Valparaiso University School of Law, 1879-2004: A Contextual History

Valparaiso University School of Law, 1879-2004: A Contextual History

Michael I. Swygert

Recommended Citation
## CONTENTS

Introduction: Opportunity and Empowerment .................................................. 627
Prologue: A Soldier’s Lost Journal ..................................................................... 633

I. The Colonel’s Era: 1879-1907 .................................................................. 639
   A. Valparaiso Male and Female College .................................................. 639
   B. The Northern Indiana Normal School and Business Institute .............. 646
   C. Poor Man’s Harvard ........................................................................... 651
   D. Can Anybody Be a Lawyer? .............................................................. 653
   E. Law Schools Sprout from the Hoosier Soil ....................................... 663
   F. Founding of Northern Indiana Law School ...................................... 665
   G. Enrollment and Admissions .............................................................. 669
   H. Teaching Pedagogy: Recitations/Textbooks ....................................... 672
   I. An Austere Curriculum; An Austere House ......................................... 673
   J. “One-Half the Expense” .................................................................. 674
   K. Florence Higgins: A Legal Education Pioneer .................................. 675
   L. Law Faculty in the Early Years .......................................................... 680
   M. Early Alumni: Senator George W. Norris et al. ................................. 683
   N. Erle Stanley Gardner ........................................................................ 687
   O. Women and Minority Law Students ................................................... 688
   P. Student Activities .............................................................................. 693
   Q. Largest Law School in Indiana ........................................................... 697
   R. An Awful Mistake ........................................................................... 700
   S. All Persons “Of Good Moral Character” ........................................... 700
   T. Looking Ahead .................................................................................. 701
   U. Minimal Admission Requirements .................................................... 704
   V. Advent of the Walking Canes .............................................................. 706
   W. DeMotte’s Retirement and Death ....................................................... 707
   X. Historical Assessment of the DeMotte Era ......................................... 709

II. The Bowman Era: 1907-1928 ................................................................. 712
   A. The “New Education” ....................................................................... 712
   B. Bowman Succeeds Demotte as Dean .................................................. 718
   C. An “Original Creation of the American Mind” ..................................... 720
   D. Faculty Expansion and the Yale Connection ......................................... 725
   E. Immigration from Around the World .................................................... 727
   F. Why They Came to the Law School at Valparaiso ............................... 729
Valparaiso University Law Review, Vol. 38, No. 3 [2004], Art. 1

G. A Favorable and Quotable Accreditation Report .............. 730
H. Advertising Draws Students ............................................ 731
I. Student Life and Activities .............................................. 732
J. "The Lawyers' Annual Straw Hat Parade" ...................... 735
K. Faculty and Students Interact ........................................... 738
L. World War I: The Spiral of Decline Begins ..................... 739
M. Parade of Presidents ...................................................... 742
N. The Indiana Realm of the Invisible Empire ..................... 745
O. Bowman's Role in the KKK Negotiations ....................... 749
P. Why? ............................................................................. 751
Q. Aftermath ........................................................................ 754
R. The School of Law During the Crisis Years ..................... 755
S. Francis Tilton Weaver: A Pioneer ...................................... 759
T. Lutherans Purchase Valparaiso University ....................... 763
U. Impact of Lutheran Takeover on the School of Law ........... 767
V. Bowman Leaves the University .......................................... 769
W. Historical Assessment of the Bowman Era ....................... 771

III. The Morland Era: 1928-1954 .......................................... 773

A. Law as "A Public Profession" Requires Regulation ............. 773
B. The University's Accreditation Crisis .............................. 778
C. The Lutheran's Appoint Morland Dean ......................... 780
D. Morland Gains ABA Approval and AALS Membership .......... 783
E. Morland Builds the Law Faculty ......................................... 786
   1. Virgil E. Berry ......................................................... 788
   2. W.G. Loehr ........................................................... 791
   3. Jerome R. Finkle .................................................... 792
   4. Part-Time Lecturers .................................................. 793
   5. Robert Lincoln Taylor .............................................. 794
   7. "Dr." Louis Albert Wehling ....................................... 800
F. Curriculum Expansion and Reconstruction ..................... 803
G. Emphasis on Ethics and Professionalism ........................... 805
H. Formation of the VUSL Alumni Association ..................... 808
I. The Depression's Impact ................................................ 809
J. O.P. Kretzmann's Defining 1940 Inaugural Address .......... 812
K. The President's Vision and the War Years ....................... 818
L. Post-War Surge in Enrollment ......................................... 822
M. Morland's New Wave of Faculty Appointments ............... 823
   1. Dr. Walter Louis Moll ............................................. 823
   2. James Schultz Savage .............................................. 826
   3. Margaret Burns-Doran-Brown ................................... 830

http://scholar.valpo.edu/vulr/vol38/iss3/1
Swygert: Valparaiso University School of Law, 1879-2004: A Contextual Hist

