

Summer 2019: Tribute to Valparaiso University Law School (1879-2019)

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GRATITUDE AND DEEP SORROW

Rosalie Berger Levinson*

I have just finished grading my last exam. A few weeks ago I taught my very last class. Teaching at Valpo Law has been my calling for the past forty-five years. I appreciate the many extraordinary opportunities the Law School has afforded me. Watching this institution shut down fills me with deep sorrow.

In cleaning out my office, I came across a letter the Alumni Board asked me to write in 2014. I addressed the challenges we were facing due to the national drop in applications, the decline in the quality of those applications, and the serious plunge in legal job opportunities. I noted that five law schools had closed between 2011 and 2013 and that many were operating at a deficit and were predicted to close. I knew, of course, that we were admitting too many “high risk” students, but I was optimistic that the bold programmatic steps we were taking to remain viable would see us through this crisis. Our innovative 1L curriculum was praised by the ABA inspectors who visited in 2013, we were offering new courses to improve bar passage rates, and our Career Placement Office was taking several steps to be more effective in helping students secure jobs, beginning in the summer after their first year of law school. Plus, we were making our students more “employable” by offering over 100 externships and a wide variety of clinics. In fact, in 2011 we opened our new, beautiful Heritage Hall facility to provide space for our expanded experiential program.

It is still hard for me to believe that the law school will not be saved. But today I see only empty offices and abandoned classrooms – the reality cannot be ignored.

I have asked myself over and over what caused the school’s demise? I understand that the climate for legal education has changed and that other law schools have shut down. But I truly believed we were different. We are, after all, the thirty-eighth oldest law school in America, with a proud heritage. For 140 years Valpo Law has educated thousands of fine lawyers, many of whom went on to become state and federal court judges, U.S. attorneys, prosecutors, U.S. Senators, members of Congress, state legislators, and governors, as well as leaders in their firms and in their communities.¹ Our clinics and our mandatory pro bono requirement

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¹ MICHAEL IRVEN SWYGERT, “AND, WE MUST MAKE THEM NOBLE”: A CONTEXTUAL HISTORY OF THE VALPARAISO UNIVERSITY SCHOOL OF LAW 1879–2004, 367 [hereinafter SWYGERT]. Professor Swygert offers many examples of these distinguished alums. I am indebted to Professor Swygert for his detailed history of the law school that I cite throughout this Essay.

serviced the needs of hundreds of impoverished clients every year.² We were, in fact, one of the very first law schools to offer clinical education and the second law school in America to mandate pro bono service as a graduation requirement.³ Our numerous externships provided federal and state court judges, county prosecutors, as well as numerous government agencies with free assistance. And we offered local attorneys a vast array of continuing legal education programs. Closing the law school will have a profound negative effect on Northwest Indiana.

In seeking closure, I decided to read Michael Swygert's remarkable book, *"And, We Must Make Them Noble,"*⁴ which traces the history of the law school from 1879 to 2004. Professor Swygert was a graduate and has been a strong supporter of the law school. He served as editor in chief of the first edition of our *Law Review* in 1966, and, as an alumnus, he provided generous funding for faculty teaching and faculty scholarship awards.

Professor Swygert's book was published in 2004, just as the law school prepared to celebrate its 125th anniversary with an elegant gala at Chicago's Field Museum of Natural History. The Honorable George H.W. Bush delivered the keynote address. Hundreds of alums attended and spoke fondly of their time at the law school. It was a remarkable evening. Professor Swygert recounted that on this anniversary "Valparaiso University School of Law has never been stronger."⁵ The quantity and quality of our applications was the highest in our history, our bar passage results were way above the state and national average, and our employment rate stood at a solid 93%.⁶ I felt so proud and so grateful to have been a part of Valpo Law for so many wonderful years.

Professor Swygert's book helped me recollect many memorable moments that I personally experienced and which are a part of Valpo Law's rich heritage. In this Tribute Essay, I hope to capture some of what made Valpo Law unique—its social activism, its concern for instilling ethical values in its students, and its emphasis on creating a more personalized, nurturing learning environment.

