identity on Trial in the 1960s and 1970s

As the identifying feature of founding religious orders, Catholic belief and practice was an integral force in the culture and evolution of Catholic women’s colleges. In the late nineteenth century, the Roman Catholic Church, with its heavily immigrant and working-class membership and unpopular religious teachings, faced a relatively inhospitable social environment. Although American Catholics were making rapid strides in economic mobility, a strong separatist mentality continued to affect their social interaction with the Protestant majority. Religious sisters had always welcomed Protestant girls in their boarding academies and worked hard to develop congenial relations with mainstream citizens of all faiths. Their approaches to women’s higher education responded to mainstream stimuli, even as they were corollaries of a Catholic educational philosophy. But a Catholic spirit was felt everywhere on campuses, expressed most notably in formal worship services and college rituals as well as the requirement that students take religion courses.

Moreover, religious orders, both male and female, as the principal benefactors of church-related colleges, wielded extensive power in their governance. Unlike many Protestant churches that supported affiliated colleges, Catholic dioceses expected religious orders that established colleges to finance them internally. Since 1895, the School Sisters of Notre Dame had provided property for the College of Notre Dame, erected buildings, and paid the salaries
of lay faculty and staff. Members of the order contributed lifetime service as faculty and administrators. Major lay donors were few, tuition revenues small, and financial support from the archdiocese minimal. As a result of both legal and financial structures, the order’s control over the college and its administration was nearly complete for decades.

The weakening of legal ties between religious orders and their colleges, on the one hand, and of the daily formal expression of Catholic identity, on the other, is often attributed to the liberalizing results of the Second Vatican Council (1962–65). But this chapter argues that these changes were in large part the result of major legal cases in the 1960s and 1970s that established whether and how church-affiliated institutions of higher education could access federal and state funds for construction, salaries, scholarships, and other critical needs. Long-standing religious tensions in American society came to the fore in the 1960s and 1970s when the College of Notre Dame, as well as other colleges sponsored by denominational bodies, received state and federal funding to advance their educational missions. Extended legal contests forced the college for the first time to defend its religious affiliation in a mainstream forum. With mixed success, Notre Dame’s trustees, administrators, and faculty testified before a divided legal system that the college’s intellectual mission and its identity as a Catholic college were not in conflict. The Horace Mann and Roemer cases proved to be turning points for colleges like Notre Dame. In their wake, small women’s colleges became more ecumenical in their modes of religious expression, more inclusive of laity in all areas of campus life, and better prepared to meet future challenges from the church community and the wider society.

This outcome was the result of a series of events rife with ironies. During the 1950s and 1960s, the College of Notre Dame came to apply for federal and state funding primarily because it could not find adequate funding from Catholic sources to finance dormitory, lab, and classroom construction. Partly as a result, its understanding of what “Catholic identity” meant in practice changed between its foundation and the early 1970s. Student religious practice and college governance alike reflected larger cultural trends in higher education across the decades, but events were also driven by the personalities of specific archbishops, religious superiors, and college presidents, among others. In the 1940s, eager to grow but severely constrained financially, college leaders sought episcopal permission for a fundraising campaign within the Archdiocese of Baltimore. When Archbishop Michael Curley denied the request, his exercise of control over the sisters and their college proved a defining moment in a way he could not have anticipated, setting off a chain of events that resulted in the legal severance of the college
from its founding religious order and in its increased reliance on government funding instead of private philanthropy. When the college subsequently received a grant from the State of Maryland, it became a lightning rod for widespread public protest. As a defendant in two major court cases centering on the principle of separation of church and state,¹ the college had to defend both its academic integrity and its Catholic identity before a skeptical American public. These legal battles had important consequences for all church-related institutions of higher education. They shaped the direction not only of the College of Notre Dame but of its sister institutions across the country, as their traditional understanding of their public mission and intellectual goals changed rapidly and radically.

**Fundraising and Growth in the Twentieth Century**

As chapter 2 recounted, financing for Catholic women’s colleges was always a major concern. Little support was available from bishops, so Catholic female colleges relied heavily for support on their founding orders and, to a lesser extent, on alumnae and a few benevolent laity. In contrast, church boards and religious benefactors often assisted Protestant-affiliated women’s colleges in significant ways. A college’s fiscal situation mattered deeply not only for keeping the lights on and paying regular bills, but also because a strong endowment enabled an institution to improve its academic offerings. By the 1890s, the Regents of the University of the State of New York were already suggesting the adoption of a minimum endowment standard of $500,000 for institutions of higher education seeking accreditation.² The Baltimore sisters realized the crucial role that endowment would soon play in accreditation decisions, but the College of Notre Dame as yet had virtually no cash endowment. Dean Meletia Foley and her colleagues moved quickly to ensure that the college met standards for inclusion on the New York Regents’ list of approved colleges. They reached that goal in 1902 when the University of the State of New York approved Notre Dame’s bachelor’s degree as “appropriate preparation for advanced study.”³

But building an adequate endowment remained a serious concern for the college. According to the Carnegie Foundation for the Advancement of Teaching, an approved college in 1906 held a minimum “productive endowment” of $200,000, including only “funds invested in securities and realty from which permanent and dependable income may be secured available for the uses of the institution.”⁴ The “permanent endowment” Notre Dame claimed, representing the contributed services of sister-faculty, had grown to an estimated $875,000 by 1930.⁵ However, building a “productive endowment” that would finance major expenditures and building projects was a
Sister Frances Smith, inaugurated as president of the college in 1935, made the endowment a primary goal. To advance that end, she proposed that the college’s board of directors, all of whom were religious sisters, set up an advisory board of prominent lay Catholics to assist the college, especially in the area of fundraising.7

As chair of the board of directors, Provincial Superior Philemon Doyle spoke for many members of the order when she questioned whether appointing lay members to the proposed advisory board would pose a threat to the order’s control over the college. George Constable, Notre Dame’s longtime lawyer, explained the sisters’ concerns: “The whole college then was dominantly the sisters. . . . There was great fear [among] the sisters who had built up and run [the college and] were responsible for the organization. They didn’t want to lose control. If they brought lay people in, then they might easily lose control. . . . Also, there was a vague background fear that the archbishop might become too dominant—not any particular archbishop, but they didn’t want the diocese, so to speak, to be running the college, directly or indirectly. That was a sort of latent issue.”8 Leaders of other Catholic women’s colleges in the 1930s and 1940s shared this wariness of “outsiders.”

Archbishop Curley suggested the formation of a “preliminary committee” to plan the new advisory board. Its eight members included Curley; Doyle; Smith; Sister Alba Mattingly, superior of the campus religious community; Monsignor Harry Quinn, rector of the cathedral; Rev. John Barrett, superintendent of archdiocesan schools; Roy Deferrari, dean of the graduate school at Catholic University; and Margaret Meade, president of the Notre Dame Alumnae Association.9 At the preliminary committee’s first meeting, Mother Doyle nominated Elizabeth Morrissy, a lay faculty member trusted by the sisters, for a seat on the advisory board. Other committee members disagreed, arguing that lay members of the board should be prominent professional, business, and philanthropic leaders drawn from the greater Baltimore community. After all, the annalist noted, “the college is not sufficiently known even in our vicinity.”10

By the fall of 1936, a twelve-member advisory board was in place. Two priests and four laymen constituted the regular membership, while the archbishop, four sisters, and a laywoman were members ex officio. In addition to the eight preliminary committee members, membership included H. Winship Wheatley, president of the Bar Association of the District of Columbia; Francis Litz, PhD, teacher of English in the Baltimore public school system; the alumna Marie Hebner, governor of the Maryland chapter of the International Federation of Catholic Alumni; and Sister Denise Dooley, dean of the college.11 At the board’s first meeting, Archbishop Curley, conscious of Mother Doyle’s continued uneasiness, made it clear that lay members were
to play a purely consultative role. The college was “the absolute and exclusive property of the School Sisters of Notre Dame,” he emphasized, and “no organization of any kind whatsoever may be formed to interfere, even in the slightest degree, with the ownership of Notre Dame . . . [or] with the discipline, regulation and conduct of said College, except in so far as the [religious order] may accept advice or counsel.”