4. Louis F. Bartelt, Jr........................................... 831
   N. Other Faculty of the 1940s and Early 1950s........ 834
   O. Indiana Supreme Court Day .......................... 835
   P. First Indiana ALI Sponsored CLE Institute ........ 837
   Q. Student Activities: Forums and Fraternities ...... 839
   R. Academic Standards ................................... 843
       1. State Bar Examinations ............................ 843
       2. Admission and Graduation Standards .............. 846
   S. First African-American VUSL Graduate .............. 847
   T. Historical Assessment of the Morland Era ......... 850
IV. The Lutheran Dean Era—Stalland, Bartelt, and Meyer: 1955-1977 ........................................ 856
   A. An Intellectual Awakening ............................ 856
   B. Knute D. Stalland Answers the Call ................. 861
   C. To Remain Static Is to Fall Behind ................ 863
   D. What Justifies a Church-Related Law School? .... 864
       1. Consultation on Law and Theology ................ 865
       2. Natural Law Jurisprudence ......................... 867
       3. Seeking Lutheran Students ......................... 868
   E. What Does the Lutheran Character of the School of Law Mean? ...................... 870
   F. Dean Roscoe Pound Speaks at VU ..................... 873
   G. The Law Faculty During Stalland’s Decade and Beyond ........................................ 876
       1. Jack A. Hiller ....................................... 876
       2. Richard H. Stevenson .............................. 880
       3. Burton D. Wechsler .................................. 883
       4. Erwin A. Jones ...................................... 887
       5. Erich H. Markel ...................................... 890
       6. Charles R. Gromley .................................. 891
       7. Alfred W. Meyer ...................................... 894
   H. Mission of a Lutheran Church-Related Law School (Revisited) ........................................ 896
   I. Academic Standards, LSAT, ABA/AALS Inspection ........................................ 897
   J. Stalland’s Mission Accomplished: Wesemann Hall ........................................ 899
   K. Earl Warren Dedicates New Law Building ........... 906
   L. Students Keep Busy .................................... 908
       1. Moot Court Competition ............................. 908
       2. Awards, Chair, Law Review, Hair Cuts, Amicæ Curiae ........................................ 910
M. Historical Assessment of Stalland .......................................................... 915
N. Louis F. Bartelt, Jr. Becomes Dean .......................................................... 916
1. Alan S. Morrison (1966) ................................................................. 918
2. Dr. Herman Wing, M.D., J.D. (1967) .................................................. 919
O. Faculty Salaries Hit Bottom ................................................................. 919
P. Birth of the Valparaiso University Law Review ....................................... 922
1. Volume One ......................................................................................... 922
2. The Ronald Dworkin Incident .............................................................. 925
3. Reviews of the VULR ....................................................................... 926
4. Early Impact of the VULR ................................................................. 928
Q. The Vietnam War and the School of Law ................................................ 930
1. Thurman Arnold Defends Vietnam War ............................................... 931
2. The Draft Impacts the School of Law ................................................... 931
3. War Debate Intensifies ........................................................................ 932
4. VU Students Allegedly Torch Kinsey Hall After Students Killed at Kent State .......................................................... 935
5. Third Year Law Students and Finals ..................................................... 936
6. Indiana Supreme Court Conducts Hearing on Whether VUSL Students Should Be Allowed to Sit for State Bar Examination .......................................................... 938
R. Beginning of the VUSL Law Clinic ......................................................... 941
S. Alfred W. Meyer Becomes Dean ............................................................. 948
1. Retroactive Conferral of J.D. Degree ..................................................... 948
2. Expansion of Wesemann Hall ............................................................... 949
3. African-Americans Come to the School of Law ....................................... 951
   a. Hilbert L. Bradley ............................................................................. 951
   b. Richard Gordon Hatcher ............................................................... 952
   c. Revs. Andrew Schulze, Karl Lutze, and the Lutheran Human Relations Association .......................................................... 954
   d. Increase in African-Americans ....................................................... 957
   e. The CLEO Program ...................................................................... 958
   f. Justice Robert D. Rucker .............................................................. 960
   g. The VUSL BALSA Chapter .......................................................... 962
   h. 1983-1984 Minority Admission Plan ............................................. 964
T. New Faculty Hired Under Dean Meyer ................................................... 965
1. Seymour ("Sy") H. Moskowitz (1969) ..................................................... 965
2. Frederick H. Thomforde, Jr. (1969) ....................................................... 967
5. Bruce G. Berner (1971) ...................................................................... 970
6. Venturino Giorgio Venturini (1971) ..................................................... 972
7. Ivan E. Bodensteiner (1972) ........................................ 973
8. Philipp L. Brockington, Jr. (1972) ......................... 976
9. Rosalie B. Levinson (1973) ........................................ 977
U. Hugo E. Martz (1975) ............................................ 982
V. The School of Law Goes to Bat for “Lucy” ............... 984
W. Conclusions Regarding the Lutheran Dean Era .......... 987
V. The Modern Era—Ehren, McGovern, Bodensteiner,
Gaffney, and Conison: 1977-2004 .............................. 989
A. Dean Charles A. Ehren, Jr. Comes to the
School of Law ........................................................ 989
B. A Critical 1978 ABA Inspection Report .................. 990
C. “Life or Death” for the School of Law .................... 992
D. The “Special Virtues of the Institution” .................. 999
E. ABA’s Approval Process Comes Under Attack .......... 1001
F. The Standardizing and Secularizing of
Law Schools ................................................................ 1002
1. Indiana’s Rule 13 Preempts Curriculum .................. 1003
2. Harvard, Yale, or East Cupcake? ......................... 1004
3. The Impact of the Crampton Report ....................... 1005
G. A Turning Point for the School of Law ................. 1008
H. The 1979 Centennial .............................................. 1012
1. Rev. Richard John Neuhaus .................................. 1012
2. Historian Robert Stevens and
Justice John Paul Stevens Celebrate
VUSL’s Centennial ..................................................... 1013
I. Berner and Students Assist in “Pinto” Prosecution .... 1015
J. New Faculty and Staff .............................................. 1016
K. Historical Assessment of Ehren’s Deanship ............. 1025
L. Wesemann II Becomes a Reality ............................. 1026
M. Key Personnel Make Contributions ....................... 1030
N. Peter J. McGovern Becomes Dean ......................... 1033
O. The Edward A. Seegers Lecture .............................. 1037
P. Ivan Bodensteiner Succeeds McGovern as Dean ....... 1039
Q. An Innovative “Pro Bono” Program Begins ............. 1044
R. The “Monsanto” Lectures ....................................... 1047
S. Additional Developments During
Bodensteiner’s Deanship .......................................... 1048
1. The Law Clinic ..................................................... 1048
2. Student Competitions .......................................... 1048
3. The Endowed Swygert Moot Court
Competition .......................................................... 1049