I started teaching at Valpo Law in 1973. This was just nine years after the University dedicated a new law building⁷ and just seven years after the law review was founded.⁸ The Law School had recently become one of the first law schools in the country to offer clinical education.⁹ Social

² *Id.* at 379.

³ *Id.* at 340.

⁴ *Id.*

⁵ *Id.* at 393.

⁶ *Id.*

⁷ *Id.* at 225.

⁸ *Id.* at 239.

⁹ *Id.* at 254–55.

activism was important to my colleagues, so it is not surprising that in the early '70s we began to offer clinical legal aid programs to assist federal criminal defendants and the Gary Legal Aid Society. In addition, a Federal Courts Clinic was established that brought important civil rights cases.¹⁰ My colleagues, through their teaching and, perhaps equally important, through the example they set, inspired our students to use their law degrees to benefit society. I am so proud that a large number of our students chose careers in public service.

In 1982, I persuaded two of the local federal district court judges in Northwest Indiana to permit our students to work as externs in their chambers. The program rapidly grew to annually offer over twenty students this opportunity with several federal district and appellate court judges in Hammond, South Bend, Ft. Wayne, and Chicago. Many of these students assumed permanent clerkships with these judges after graduation, while others went on to become federal and state court judges themselves. Some committed themselves to social justice through various public interest programs.¹¹ A recent example is Jess Hunter-Bowman, who was selected in 2018 as one of twenty-eight lawyers nationwide to receive a prestigious Skadden Fellowship. This will enable him to serve the National Immigration Justice Center for two years, providing representation to immigrant victims of crime and human trafficking in Northern Indiana. While a student at Valpo Law, Jess participated in the Federal Judge Extern Program and the Immigration Law Clinic. He was also the recipient of the Poverty Law Scholarship, which was founded and funded by faculty members. After graduation, Jess was hired to clerk for the federal judge for whom he worked as a student. It gives me great satisfaction knowing that Valpo Law helped Jess and so many others pursue their passion to help others.

Professor Swygert's book reminded me that, during the early years of my tenure, the law school also faced serious challenges. An ABA Report in 1978 found that the school was woefully deficient in terms of the physical facility, the library, faculty salaries, and curriculum offerings. The University was told it needed to increase its support for the law school by \$600,000 annually.¹² At that time, the vice president and many University officials were ready to shut the law school down! The board of directors met to determine "whether the University has adequate resources to support a School of Law in the degree required to meet minimal accreditation standards."¹³ Apparently, the only way to save the

¹⁰ *Id.* at 254.

¹¹ *Id.* at 368-69 (listing several prominent alums).

¹² *Id.* at 295-96.

¹³ *Id.* at 298.

school was to build a larger facility with more classrooms and an enlarged library, to admit more students, and to expand the curriculum by hiring more faculty.

The University took a great risk in deciding to infuse huge sums of money into saving Valpo Law. At this time, the law school was operating at a deficit, subsidized by the University, and the number of law school applications nationwide had begun to decline.¹⁴ Fortunately, the gamble paid off. Within a decade, a new building was opened, the size of the student body increased from around 300 to 500 students, the faculty tripled in size, the curriculum had twice the offerings,¹⁵ and many new clinics and externship opportunities were created,¹⁶ as well as endowed chairs and lectures¹⁷ and student competitions.¹⁸ In addition, the faculty received more financial support to pursue scholarship. This enabled me to attend and speak at international law conferences in Malaysia, Israel, and Russia where exciting comparative law topics, such as the importance of judicial independence and the international struggle for women's rights, inspired my teaching and scholarship.