The board at once formed committees on scholarships and fellowships, library development, and expansion and publicity. Smith announced her plans for a $200,000 campaign to build a productive endowment. “Accrediting agencies,” she noted, “have recognized the principle of ‘Living Endowment’ of Catholic colleges, at least in a half-hearted way—living endowment signifying monetary evaluations for contributed services of religious men and women in the cause of education,” but these services did not provide funds to finance building construction, purchase equipment, or even cover operating costs. “Because the College of Notre Dame wants to be in the front rank of education today,” she said, “and because accrediting agencies are considering the financial as well as the scholarship end, the college has started an Endowment Fund.”

Mother Doyle, as chair of the board of directors, made a symbolic first gift of $1,000. Contributions, however, were slow to appear. In 1943 the productive endowment fund totaled only $27,230, mainly in the form of government securities and a mortgage on Camp Notre Dame in New Hampshire, contributed by the order.

Smith and the advisory board recognized the need to professionalize their fundraising methods. In 1944, with the college’s half-century mark approaching the following year, they decided to engage a professional fundraising firm to conduct a “Dream Drive.” Archbishop Curley, whose approval they needed in order to proceed, did not favor this tactic. He instructed Smith to commission James E. Almond, president of a Chicago development firm, to conduct a feasibility study. Almond promptly pronounced it a bad idea. “The College of Notre Dame of Maryland has been so ably conducted,” he informed Smith unctuously, that even your best friends simply cannot visualize any institutional needs which you have not already provided. The immediate reaction to practically every Baltimore approach we made was—“Notre Dame is such an ably conducted institution that additions to its structure would be merely carrying coals to Newcastle.” Those more closely in touch with your expansion ambitions declared without hesitation that Baltimore had several other fund-raising problems which were much more immediate and acute than yours. . . . There was a belief that you could
expect a greater measure of financial support for your ambitious plans if you would wait a little longer, until the more pressing needs of local voluntary philanthropy had been met. . . . You would be very unwise to consider a Notre Dame fundraising campaign at the moment.15

A gratified Curley confided to Almond that “people here are not interested in Colleges or College education. . . . If young ladies want it, well then they get it and pay for it.”16

Archbishop Curley had effectively thwarted the “Dream Drive,” and other private fundraising efforts remained discouraging. An Alumnae Association appeal to endow a Golden Jubilee Alumnae Graduate Scholarship netted only $20,000 over two years. Students raised $6,000 for the building fund by May of 1945, and Parents and Friends of Notre Dame of Maryland, founded in 1940, contributed $2,644 in 1946. Smith’s rigorous schedule of speeches before private gatherings on behalf of the endowment produced discouraging results.17 Finally, in 1947, in response to significant and persistent pressure from powerful laymen on the advisory board, Curley approved the college’s request to conduct a Golden Jubilee Fund Drive.18 Promotional literature acknowledged the significance of the sisters’ contributed services, but underscored that without financial assets, the college could not grow. Only a large productive endowment would provide essential income for facilities, construction, scholarships, lay faculty salaries, and graduate school tuitions for sister-faculty.19 Led by Trinity College professor Mildred Buzek Otenesak ’36, the Alumnae Association rallied to the cause. Proceeds from the Alumnae Glee Club’s first public concert in LeClerc Hall before an audience of eight hundred went to the endowment fund.20 Within two years, the fund reached nearly $175,000. While gratified, Smith pointed out that this was “still far from our goal of $200,000 and very far from what is considered an adequate endowment for a college of our size, $8 million, if we are to equal public institutions enjoying Federal Aid. They average $500 per student, while privately controlled institutions of higher learning average $70 per student. This presents a challenge.”21

Searching for Federal Funding

Episcopal restrictions on fundraising drives increased the College of Notre Dame’s incentive to seek out alternate foundation and public funding instead. In 1955, the Ford Foundation offered endowment grants for faculty salaries to accredited four-year private colleges.22 Notre Dame received $122,800, based on its 1954–55 full-time lay faculty payroll.23 The grant “seemed like a fortune
when we first heard of it,” recalled President Margaret Mary O’Connell, who 
raised full-time faculty salaries by $200 for the 1956–57 year.\textsuperscript{24} At this time, 
the college departed from its traditionally conservative policy of investing 
only in government securities and established three portfolios of stocks and 
bonds, both corporate and government: an endowment fund, a scholarship 
fund, and the Ford Foundation fund.\textsuperscript{25}

The college also joined the State Association of Independent Colleges of 
Maryland, founded in 1953 and affiliated with the Commission on Colleges 
and Industry of the Association of American Colleges.\textsuperscript{26} In 1955 the organi-
zation raised $32,000, distributing 60 percent equally among member institu-
tions, and 40 percent in proportion to their enrollments.\textsuperscript{27} Two years later, 
when the State of Maryland for the first time awarded grants to students at 
private colleges, College of Notre Dame students were among the benefici-
aries.\textsuperscript{28} At about the same time, the federal government became a potential 
source of funds. Until World War II, the only federal legislation to benefit 
higher-education institutions was the Morrill Act of 1862, which supported 
public land-grant colleges. Now several new federal programs emerged. The 
Serviceman’s Readjustment Act of 1944 (the GI Bill of Rights) assisted veter-
ans enrolled in public, private, and church-affiliated colleges and universities. 
With the passage of the National Defense Education Act of 1958, students 
qualified for financial assistance through the National Defense Student Loan 
Program. The Higher Education Facilities Act of 1963 awarded grants and 
loans to construct and rehabilitate academic facilities at public and private 
colleges and universities. But some funds would become available to the Col-
lege of Notre Dame only through a major change in its governance structure 
and its relationship with its founding order.

Reforming Governance

The College of Notre Dame’s initial governance structure resembled that of 
most Catholic colleges of the day. The Congregation of the School Sisters of 
Notre Dame was a Maryland corporation formed under the Acts of the Gen-
eral Assembly of Maryland in 1864, Chapter 357, in the city of Baltimore. 
The corporation operated under a charter that covered the order’s various 
educational institutions in the state, including the College of Notre Dame, 
established in 1895.\textsuperscript{29} But by the mid-twentieth century, more complex cir-
cumstances meant that having a single corporation cover the college, the 
preparatory school, and the order’s eastern province had resulted in “quite a 
mess,” as George Constable recalled. The 1950 MSA report sharply criticized 
the intermingling of college financial records with those of the preparatory
school and the order, as well as the fact that the college treasurer was also the treasurer of the religious community: “There are no separate books kept for the College. The accounting is an amalgamation of community, Preparatory School and College accounts. Account books [are] kept at the mother-house, off campus.” The board of directors quickly revised the budgeting and accounting procedures and separated college finances from those of the order. Governance challenges were more intractable. “The provincial superior . . . felt she could . . . step into the college and direct things, and I guess rightly so,” Constable noted. “Then there was the superior of the [campus convent] community, who also played a role. And then there was the [college] president. . . . It was very difficult for her because of those pressures from different sources and the uncertainty of her own power to lead.”

The mingling of preparatory school, college, and order accounts was a long-standing issue, though it had begun naturally enough. In the early twentieth century, college educators took for granted the presence of affiliated high schools on their campuses. In 1897, Johns Hopkins University president Daniel Coit Gilman endorsed the establishment of a country school for boys on campus. The University of Notre Dame in Indiana, meanwhile, shared its campus with a preparatory school for boys over thirteen as well as a “primary school” for younger boys. Likewise, the founders of many early women’s colleges situated them on the campuses of established girls’ preparatory schools. This strategy afforded a degree of financial security for fledgling colleges and provided a pool of students qualified to undertake college work, since many female public high school graduates could not meet college admissions standards. The Methodist-affiliated Girls’ Latin School of Baltimore opened in 1890 on the campus of the Woman’s College of Baltimore “for the specific purpose of preparing girls for college, especially for the Woman’s College of Baltimore.” Vassar, Smith, and Wellesley Colleges, as well as the Woman’s College, honored certificates awarded by the Girls’ Latin School of Baltimore. From its inception, the College of Notre Dame presented certificates of admission to graduates of its own campus preparatory school.