T. Dean Edward M. Gaffney, Jr. ............................................. 1054

U. A New Ecumenical Emphasis ........................................... 1055
   1. Pro Bono Publico Revisited ........................................ 1055
   2. The Faculty Confronts Serious Issues .......................... 1058

V. The Cambridge Program and International Law .......... 1063

W. Innovations .............................................................. 1065
   1. The Legal Writing, Reasoning, and Research Program ........ 1065
   2. The Development of Elder Law Concentration ................ 1068
   3. Institute on Law and Pastoral Ministry ......................... 1069
   4. Jointly-Taught Interdisciplinary Courses ....................... 1069
   5. The 100th Anniversary of the First Woman Admitted to the Indiana Bar ............................................. 1071
   6. Martin Luther King Conference on Discrimination: Putting the Pieces Together ........................... 1073

X. The Faculty Further Expands ........................................ 1074

Y. The VUSL Alumni .......................................................... 1079
   1. "The Golden Gavel Society" ....................................... 1079
   2. Corporate Executives to Pro Bono Lawyers .................... 1080

Z. Jay Conison Becomes Dean ........................................... 1083
   1. Conison Inherits a Faculty Morale Crisis ..................... 1086
   2. School of Law Reaches a Funding Agreement with the University ............................................. 1091

AA. Students and Faculty Enhance the School of Law’s Reputation ............................................. 1093
   1. The Valparaiso University Law Review .......................... 1093
   2. The VUSL Law Clinics: An Update .............................. 1096
   3. Donna Draper Welter’s Connections with the School of Law ............................................. 1099