I was the first woman to be hired at Valpo Law as a full-time member of the faculty, and one of the first courses I taught was Women and the Law. The 1970s marked the huge influx of women into the profession—probably one of the developments that helped save many law schools, including Valpo Law, from going under. Women made up only 2% of my law school class in the early 1970s, but very rapidly the number of women applicants grew to 40% and later close to 50% of the pool. Professor Swygert reports that 51% of the entering fall class of 2003 at Valpo Law was female!¹⁹

I was honored to serve as faculty advisor for the newly created Women Law Students Association. There were very few role models for women in those early years, and women were not exactly welcomed into the profession. They faced widespread discrimination in securing law jobs. Also, having myself gone through law school as a wife and mother, I was especially sensitive to the struggle faced by our female students who were juggling school and family responsibilities.

Because women's issues became my passion, teaching a course on Gender Equality with Supreme Court Justice Ruth Bader Ginsburg as part of our 1994 summer program in Cambridge, England, was clearly one of

¹⁴ *Id.* at 313.

¹⁵ *Id.* at 311.

¹⁶ *Id.* at 379–80.

¹⁷ *Id.* at 334–35, 341–42 & 388.

¹⁸ *Id.* at 342–44.

¹⁹ *Id.* at 360. The entering fall class of 2016 also began with over 50% female students.

the highlights of my career. Visits by Supreme Court Justices to Cambridge actually began the year before, in 1993, when Justice Antonin Scalia accepted Dean Edward Gaffney's invitation.²⁰ I served as Director of the program that year, and I had the task of preparing our students to participate in a class on separation of powers to be taught by Justice Scalia, who had a reputation for being a relentless inquisitor. It was a daunting but very exciting experience!

Justice Ginsburg came to Cambridge the following summer. She commented that she had chosen VU Law School over thirty others because of the "tenacious and charming Dean Gaffney."²¹ For me, this was truly a dream come true! Justice Ginsburg sent me a large box with all her briefs in the cases she argued before the United States Supreme Court. As she was the person who spearheaded the women's rights movement in the mid-70s, which ultimately led to their constitutional protection, getting to meet and work with the Justice was an incredible experience!

Over the next three years, we continued to have a Supreme Court Justice participate in our summer Cambridge Program. The Chief Justice, William Rehnquist, came in 1995, and in 1996 I was honored to teach a course on structural injunctions with Justice Clarence Thomas. And, to my great delight, in 1997 Justice Ginsburg accepted our invitation to return to Cambridge.

For five consecutive years, our Cambridge Program provided Valpo students the unique opportunity to personally meet a Supreme Court Justice and to learn their insights in a small classroom environment. As one colleague commented, bringing Supreme Court Justices as instructors into our Cambridge summer program helped "put the VU Law School on the map."²²

All four of these Justices also came to our Valpo campus to give lectures and/or to judge the Swygert Moot Court competition.²³ Justice Scalia was the first Justice to head up the Moot Court panel in 1994, and Justice Thomas actually did so twice, in 1998 and again in 2001. Justice Rehnquist delivered the Commencement address to the graduating class of 1995, and the other three Justices all gave significant lectures to large crowds in the Valparaiso University Memorial Chapel. I also vividly recall having Justice Ginsburg teach my Constitutional Law class about gender equality!

In addition, due largely to the efforts of Dean Gaffney, Valpo Law, during the 1993-1994 school year, sponsored a celebration of the 100th

²⁰ *Id.* at 354-56.

²¹ *Id.* at 355.

²² *Id.* at 356.

²³ *Id.* at 343-44.

anniversary of the first woman to be admitted to the Indiana Bar, Antoinette Deakin Leach.²⁴ Over the course of that year we presented many women with the “Leach Award,” including the oldest living female graduate of VU Law School, the first woman to serve as a federal judge in Indiana, and the state’s first female attorney general. The program culminated in 1994 with a visit by the first female to be appointed to the United States Supreme Court, Sandra Day O’Connor. I was honored to introduce the Justice at this event and to receive an award myself as the first woman to be tenured on the Valpo Law faculty.

All of these programs helped the law school gain recognition and enhance its reputation. The number of applications and the quality of those applications increased during these years. It was a very exciting decade for me and for the law school!