By 1890, however, preparatory departments on elite campuses were becoming controversial. Colleges were closing their campus preparatory schools or moving them to separate campuses. Bryn Mawr and Smith Colleges never introduced preparatory departments, and by 1893, no Seven Sister college had such a department. Nationally, enrollment in the fourteen elite “Division A” women’s colleges exceeded that of enrollment in affiliated preparatory schools by more than two to one. Campus preparatory schools declined more rapidly after 1909, when the National Association of
Collegiate Alumnae (the forerunner of the American Association of University Women) denied membership to institutions having such campus schools or “departments.” The Girls’ Latin School of Baltimore immediately left the Woman’s College campus for another site. In its 1919 definition of an American college, the National Conference Committee and the American Council on Education included “the absence of any connecting preparatory school operated by the college.”

Even after the separate incorporation of preparatory schools, leading women’s colleges maintained historic ties with these institutions. Some, like Wellesley College, benefited from two feeder schools in the immediate locale. Its founder, Henry Durant, had financed the establishment of the Dana Hall School in the town in 1881, and twelve years later President Helen Shafer persuaded two alumnae to found the Walnut Hill School in nearby Natick, noting that “its proximity to Wellesley enables students and instructors to keep in close touch with Wellesley activities.” Founded in 1886, the Cambridge School for Girls (formerly the Gilman School) remained “closely connected with the development of Radcliffe College.” In 1916, Harvard and Radcliffe faculty sat on its board of directors.

Preparatory school campuses and their faculties, however, continued to be valuable resources for founders of Catholic colleges. In Baltimore, the School Sisters of Notre Dame, who already owned the Collegiate Institute’s extensive campus and buildings, could open a college on the property at very low initial cost. In planning the college, founders could rely on the counsel and assistance of experienced Collegiate Institute faculty. Finally, proximity to a long-established preparatory school, patronized by Protestant as well as Catholic students, was certain to bring desirable publicity to new colleges in their early years. For many small Catholic women’s campuses, the coveted institutional membership in the American Association of University Women was therefore slow to come. Removal of campus high schools would likely pose financial hurdles and might affect enrollment. According to a Notre Dame preparatory school graduate, in 1927, “most, two-thirds of my high school class, went over to Notre Dame to college.”

The presence of preparatory schools on college campuses, however, posed serious social, psychological, and academic dilemmas. Although administrators made every effort to keep college and preparatory students separate, collegians increasingly resented having to share campus grounds and buildings with high school girls. The adverse effect of the high school on the college’s public image and prestige had always concerned Notre Dame administrators. College Hall, the first building exclusively for college use, did not open until 1910. An imposing structure, it housed classrooms, a library, laboratories,
a dining room, a dormitory, and social spaces. But it did not successfully resolve the “preparatory school problem,” since college students continued to share the chapel, auditorium, gymnasium, and campus grounds with high school students who greatly outnumbered them.

While the campus was “just bulging” at this time, it was not bulging with collegians. In 1920, they accounted for just 20 percent of students on campus, and in 1925 for 30 percent. By the end of the 1930s, about one-third of students on campus were enrolled in the college. For the college to grow, administrators warned, it needed a larger physical plant. It seemed to them that the simplest solution was to move the preparatory school to another campus and then remodel its vacated facilities for college use. While leaders of the order acknowledged that such a step would greatly benefit the college, they were reluctant to take action. Not only would the plan require the order to assume considerable debt to acquire land and construct a high school building, but it would also offend traditionally generous preparatory school alumnae.

Like her predecessors, President Margaret Mary O’Connell faced a controversial internal issue that had simmered without resolution for decades. Since 1895, the college and a large preparatory boarding school had shared buildings and other campus facilities. By 1910, the situation was already affecting the college’s academic standing. In that year, four women’s colleges qualified for membership in the Association of Colleges and Preparatory Schools of the Southern States. Goucher College, the only Maryland representative in the group, had just severed legal ties with the Girls’ Latin School, its preparatory department since 1890. Because they did not yet comply with the association’s regulation calling for “rigid separation of preparatory and college students,” the other three institutions—the College of Notre Dame, Mount Saint Agnes College, and the Woman’s College of Frederick—failed to gain membership. The presence of a preparatory school and a lower school on the Notre Dame campus became an increasingly serious threat to the college’s academic rating. In 1945, President Frances Smith again appealed to the board of trustees to take action on the matter: “All would greatly benefit by the removal of the Preparatory school to a separate campus,” she stressed. In 1950, the Association of Colleges and Secondary Schools of the Middle States and Maryland likewise urged its relocation.

Demand for college admission rose sharply nationwide after World War II, with a high proportion of applicants seeking to reside on campus. In 1946, however, the College of Notre Dame could accommodate only about 140 resident students, and “only 37 or 40 new Freshmen.” A college that for a half century had struggled to build its enrollment was now rejecting
well-qualified applicants. A decade later, full-time enrollment, including day and resident students, numbered only 329, a situation caused entirely by insufficient resident housing. For O’Connell, this was a compelling argument for moving the preparatory school to another campus as quickly as possible. Her top priority was to provide “increased accommodations for resident students.” The board of directors, however, was unwilling to act quickly. The purchase of real estate, construction of high school and convent buildings, and renovation of the former preparatory school facilities for college use would place a serious financial burden on the order.

The issue of the preparatory school remained at an impasse in 1956 when an impatient O’Connell took an unorthodox step. Convinced that the backing of the church hierarchy would greatly strengthen her case with the college’s board of directors, she asked Baltimore archbishop Francis Keough, Michael Curley’s successor, to take her side in the preparatory school matter. The maneuver worked. “I understand that your suggestion relative to the high school moving to another campus is being considered very seriously,” a jubilant O’Connell wrote to Keough. “You have made it seem . . . imperative in your conversation with Sister Superior and me recently. For that one favor alone, I can never be grateful enough.” The move was not to occur, however, for another four years. In late 1958, the board of directors finally voted to relocate the high school. The order purchased a sixty-six-acre campus in Towson, about eight miles from the college, and constructed a one-thousand-student high school, complete with athletic facilities and a residence for sister-faculty. The Notre Dame Preparatory School moved to its new home in 1960. For the first time in its nearly seven-decade history, the College of Notre Dame had a sixty-one-acre campus and its buildings to itself. After renovations, the original preparatory school building, now named Gibbons Hall, opened for college use in the 1961 fall term.

Episcopal intransigence had left the board of directors and the advisory board with few options for financing the college’s long-desired dormitory project, even as the preparatory school issue was finally being resolved. Privately, the trustees hired a New York fundraising firm “on a consulting basis,” alumnae organized “Hands across the Nation” card parties, and students and faculty held fundraising events on campus. Results of these private efforts were predictably meager, and the $1.5 million goal for the building project seemed more remote than ever. Meanwhile, a new government program, the Federal College Housing Program (Title IV of the Housing Act of 1950), had begun to offer significant funding to assist institutions eager to accommodate more resident students. But the program did not cover religious organizations. As long as the religious order was its legal owner, the College
of Notre Dame did not qualify for financial assistance under this program. This situation led O’Connell and the advisory board to request that the order establish the college as a separate corporation with its own board of trustees.

In February 1957, an act of the Maryland legislature “granted a separate charter to the College of Notre Dame of Maryland, Inc. for the education of women, the promotion of learning and ‘general educational purposes’ and to confer degrees upon any qualified person.” The college corporation was now legally “distinct from the ‘School Sisters of Notre Dame in the City of Baltimore,’ the original corporation set up in 1864.” Signers of the certificate of incorporation were Mother Vitalia Arnold, provincial superior, and Sisters Matrona Dougherty, superior of the campus convent; Margaret Mary O’Connell, president of the college; Bridget Marie Engelmeyer, dean of the college; and M. Gerald Maher. Officers of the college corporation were O’Connell, president; Engelmeyer, vice president and secretary; and Sister Redempta Ott, treasurer. The religious order, “for and in consideration of the sum of One Dollar,” transferred to the College of Notre Dame of Maryland, Inc., all campus land and tangible personal property located on it, as well as all securities, cash, and bank accounts that had been held in the name of the College of Notre Dame of Maryland. The new corporation assumed the institution’s “contracts, obligations, and commitments.”