BB. Law School Competition and Comparisons ................. 1100
   1. “Best Students” as Defined by a Magazine ..................... 1100
   2. The School of Law Seeks “Best Students” ................. 1102
   3. Curriculum Concentrations ...................................... 1103
   4. A Master of Laws Degree for Foreign Lawyers ................. 1104

CC. Recent Faculty and Staff Hires ................................. 1104

DD. The Tabor Institute and the Supreme Court Lecture Series ............................................. 1107

EE. A Special Year in the School of Law’s History ............. 1108
   1. A $10 Million Campaign ....................................... 1108
2. Celebration at Chicago’s Field Museum:
   May 1, 2004 ............................................................... 1110
Conclusion: “And We Must Make Them Noble”—The
Condition of the School of Law in 2004................................. 1110
Table One: Deans of the Valparaiso University School of Law... 1116
Table Two: Valparaiso University Law Review
   Editors-in-Chief.................................................................. 1117
Index of Names .................................................................... 1118
INTRODUCTION: OPPORTUNITY AND EMPOWERMENT

During the past century and a quarter, over four thousand men and women have empowered their lives by graduating from the Valparaiso University School of Law ("VUSL" or "School of Law"). In doing so, they spent significant time studying law in an institution that has mirrored the changing values of its larger communities. When the School of Law opened in 1879, these values included the Protestant faith and work ethic, populist principles of democracy, Midwest frugality, and the frontier character of rugged individualism.

These values were deeply ingrained in the men and women who founded and ran the School of Law during its early decades. Their efforts were fruitful as measured by the success of the graduates. These included five United States senators, four state governors, seven members of the U.S. House of Representatives, over a dozen state supreme and appellate court justices, and one of the first women lawyers to teach full time on a law faculty in America. The senators were elected...
from Nebraska, New Mexico, Illinois, and Wisconsin; the governors from Kentucky, Wisconsin, Indiana, and Illinois. One graduate went to work in the Chicago offices of Clarence Darrow, and another, the first woman to graduate from the School of Law in the spring of 1898, joined the School of Law's law faculty in the fall of that year. The most famous non-graduate who attended the School of Law was Erie Stanley Gardner, the creator of the *Perry Mason* series.

One-hundred and twenty-five years after opening, VUSL continues today to mirror positive values including the pursuit of social justice; the seeking of racial, gender, national origin, and ethnic diversity; and the recognition and maintenance of institutional religiosity. Throughout its history, the School of Law has responded to critical moral issues, a multicultural social environment, and the religious beliefs of its men and women. VUSL is the thirty-eighth oldest law school in America that has been in continual existence since its founding.

The early decades of the School of Law were remarkable. On the day it opened, three part-time teachers taught nine students in a Valparaiso law office. The infant School of Law quickly grew in numbers. By 1899, twenty years after its founding, the School of Law was the largest law school in Indiana. More importantly, its graduates had begun to make names for themselves and for their alma mater. By 1915, Valparaiso University ("VU" or "University") was one of the largest academic institutions in the Nation with approximately 6,000 students. These were heady times at VU, but they would not last.

After the death in 1917 of the University's founder and president, Henry Baker Brown, the institution's fortunes began to decline. Then, the involvement of the United States in World War I only made conditions worse as thousands of students left campus to enter military service. Compounding these external events was internal mismanagement during the period 1919 through 1924. Five different University presidents came and went within this four-year period. The biggest problem was an overhanging indebtedness—estimated at $400,000 by 1920—caused largely by sharply declining tuition-driven revenues. In 1923, having only twenty percent of the students that had been enrolled six years previously, lacking needed financial resources, but desperate on trying to find a purchaser, the University sank to the lowest point in its 130-year history when its misguided leaders agreed to sell the institution—including the School of Law—to the Ku Klux Klan
("KKK" or "Klan"), an eventuality described by historian Richard Baepler, had it occurred, as "a fate worse than extinction."

A preliminary agreement for the University's sale to the Klan had been reached in July 1923 for the price of $340,000. On August 15th, The Vidette Messenger, a Valparaiso newspaper, reported that the Klan purchase had been completed and that the Klan was coming to Valparaiso the next day with one million dollars. But it did not happen. After three weeks of silence, the Klan announced on September 6th that it was backing out of its purchase due to "a mess of legal technicalities." Not so. In reality the Indiana KKK could not come up with the "money." This unfortunate episode was a public relations nightmare for the University and would have negative repercussions for years to come.