I am deeply grateful for the many opportunities that the law school provided for my professional development, but I am equally grateful for the work and learning environment it created. Although the ABA delivered a dismal, threatening blow to the law school in 1978, the official report included the following statement describing what the inspection team called VU Law’s “special virtues”: “There is a sense of individual caring and responsibility . . . which pervades the atmosphere of the institution and is one of its very special advantages . . . the environment within which the Valparaiso law school sits has something very valuable to offer American legal education. . . .”²⁵

The sense of community was very real to me; it manifested itself in many ways. As the first and only female professor at Valpo Law for several years, I am grateful that my male colleagues welcomed and supported me. We had annual faculty retreats where we got to know each other and where we could focus on the needs of the law school and how best to solve them in a relaxed environment. We had “works-in-progress” lunches where faculty members could present their scholarship to colleagues and receive invaluable insights. I developed many close, wonderful relationships with my colleagues over the years.

Valpo law students benefitted from this unique learning environment in many ways. The faculty took pride in establishing an open-door policy to respond to class questions and to encourage our students. Every student was assigned a faculty advisor, as well as an advisor in our Career Planning Office. As Director of our Honors Program for several years, I had the privilege of mentoring hundreds of high-achieving students who have contributed to Valpo’s reputation for excellence.

²⁴ *Id.* at 360–61.

²⁵ *Id.* at 302.

I also fondly recall the many traditions at Valpo Law that created opportunities for student/faculty social interaction—our annual Thanksgiving lunch, where the faculty and staff cooked and served the students; the annual Barristers’ Ball, where we donned tuxes and long gowns and danced together; the “Roasts,” where we skewered a faculty member—all in good taste!; the faculty against student basketball competition, where faculty adorned t-shirts bearing our logo “The Intimidators”; and later the baseball competition, the Cardozo Cup, where 1L, 2L, and 3L students vied for who would play the faculty team in the final round. (I could not hit a ball, but I could run fast, so I became the “designated pinch runner” for a couple of my less spry colleagues!) And then there were the wonderful musical programs presented by talented faculty and students. The first musical dates back to 1974, and it was reinstated in 1996 to raise funds to support our clinics.²⁶ It afforded a wonderful opportunity for students and faculty to share their love of music and creativity and, at the same time, to serve a worthy cause.

Students were also invited to sit in on the “work-in-progress” sessions where faculty members discussed their scholarship ideas. Some were selected to join the faculty colloquial sessions with the nationally-renowned speakers who visited our campus. And, of course, our summer Cambridge program forged close, long-lasting relationships between faculty and students. The loyalty of our alums to Valpo demonstrates the success of all of these programs.

Valpo Law has been my home for the last forty-five years, and the Valpo Law community has been there for me, both in good times and in bad. The “sense of individual caring” the ABA team described back in 1978 was very real to me personally. A 2003 newspaper article, entitled *Law School Holds Donation Drive as a Show of Support*, says it all. The drive was for me.

In 2001 I was diagnosed with leukemia. I underwent several rounds of chemotherapy and went into remission for about fourteen months but then relapsed and was given four months to live. I desperately needed a stem cell transplant, but none of my family members were a match. The law school jumped into action. A bone marrow drive was scheduled, and in the first seven hours, over 100 people had registered! Then, before I left to go to the hospital, I was presented with an extraordinary gift—a beautiful handmade quilt prepared with individual patches that were signed by colleagues and staff. The caring messages and prayers on this quilt comforted and encouraged me during the darkest days of my long hospital stay. All the cards and messages of love and concern I received

²⁶ *Id.* at 380-82.

from my Valpo family were truly amazing. On the fifth anniversary of my recovery, another drive was conducted. Over ninety students turned out to register.

So yes, I am filled with deep sorrow witnessing this incredible institution close. But I am overwhelmed with a sense of gratitude for the many years that Valpo Law provided me a home that nurtured my professional development and that supported me in so many ways. I am comforted knowing that Valpo Law educated so many fine lawyers who went on to serve society. The school will shut its doors, but its legacy will not be forgotten.