Separate incorporation did not immediately diminish the order’s influence on the college. Trustees had to be “members in good standing” of the order, college projects requiring the assumption of major debt could not proceed without prior permission from the order’s general superiors in Rome, and provincial superiors, as in the past, continued to play decisive roles in faculty appointments. “The plant, personnel, curriculum, and entire operation will be continuous with the past,” stressed George Constable. “The only change [is] the technical legal entity which operates it. . . . The legal entity is new but the institution and its operation is old.” Nonetheless, jurisdictional disputes lessened considerably. Now, according to Constable, “the whole leadership structure focused on the [college] president and the chairman of the board, who was the [order’s] provincial head.” This change alone greatly strengthened the hand of the president.

At the time, the vast majority of Catholic college and university trustees were members of the clergy or religious orders. According to a 1960 review of 108 institutions, 84 percent had no lay trustees. Soon after Notre Dame’s separate incorporation, however, lay members of the advisory board proposed that it become “essentially a lay board.” The new board of trustees responded by adding two lay faculty members to the advisory board, Elizabeth Morrissy and Mildred Otenasek. On March 3,
1963, George Constable and Henry J. Knott became the first laypersons elected to Notre Dame’s board of trustees. Constable had become a Roman Catholic shortly after graduating from Princeton in 1933; he earned his law degree at Yale and joined his father’s law firm in 1940. He provided legal counsel for the College of Notre Dame and sat on its advisory board and then on its board of trustees from 1945 until 1992. Knott, a prominent figure in Maryland real estate and building development who had graduated from Loyola College in 1929, became renowned for his philanthropy toward Maryland colleges, schools, and hospitals. He was a major donor to the College of Notre Dame as well as a longtime member of its advisory board and board of trustees.

On August 31, 1957, the college’s application for a $1.04 million long-term, low-interest federal loan to construct a 150-student residence hall, a dining hall, and a small student chapel was approved. The total cost of the project was estimated at $1.5 million. President O’Connell immediately applied to Archbishop Keough for permission to undertake a public fundraising campaign to repay the government loan, but her letter went unanswered. Several months later, she tried again: “It is vital to our planning at this stage to know whether or not we may have a Drive, and if so, just when it may be.” In reply, Keough underscored the fact that several campaigns were presently underway in greater Baltimore, including one for Loyola College. “With all this in mind,” he told O’Connell, “I wished to spare you and the Sisters embarrassment from the institution of a Drive which might very well end in humiliating failure. . . . If now, however, your Advisory Council deem this risk so negligible, you may be sure your Archbishop will refrain from prohibiting the conduct of a fund-raising Campaign.”

Despite the archbishop’s feelings, the board of trustees authorized the college to issue “College of Notre Dame of Maryland, Inc. Dormitory Bonds of 1957,” for the same amount as the federal loan. Dated November 1, 1958, the bonds would mature in serial installments until 1997. The trustees also agreed that the college could borrow up to $1.3 million at 5.5 percent from other sources, with mortgages on college property used to secure both types of loans. But in light of the archbishop’s negative reaction to the college’s fundraising plans, and aware of his power, the trustees delayed launching a major public campaign. In late 1958, Henry Knott and his brothers contributed a “munificent gift” to allow the residence hall project to get underway. Construction of residence and dining halls moved along quickly, and the trustees agreed to again seek the archbishop’s permission to undertake a fundraising campaign. O’Connell’s cautiously worded letter to Keough in August 1959 revealed their concern about his reaction: “We have been
mindful of Your Excellency’s advice. . . . This will not be a public Capital Funds Drive. We have not engaged a professional fund-raiser.”

At the time of its separate incorporation, the college admitted all qualified day applicants, but had to turn away many who wished to live on campus. Once Doyle Hall opened in the fall of 1959, enrollment began to rise. By the fall of 1960, it totaled 560, with 298 resident students (53 percent) and 262 day students (47 percent). Four years later, the college’s full-time enrollment was 979. “The 3 to 1 ratio of residents to commuters [for the freshman class] showed a gain over the 2 to 1 ratio of 1963 applications,” O’Connell reported. In early 1959, with the construction of Doyle Hall nearly completed and the relocation of the preparatory school imminent, O’Connell had sought permission to commence her next building project, a science center. Here she met with stiff resistance from her religious superiors. Provincial Superior Vitalia Arnold, chair of the board of trustees, was concerned about the debt liability the project might impose on the order. After all, Archbishop Keough remained opposed to public fundraising by the College of Notre Dame. Until reduction of the outstanding debt on Doyle Hall was “well underway,” she would not approve the science building project.

This picture changed dramatically in 1962 when the Maryland state legislature approved a program of matching construction grants for Maryland colleges, private and public. The advisory board agreed that the college ought to apply for one of these “wholly unexpected and much-coveted” grants. The only board member to express reservations about this step was George Constable. “In asking [for] financial aid from the government, we are crossing an important policy bridge,” he cautioned. There are “religious implications. . . . The [United States] constitution is clear on the matter.” The college, however, applied and received a matching grant of $750,000 to construct a science center, representing nearly one-third of the building’s estimated cost. With preliminary building plans already in hand, O’Connell anticipated speedy completion of the science building.

Provincial Superior Arnold’s doubts about the college’s ability to repay the matching grant continued. Until matching funds were in hand or pledged, the project could not get underway. O’Connell applied unsuccessfully to General Superior Ambrosia Roecklein in Rome for permission to proceed without Arnold’s approval. Meanwhile, advisory board members Henry Knott and George Constable, whose judgment she valued, struggled to convince her that any delay in construction would damage the college, telling her that “the State will be reluctant to give again if the money is kept until the matching amount is raised.” In the fall of 1963, as the academic year opened, the science building project was at a standstill.
Before the issue of the construction delay could be resolved, the College of Notre Dame encountered a momentous and unexpected challenge. On September 10, 1963, the Horace Mann League of the United States of America, joined by ten Maryland residents, filed a complaint in the Maryland Circuit Court of Anne Arundel County in Annapolis against the state of Maryland and four church-affiliated colleges. They contended that the state legislation of 1962 and 1963 that had awarded a total of $2.5 million in matching grants for building construction to “pervasively sectarian” institutions violated the constitutional doctrine of separation of church and state as set forth in the First and Fourteenth Amendments to the US Constitution. Defendants were the State Board of Public Works (the state governor, treasurer, and comptroller); Hood College in Frederick (United Church of Christ); Western Maryland College in Westminster (Methodist); Saint Joseph College in Emmitsburg (Catholic); and the College of Notre Dame. The American Jewish Congress and Protestants and Other Americans United for Separation of Church and State (POAU), among others, supported the suit. 73

This lawsuit was part of a series of legal challenges to governmental support of religious institutions brought during the mid-twentieth century by an alliance of occasionally strange bedfellows, ranging from atheists to “outsider” religious groups to mainstream Protestants concerned about Catholic access to federal and state funds. As Catholic institutions sought to become more visibly “Catholic” during the anti-Communist postwar era, heated public debate, widely covered by the media, between Catholic and Protestant leaders on controversial religious questions rekindled old animosities. Mainstream citizens, uneasy that Catholics were undermining the nation’s social fabric, sought legal as well as cultural redress. 74

Legal cases, when they involved funding, were often decided by narrow majorities, and frequently turned on whether the money in question could be said to be used for secular purposes. POAU, for example, had been formed by a group of influential Protestant ministers and educators in response to the US Supreme Court’s 5–4 decision in Everson v. Board of Education in 1947 (330 U.S. 1), allowing a school district to reimburse parents of children attending public and private religious (nearly all Catholic) schools for related public transportation costs. 75 Courts also established sometimes vague standards for who could access funds, inviting new challenges to force narrower definitions. Was the College of Notre Dame more like a diocesan seminary, which existed only for sectarian purposes and was by definition ineligible for government funding, or was it more like the private liberal arts colleges that had long ago severed cultural as well as legal ties with their founding denominations?
The two-week “Horace Mann trial” before Judge O. Bowie Duckett of the circuit court began on November 30, 1964. Since, at this time, more than two-thirds of the private colleges in the United States were church related, higher-education and religious circles nationwide followed the case closely. Since, at this time, more than two-thirds of the private colleges in the United States were church related, higher-education and religious circles nationwide followed the case closely. College catalogs, student handbooks, corporation documents, and accreditation reports were placed in evidence during the trial, and the four college presidents and a number of faculty members were cross-examined. Leo Pfeffer, a constitutional lawyer and chief counsel for the Horace Mann League, represented the plaintiffs, while George Constable represented the College of Notre Dame. At issue in the trial, in large part, was what it meant for the college to be (as nobody denied it was) “Catholic.”

Religion and the College, 1895–1950s

The legal establishment of the college and the addition of laymen and laywomen to its board had changed the institution’s governance, ultimately shifting the balance of power away from the religious order. But it had not changed its essential character. There was no question that its religious affiliation was central to its intellectual goals. Unless the college attended to the students’ spiritual and moral development as well as to their academic success, its administrators believed, it would fail to fulfill its mission to develop exemplary female leaders in American society. The elemental vision of Notre Dame’s founders was to give women the opportunity to benefit from a Catholic higher education. True education had a moral purpose, and religious values played a central role in cultivating the mind. The teachings of the Catholic Church provided the rationale for college regulations regarding student conduct, and Catholics valued the distinctive religious culture that marked their women’s colleges. Organized religion played a role in every area of college life, not simply in official church services. It affected academic programs and course requirements, college rituals, social traditions, and extracurricular student organizations. While students in the Seven Sister colleges chose Greek goddesses like Athena, Daphne, and the Bacchae as patrons, their College of Notre Dame counterparts opted for the Virgin Mary.

Most elite northern colleges at the turn of the twentieth century expected their students to attend religious services regularly. Although, in general, women’s colleges had stricter obligations than men’s colleges, there was considerable variation. Harvard ended its required daily chapel in 1886; Yale in 1926. Since the 1880s, Mount Holyoke had expected students to attend daily prayers in the college chapel and Sunday worship in the village church. In 1904, monitors checked attendance at Vassar’s “restful [weekday] chapel service after
dinner,” as well as at Sunday religious observances that included a morning worship service, a Bible lecture, and an evening prayer meeting led by the college president. In 1911, the rector of a Northampton church close to the Smith campus overlooked their obligatory character when he concluded that “the religious life and activity are easily the most popular of all electives in our women’s colleges.” By the 1930s, students observed Smith’s daily chapel attendance rule on an honor basis. While Bryn Mawr had no formal chapel attendance requirements, students in 1912 attended a brief daily chapel service. “This is voluntary, but almost everyone goes,” students reported. Radcliffe’s traditional morning prayer service ended in 1932.

At Notre Dame and other early Catholic women’s colleges, religious values permeated campus life and found public expression not only in liturgical services but also in student religious clubs and social service organizations. In 1895 Catholic students attended daily weekday Mass, while Protestant students were free to engage in Bible study instead. In addition, students participated in daily morning and evening prayer services. Sundays, however, were different. “For the maintenance of order,” stated the college catalog, students of all faiths were expected to be present for “the public worship [Mass] on Sunday.” The expectation that Catholic students attend the weekday Mass soon disappeared, but the requirement to attend both Mass and an evening benediction service on Sundays remained obligatory for decades.

Protestant as well as Catholic students belonged to the College of Notre Dame choir as singers and instrumentalists. In the college’s early decades, the choir played a central role in religious services and important campus events. Diverse audiences testified to its ambitious repertoire and fine quality. At the dedication of the college chapel in 1896, a sixty-member choir, directed by Professor Lucien Odend’hal and accompanied by organist Sister Casilda Benning and student harpist Helen Burr ’99, sang Alexandre-Charles Fessy’s *Messe solennelle*. The college choir’s high liturgical standards carried on a long tradition. In 1874, the choir of the Collegiate Institute had sung Haydn’s *Mass in D* for the dedication of the school’s original building. For Burr, participation in the choir was a high point of college life. “I received great benefit from playing in the choir at school and singing the vespers and Masses,” she recalled five decades later. “The wonderful rhythms of those chants!”

Notre Dame initially modeled its campus rituals and traditions on those of mainstream women’s colleges, but gradually these events acquired a distinctly Catholic character. At Bryn Mawr, May Day celebrations in 1900 included a procession, a pageant with Maid Marian as May Queen, and dancing around maypoles. Notre Dame’s first May Day Festival in 1918, organized by the student social club Kymry, included “spring dances, crowning of the May Queen, and the May Pole dance.” The event had no religious
content. Nor did a May Day event sponsored by Ye Merrie Masquers, the college drama club, the following decade. It was just “an old-fashioned May Day . . . with the Queen elected by secret ballot of the entire Association, with the exception of the Seniors.”92

These May Day Festivals were not the same as the campus-wide May Procession (figure 10), a religious celebration held annually since 1873 to honor the institution’s namesake. A student description depicts the 1925 May

Figure 10.  May Procession, 1950. Photo from NDMA.
Procession as “a touching sight,” winding around the campus, with students singing hymns and reciting the rosary, eventually reaching the campus shrine in honor of the Blessed Virgin Mary. At midcentury, everyone on campus participated in this event, “from the tiniest first grader to the tallest college senior—college girls in cap and gown, high school girls in blue uniforms, grammar school girls in white.” After 1944, with Marian devotions on the rise in response to the global spread of Communism, the college added a ceremony incorporating “the bestowal of a miraculous medal by each sophomore on her [senior] ‘big sister.’”

A favorite commencement week tradition in turn-of-the-century women’s colleges was Ivy Day. Smith College seniors, dressed in white gowns and flanked by juniors bearing daisy chains, processed through the campus singing their class song. The ivy song and the ivy oration by a senior followed. The 1898 orator emphasized that “there always have been and will be two fields for woman, as a mother and teacher, of which there are none other that are higher.” Colleges varied slightly on this program. At Pembroke College, for example, the senior class in caps and gowns processed behind “lines of white-robed undergraduates” bearing an ivy chain. Ivy-planting ceremonies at Catholic women’s colleges were variations on those of mainstream institutions. According to the school’s archives, the College of Notre Dame modeled its first ivy planting in 1912 on that of the Woman’s College of Baltimore, but added distinctive religious features. Faculty and students processed around the campus, ending at the entrance to College Hall. There, after the college chaplain blessed the ivy, each senior in turn planted an ivy branch in front of the building. The ritual ended with the graduating class singing a farewell hymn to the Virgin Mary. By the 1940s and 1950s, seniors wore long white dresses for Ivy Day; members of the other classes wore caps and gowns. Unless they were playing special roles, students customarily wore academic garb for such events.

In the 1890s, all Notre Dame students enrolled in at least one religious club, and this expectation continued through the 1950s. Catholic values found informal public expression in these religious societies. At the same time, they enabled students to unite to address various social needs, local and national. The oldest of these clubs was the Sodality of the Sacred Heart of Jesus, later known as the League of the Sacred Heart. It had originated in the Collegiate Institute in 1876, and was carried into the college after 1895. At first, students engaged in prayer meetings, collected contributions for college needs, and supported a few charitable projects. In the 1910s, the group’s interests expanded somewhat. Some members volunteered with the United War Mothers Campaign, while others sponsored book drives to build the college library.
As Communism spread in the post–World War I years, church leaders encouraged numerous independent college mission clubs to collaborate in order to counteract this growing threat to religion. The National Catholic Students’ Mission Crusade, established in 1918, modeled itself on the Student Volunteer Movement for Foreign Missions, a large Protestant organization founded in 1886. Within six years, it had enlisted 390,000 volunteers nationwide to promote the church’s domestic and foreign missions. In Baltimore, the Notre Dame Mission Society, known as Our Lady’s Mission Unit, joined the national organization in 1919. Over the next two decades, missionary enthusiasm ran high. Student “crusaders” distributed mite boxes, sponsored bazaars and mission days, and organized benefit lectures and plays in support of church missionary work. The college library featured Catholic missionary literature, and by 1923 carried eleven mission magazines. In 1925, the college hosted a Mass and all-day rally for five thousand, sponsored by the Mission Crusade’s Baltimore Conference.

The Sodality of the Blessed Virgin (Children of Mary Sodality) appeared in 1923. Although attendance was not obligatory, administrators took it for granted that Catholic students would join. In 1936, “all but 10 paid the activity fee of one dollar.” They raised money for flowers for the Blessed Virgin’s altar in the chapel and a campus grotto and focused more on prayer meetings than did other campus religious clubs. Members recited the Office of the Blessed Virgin Mary on Mondays and attended Mass as a group on the third Sunday of the month and on Marian feast days. The Sodality remained consistently popular with students. By the 1950s it was still “a big thing at the time,” an alumna remembered.

In the 1930s, official college publications became more explicit about how the institution should witness publicly to its Catholic identity. Its “purpose and ideal,” according to the 1935–36 catalog, was “to present a well-balanced program of study, one that will result, ultimately, in a cultured Catholic woman, capable of directing her own life to its high destiny, and equipped with the means of rendering service to others. The ideal Notre Dame graduate has a correct sense of values.” In its 1936–37 catalog, the college introduced a far more militant and openly religious statement composed by Professor Elizabeth Morrissy: “The intelligent presentation of the principles of Catholic teaching in all fields of thought may be demanded, so that Notre Dame students may take their place in bringing about sound recovery by helping to restore to first place the spiritual values. . . . Students must stand firm and play an active part in the coming battle of civilization that is even now gathering forces, where the division will be made on the answer to the question, ‘What think ye of Christ?’” In a 1937 radio address, Morrissy
elaborated on the fundamental bond of the college and religion: “Our faith is the corner stone of our intellectual life as it is the final guide of our moral life. It is because we believe this that the College of Notre Dame exists.” Its graduates, as the college’s 1941–42 catalog stated, must “not only be able but determined to fulfill their mission as Catholic leaders in the various walks of life.”

Student interest in connections among the intellectual, service, and religious aspects of life that Morrissy had articulated did not immediately coalesce. In the 1930s, the Catholic Action Movement and organizations like the Catholic Evidence Guild, founded in England in 1918, called on college students to abandon their “intellectual apathy” and promote the church’s social and political agenda. Before World War II, appeals like this did not arouse much enthusiasm on the Notre Dame campus. For example, in 1939, a few students organized a campus cooperative store to counter “so much unchristian and erring capitalism and communism in the world,” but they could not mobilize any support for the project. Students refused to volunteer to staff the store or to buy stock in it (at a dollar per share), and the cooperative quickly failed. The Depression years instead afforded students more exciting and tangible opportunities to assist those in need, and a variety of service groups flourished on campus. In Saint Francis Xavier’s Colored Parish in East Baltimore, for example, students visited needy citizens in their homes and raised funds to educate their daughters so as “to bring about a more intelligent understanding of the Negro,” although they expressed little indignation that their own college would not admit the girls.

In the 1940s, leaders of Catholic colleges encouraged faculty and students to integrate Catholic values more widely into all areas of campus life. Especially in the aftermath of World War II, the Catholic Church in the United States, preoccupied by perceived threats of secularism and world Communism, became more boldly “Roman.” Catholics held huge public rallies and religious celebrations. The College of Notre Dame continued to stress the comprehensive role of religion in every aspect of college life. “To train college students in Catholic doctrine is primarily the function of the religion classes, but the responsibility of developing a Catholic attitude towards every phase of life is shared by all departments of the college,” wrote the dean, Sister Dominic Ramacciotti, in 1940.

At the same time, in matters of religious observance, freedom of conscience was becoming the deciding factor, as it had over the preceding decades at elite Protestant colleges. Jewish faculty member Regina Soria recalled, “I remember once one of the teachers of religion would ask the students whether they had gone to Holy Communion or not. Sister Dominic
stopped that, said they had no right to ask the students what they do.”¹¹⁵ Students of all faiths sought ways to witness to them openly; a Jewish music major chose to sing Ravel’s *Kaddisch* in Hebrew before “a large, enthusiastic audience” as part of her required public recital in 1947.¹¹⁶ But strict Catholic observance remained normative, if not mandatory; Mass was “a focal point of many of the things that happened here. Lots of us went to daily Mass during Lent,” recalled Jean Monier ’53.¹¹⁷

Student militancy on social issues intensified in the post–World War II years. The College of Notre Dame reached beyond campus boundaries to join the National Federation of Catholic College Students, an organization with 179 institutional members established to prepare student leaders “for an effective lay apostolate.”¹¹⁸ The college also belonged to the nonsectarian National Student Association, established in 1947. Student delegates who attended its annual congresses saw themselves as missionaries: “As students of a small Catholic women’s college we have our place in the breadth and the scope of this comprehensive student movement,” explained an early delegate. “As Catholic students we have an obligation to share, explain, and promote our philosophy and thought and our religion—not so much to convert as to make known the truth that is ours.”¹¹⁹ From its founding, delegates and observers from Catholic women’s colleges participated actively in this organization.¹²⁰

By the 1950s, integrating religion into the life of the college had become a central goal. Administrators revised the college catalog format, placing “Religious Life,” which traditionally had its own separate section, under the broader heading of “Student Life.”¹²¹ They called on faculty to include “fundamental principles or practices of the Catholic Church” in their courses “wherever . . . applicable.”¹²² The Art Department, for example, called on students to “learn and live on a small scale the life of a Christian artist,”¹²³ and to explore “the spirituality that a painting could have, or . . . a poem, a mathematical derivation, or a sonata.”¹²⁴ By the end of the 1950s, President Margaret Mary O’Connell could say confidently that the “life and study and the atmosphere of the college are permeated, enlarged, and integrated by the Catholic way of life.”¹²⁵ For many mainstream critics, her words described a sectarian institution. The stage was set for the court challenges of the 1960s and 1970s.

**Responding to the *Horace Mann* Case**

During the 1960s, the plaintiffs in the *Horace Mann* case based their claim that the College of Notre Dame was “sectarian” and thus ineligible for
government funding in large measure on the role of the religious order in campus life. Gainer E. Bryan, editor of the *Maryland Baptist*, published a firsthand account of Leo Pfeffer’s cross-examination of Margaret Mary O’Connell:

He noted her statement that she is responsible to her board of directors “exactly as any other college president” but that the chairman of the board is the provincial superior of her order, the School Sisters of Notre Dame. Then he read from the Rule of Order [sic], which owns and operates the school: “In respect to intellect, obedience shall be blind.” “Is that a correct statement of the rule?” he asked. She replied, “It has never precluded my freedom of action as administrator.” Pfeffer attacked her statement that she consults with the archbishop only on “matters of magnitude,” which she specified as finance campaigns. Five times he asked her the question, “To your knowledge does the local ordinary (the archbishop) have the authority to refuse to allow a particular priest to teach at a Catholic college in his diocese?” Each time she replied that as far as she knew, in her experience, “we have never applied to the archbishop for these priests to come.” However, she had conceded earlier that the archbishop was consulted about the appointment of theology teachers. Court testimony brought out that 36 members of the faculty of Notre Dame are religious, 35 are lay, and only 8 (laymen) are non-Catholic.¹²⁶

Plaintiffs saw this as clear proof that the college was part of a sectarian subculture. However, Judge Duckett considered the central issue in the case to be whether or not the four church-related colleges would agree to use state funds solely for secular purposes. He concluded that they would and found in favor of the State of Maryland and the colleges.

Pfeffer appealed the circuit court’s decision to the Maryland Court of Appeals. For the appeals court, the central issue in the case was whether or not “a recipient college was so pervasively religious in its orientation and operations that it could be considered ‘legally sectarian.’”¹²⁷ The appeals court reviewed the “stated purposes” of each college; its financial and religious relationships with “its sponsoring church”; the place of religion in its curriculum, extracurricular events, buildings, and campus; its requirements regarding student attendance at religious services and events; its accreditation status; and the college’s image and contribution to its local community.¹²⁸ On June 2, 1966, the Maryland Court of Appeals, 4–3, reversed the circuit court decision in favor of the State of Maryland and Western Maryland, Saint Joseph, and Notre Dame Colleges. It allowed the grant to Hood
College to stand. The appeals court majority found Notre Dame to be “sectarian” because most of its students, administrators, and faculty were Catholic; the religious order controlled its governing board; and its official publications attested to a campus environment “permeated . . . by the Catholic way of life.” The US Supreme Court refused to hear an appeal of this decision.

As the college struggled to defend its nonsectarian character in the courts, it had to wrestle with some relatively recent introductions of Catholic religious practice designed to stress Catholic identity vis-à-vis the celebration of citizenship. Notre Dame Day, celebrated annually on March 25, the Feast of the Annunciation, honored the college’s founding and its patroness. It shared the date with Maryland Day, a state holiday until 1996. The college’s first public celebration of Notre Dame Day had taken place in 1901 with students and faculty attending morning Mass. “Beautiful singing and the school sang a new hymn composed by one of the sisters & set to music,” the college annalist recorded. “It is to be known as ‘The Notre Dame Hymn,’ and commemorates the First Mass celebrated in Maryland, the message of the angel, and the foundation of our beloved Notre Dame of Maryland.”

In its early years, the college celebrated Maryland Day intermittently. In 1915, no religious ceremony marked the holiday. College students joined Dean Meletia Foley, an ardent nature lover, for a leisurely walk in the Garrett estate next door, “to study the birds and trees.” The 1926 program was typically simple. At a college assembly, two students read papers while a third sang a song to honor the college’s founding and the state holiday.

But as the Catholic Church encouraged a more visibly “Catholic” identity in the postwar era, academic ceremonies became more religious in content. The 1953 Maryland Day celebration began and concluded in the convent chapel with morning Mass, sung by the entire community, and a benediction service and consecration of students to the Virgin Mary. A pleased Margaret Mary O’Connell described the day’s events: “In the morning, faculty members in each department prepared special lectures relating the work of that department to the Blessed Mother.” Topics included “The Biology of Virgin Birth and the Blessed Virgin Birth,” “Our Lady in World Crises,” “The Economics of Nazareth,” “Our Lady was a Jew,” “Our Lady in the Atomic Age,” “The History of the Ave in Music,” “The Mother of the Word,” and “Euclid Alone Has Looked on Beauty Bare?” In the afternoon, Our Lady’s Sodality students directed a dramatic reading of “an original sonnet sequence entitled ‘The Seven Joys of the Blessed Mother and the Eighth’ . . . interpreted by original dance pantomimes against a mural of the Seven Sorrows of our Blessed Mother executed . . . by [a] senior art
major.” In style and content, Maryland Day programs had not changed much by 1963, the year the *Horace Mann* case was filed. Lawyers for the plaintiffs pointed to Maryland Day programs from the preceding decade as evidence of the college’s sectarian character. The college’s lawyers replied that Maryland Day was an extracurricular event. Faculty lecture topics of that day were not part of the regular curriculum, and students were free to choose those they wished to attend.

As the *Horace Mann* case continued, Notre Dame endeavored to deflect criticism by removing some religious content from Maryland Day programs. On May 25, 1965, the day was fairly routine. Following regular morning classes and a special Mass, a faculty member gave an afternoon piano concert in honor of the Virgin Mary. The day passed unobserved in 1966. Noted the college annalist, “Annunciation Day and Maryland Day. Ordinary classes were held, with no exception to the day’s routine.” In 1968, the holiday celebration returned, but with minimal religious reference. “Our College’s annual celebration to recall our history and our ideals,” wrote the annalist. “Members of the faculty are mingling with the students, enjoying the choice of two among several lectures running concurrently.” Lecture subjects that year included “Why College Physical Education?” and “The Challenge of Change in Art.” A 1971 lecture by Ralph Nader on “environmental hazards” was the last Maryland Day observance for nearly two decades.

**Roemer v. Board of Public Works**

The loss of the Maryland state matching grant for the science center in June 1966 was a serious setback for Notre Dame. However, in March 1964, while the grant remained in escrow pending the outcome of the trial, a gift of $200,000 from Henry Knott allowed the college to proceed with construction. At the same time, Knott asked his friend Archbishop Lawrence Shehan, who had succeeded Archbishop Francis Keough in Baltimore, to persuade the School Sisters of Notre Dame to modify their traditionally conservative approach to financing major college projects. Episcopal influence brought results. Unlike his predecessors, Shehan did not object to public fundraising by Notre Dame, and a major professional drive for the matching funds for the science building was soon underway. The Knott Science Center finally opened in October 1967.

In 1966, before the *Horace Mann* case was finally decided, the college had also received a federal loan of $955,000 under the Higher Education Facilities Act of 1963 (HEFA) to aid in the construction of the science center.
George Constable found it ironic that the college had received this federal loan before the Maryland Court of Appeals decided that the college was ineligible for state funds “under the Federal Constitution.” No one had yet challenged this federal program in the courts, a situation that changed in 1968 when a group of taxpayers challenged the constitutionality of HEFA awards to four Connecticut Catholic colleges (Sacred Heart, Albertus Magnus, Fairfield, and Annhurst), claiming that they were “pervasively sectarian” and hence ineligible for federal monies. On June 28, 1971, in a 5–4 decision in *Tilton v. Richardson*, the US Supreme Court found the federal grants constitutional. Since buildings financed by HEFA awards were exclusively for secular use, the court’s majority saw no “excessive entanglement” of religion and government. Church-related colleges across the country breathed a collective sigh of relief.

At the College of Notre Dame, however, the relief was short lived. Only a month earlier, the State of Maryland had passed legislation to help the state’s private colleges “wipe out deficits” through annual awards of $500 per graduating senior. With 180 graduates, Notre Dame received a $90,000 state grant for the 1971–72 academic year. But early in 1972, John Roemer III, executive director of the American Civil Liberties Union (ACLU), joined by three other taxpayers and supported by the ACLU of Maryland, as well as by POAU, filed suit against the State of Maryland and five church-related institutions. They asserted that awards of public funds to Saint Joseph College, Western Maryland College, Loyola College, Mount Saint Mary College, and the College of Notre Dame of Maryland violated the establishment clause of the First Amendment.

Using criteria similar to those employed in the *Horace Mann* case, the plaintiffs scrutinized the bylaws, catalogs, curricula, buildings, faculty, and funding sources of each institution for evidence that it was an arm of “sectarian religion.” In 1974, the three judges of the US District Court for the District of Maryland upheld the state grants to the five colleges in a 2–1 decision and, following the US Supreme Court’s 1971 decision in the *Tilton* case, denied the plaintiffs’ request for an injunction against the state awards. The plaintiffs appealed to the US Supreme Court. At this point, after Western Maryland College agreed to remove all religious symbols, even crosses, from its chapel and to loosen its ties to the Methodist Church, that institution was permitted to withdraw from the suit.

Two years later, *Roemer v. Board of Public Works*, another 5–4 decision, upheld the constitutionality of the Maryland state grants to the four Catholic colleges. The majority affirmed the judgment of the US District Court that intellectual freedom “without religious pressures” characterized the secular
curricula of the institutions, that neither the Catholic Church nor ecclesiastics serving on governing boards dictated college policies, and that financial rather than religious motives dictated the colleges’ preference for religious order members in hiring. The dissent argued that the institutions did not meet the “entanglement test” because required theology courses were essentially religion lessons. In both the Tilton and Roemer cases, US Supreme Court majorities had found that Catholic colleges were, as historian Charles Wilson puts it, “constitutionally indistinguishable from other institutions in the independent sector of American higher education.” Eligible church-related colleges could now compete on equal terms for government programs that supported general institutional needs, with the exception of religious projects. As the Roemer case moved through the courts in the 1970s, the College of Notre Dame was under considerable stress, remembered Sister Francis Regis Carton, chair of Notre Dame’s board of trustees during that time. A negative court decision would have dealt a major blow to the college’s ambitious expansion plans. Instead, in 1977, the college received a matching Maryland state grant of $343,000 to underwrite the renovation of the LeClerc gymnasium and auditorium.

Decreasing “Sectarian” Identity after Mann and Roemer

The court cases of the 1960s and 1970s contributed to changes in religious life on campus, academic and extracurricular, but they were not the only factor. These decades saw growing student resistance to mandatory religious observances at church-related colleges nationally. When the Horace Mann suit commenced in the 1960s, compulsory attendance at campus religious observances and required religion courses were already under student siege at Notre Dame. “Religion, I feel, is not something one can be forced to practice” was the most common complaint. Other students objected to having to participate in religious processions, described by one as just “dragging, tiring, meaningless trails.” By early 1964, college administrators and faculty were discussing growing student resistance to the required annual retreat. “We are very much concerned about a spirit of indifference—even contrariety—that seems to become more prominent from year to year,” one said. “Many students do not observe the silence requested of them during Retreat; and some few skipped not only exercises, but even Mass!” Attempts by administrators to revive campus religious life often ended badly. When they made attendance at the 1965 annual retreat optional, two-thirds of the student body elected not to make it, while many who signed up attended only “selected conferences.” The expectation that students would join at least one religious club
disappeared. Within a few years, traditions of campus religious life at the College of Notre Dame had significantly changed.

Responding both to the legal challenges of these decades and to growing student wariness of compulsory religion, the college sought more socially inclusive ways to witness to its Catholic identity in the 1970s. It softened conspicuous religious elements in college rituals and celebrations, both academic and extracurricular. The college’s mission statement now even avoided using the word “Catholic”: “Founded as a Christian college, Notre Dame still expresses a commitment to the values and culture of the Christian heritage,” stated the 1972–73 catalog. “It affirms the belief that a truly liberal arts college should expose students to a variety of approaches to the human experience—including the religious approach.”

But beyond shaping self-presentation and the minutiae of daily life on campus, the court cases also pressured Catholic colleges, among them the College of Notre Dame, into giving more control to lay boards and severing or significantly modifying relationships with founding orders. As late as 1959, the minutes of board meetings at Notre Dame reveal the extent of the order’s authority: “Mother Provincial said she could assign a sister to the science and the English departments and [she] would try to provide a sister for mathematics. She recommended that we engage a lay teacher for history and another priest for religion.” The School Sisters of Notre Dame had recognized that the order’s influence over the college, even after its separate incorporation, would be a priority interest for lawyers for the plaintiffs in the Horace Mann case. Hoping to minimize the charge that this made the college sectarian, the board of trustees removed the authority of the provincial superior and the superior of the campus convent over appointments of lay faculty. However, because religious superiors continued to control appointments of sisters, who made up a majority of the faculty, lawyers for the plaintiffs focused on the order’s religious rule, a document they referred to as “an oath.” They concluded that the rules of convent life denied sister-faculty the academic freedom enjoyed by faculty at accredited mainstream institutions.

In her deposition on December 10, 1964, the Baltimore Sun reported, President O’Connell had attempted, with limited success, to explain that “the rule on education which members of her order accept before teaching at the college is not a compulsory directive, but a statement of purpose and motivation. . . . ‘It is not the type of obedience you’re referring to,’ she insisted. ‘All of us feel this is a guide for personal life.’ . . . [She] said that the rule of her order on education has no application to reading lists of books on the college level.” For Notre Dame faculty, sisters and lay, the allegation that they were not free to design their own courses and select their own texts
attested to a perennial anti-Catholic bias. Four decades earlier, while a Notre Dame faculty member and Johns Hopkins graduate student, Elizabeth Morrisey had heard the same charge. When she casually commented to fellow university students that she chose her own textbooks at Notre Dame, “the men at Hopkins in the department . . . wouldn’t believe it. They’d say, ‘Well, have you used Haig?’ . . . I said, ‘Nobody ever questions what textbook I use.’” In fact, she said, “nobody ever interfered with anything I ever wanted to do, ever. I was given complete right-of-way . . . I can’t imagine more freedom than I had.”

But following the Maryland Court of Appeals’ 1966 decision, a number of Catholic universities moved quickly to revise governing boards and corporate charters to establish greater legal independence from their founding religious orders. Governing boards of Saint Louis University and the University of Notre Dame, until then clerical in membership, now had significant lay representations. By reshaping its governing board, Fordham University hoped to improve its prospects of qualifying for New York State “Bundy funds,” offering financial support to nonsectarian institutions. Webster College, a small women’s institution in Saint Louis, established a lay board of trustees and, to the dismay of many, severed ties to its founding order, the Sisters of Loretto, and the Catholic Church. While these boards were reconstructing themselves, on July 13, 1967, a panel chaired by Rev. Theodore Hesburgh, president of the University of Notre Dame, at a meeting of the North American Region of the International Federation of Catholic Universities in Land O’ Lakes, Wisconsin, presented a “Statement of the Nature of the Contemporary Catholic University,” a powerful call for “true autonomy and academic freedom in the face of authority of whatever kind, lay or clerical, external to the academic community itself.”

The Horace Mann case, along with contemporaneous developments, mobilized the College of Notre Dame’s trustees to critically examine those areas of college life that had aroused the greatest controversy in court testimony. Mainstream arguments that the college was sectarian had focused heavily on the key role played by the religious order in its governance. Since five lay members and six religious sisters currently constituted the board of trustees, some members called for a restructuring. As long as the order effectively controlled the board, Henry Knott argued, the college would never be able to compete effectively with other private colleges. “I think the rope must be cut from the Religious Order and we must operate the same as Yale, Harvard or any other educational institution with the predominence [sic] of lay Trustees,” Knott wrote to O’Connell. Although they acknowledged that with a declining membership they would soon be unable to provide funds
and contributed services of sisters for the college at past levels, the School Sisters of Notre Dame voiced serious reservations.

Before further action was taken on the matter of a majority-lay board, the internal politics of the SSNDs had to be worked through. When Sister Margaret Mary O’Connell became president of the college on September 17, 1950, the advisory board typically met only twice yearly with the president and trustees and had no real decision-making authority. Within the college, sisters still filled key administrative offices and dominated major college committees. Convinced that laity had much to offer the college, O’Connell advocated for the addition of prominent leaders from business, the professions, education, and politics to the advisory board, and even to the board of trustees itself.

In carrying out her vision for the college, O’Connell was often caught between a religious order reluctant to underwrite large loans for college expansion projects and trustees who viewed the need to negotiate with religious superiors in Europe as a serious deterrent to the college’s development. Her strategy was to enlist members of the local hierarchy and prominent lay trustees to serve as mediators with her religious superiors on behalf of such college projects as the relocation of the preparatory school, the construction of the science center, and the approval of a joint library with Loyola College. While this unorthodox tactic certainly spurred the development of the college over her eighteen-year term as president, it did not win her universal approval. Early in 1968, Mother Provincial Mary Maurice Kelly, chair of the board of trustees, asked O’Connell to retire. In June, Sister Elissa McGuire, a professor of economics, became acting president of the college, a position she held until the election of Sister Kathleen Feeley as president in 1971.

In 1975, a group of trustees pressed for greater lay representation on the advisory board, “men of affluence” in particular. However, some sisters, noting that the bylaws of the college required that sisters hold a majority of seats on its board of trustees, considered such a step imprudent. “The Sisters should not jeopardize their ownership of the college, not only the property but the educational entity,” argued Sister Bridget Marie Engelmeyer. The impasse ended in 1977 when Provincial Superior Francis Regis Carton announced that a two-tiered model of a corporation and a board of trustees, currently popular at a number of Jesuit colleges, would allay the concerns of the religious congregation. The trustees amended the Articles of Incorporation to provide for a board numbering between five and twenty-five, and for a five-member corporation. The corporation “would have control over any change in the assets of the College, including sale, mortgage and gifts of property.” Corporation members included the chair of the board of
trustees, the college president, the leader of the order’s eastern province, the leader of the college’s religious community, and additional trustees, sisters or lay, “to bring the total number of members up to five and to assure that at least three of the members shall be members of the said Congregation.”  

But one area that both major court cases left untouched was the college’s social code governing student behavior and the religious justifications for it. These issues came to center stage in the 1970s as students rallied to bring Notre Dame’s social rules into conformity with those adopted by other institutions, Catholic and secular. Escalating social and political tumult accompanying the civil rights, antiwar, and women’s movements, as well as internal disputes over traditional and contemporary religious values within the American Catholic community following the Second Vatican Council, sparked conflict on the campuses of women’s colleges. Like other American women pressing for social and professional equality in every area of life, students at Catholic women’s colleges set out to gain the same autonomy over their personal and social lives on campus that their male peers enjoyed. The controversies that ensued, and their significance, are the subjects of the next chapter.