After the Klan debacle, and still unsuccessful in raising funds needed for survival, the University faced imminent closure at the end of the 1924-1925 school year. But for a moment, the hope of a rescue by public money resurfaced. It appeared that the University would become a state normal school. Both chambers of the Indiana General Assembly enacted the enabling legislation, but KKK-endorsed Governor Ed Jackson pocket-vetoed the bill. Then, when hope of the institution's continued existence had all but vanished, a group of Lutheran clergy and laymen came to the rescue. Desiring a Lutheran institution of higher learning for the education of Lutheran families, these individuals established the Lutheran University Association ("LUA"), which in turn purchased Valparaiso University in the summer of 1925. The University and its School of Law had been saved. Another chapter of the University's history thus began.

Rebuilding the University's ethical and academic reputations was the Lutherans' top priority, but so too was putting it on strong financial footing. Circumstances were not cooperative. Within five years of the Lutheran takeover the Great Depression began, followed by World War II. At the height of these challenging times in 1940, a visionary leader was selected to lead the University—a charismatic president—the Rev. Otto Paul Kretzmann. At his inaugural address, properly described as a tour de force, the thirty-eight-year-old new leader made it clear what the mission of a Christian university was in a manner which overnight transformed peoples attitudes about the future. Then, with faith, vision, wisdom, and wit, "O.P."—as he was fondly called—took charge of the struggling "University under the Cross," as many came to describe it, and proclaimed to the world its mission within the aspirations and
context of Lutheran faith and in accordance with sound educational principles.

For twenty-six years, O.P. Kretzmann steadfastly pursued the combined mission of Lutheran faith and higher education. In doing so, he raised the University to a higher level of moral and educational legitimacy than it had previously experienced. But, he would be tested. In 1943 in the midst of the war, only four students were enrolled in the School of Law. But the School of Law survived solely because "O.P." refused to shut it down, having faith that God had a purpose not only for the University, but also for its School of Law. Within the context of Lutheran teachings this meant an emphasis on the jurisprudential, including theological concepts of law and justice. To that end, the deans and law professors who were of the Lutheran faith made a conscious effort to expand the School of Law's curriculum to include law and philosophy and law and theology. For several years, a Lutheran minister and dean of the University's Christ College was listed as a member of the law faculty and taught perspective courses from time to time at the School of Law including the history of law.

The history of VUSL has consisted of three distinct segments: first, "the Old School" from 1879 until 1925, lasting forty-six years; second, "the predominantly Lutheran era," from 1925 through 1979; and third, a more secular era from 1980 onward. When the Old School opened in 1879, it was a proprietary enterprise run by its principal founder, retired Civil War Colonel Mark Lindsay DeMotte. At the same time, the "Law Department," as it was then called, was contractually affiliated with the University, then named the Northern Indiana Normal School and Business Institute. The founder and president of this mouthful was an educational entrepreneur, Henry Baker Brown. The partnership between DeMotte and Brown would eventually end. DeMotte, having "owned" the School of Law for nearly three decades, retired as dean in 1907 and sold it to Brown.

Following President Brown's death in 1917, ownership of the University went to his heirs whose claims against the University were not finally resolved until the LUA purchased the institution in 1925. The LUA was not itself owned by the Lutheran Church. For that matter, no synod of the Lutheran Church has ever "owned" Valparaiso University. Rather, the University describes itself as an independent Lutheran, faith-based institution of higher learning, but one not exclusively aligned with any specific synodical conference of American Lutheranism.
Nonetheless, for many decades the University had its closest ties with the Lutheran Church, Missouri-Synod. In recent years, however, the University has actively been establishing relationships with all branches of American Lutheranism.

Throughout these three distinct periods of its history, the law school continued operating within the larger University as a professional school for the education and training of aspiring lawyers. Yet, over the past few decades, the School of Law has become distanced somewhat from the University. This resulted in part due to requirements imposed by two related national accrediting agencies that oversee legal education. These agencies—the American Bar Association’s ("ABA's") Section on Legal Education and Admissions to the Bar and the Association of American Law Schools ("AALS")—have adopted and imposed increasingly stringent standards. With the objective of upgrading the quality of legal education in America’s law schools, the agencies’ actions have exerted strong pressures on numerous university administrations, including VU’s, to expend substantial funds to enhance their respective law schools’ facilities and programs. Failure to do so could result in a school’s loss of accreditation. VUSL, to remain accredited by the ABA and a member of the AALS, of course, had to comply with externally-imposed regulations which on occasion required an allocation of significant University financial resources to the School of Law.

Partly on their own initiative and partly in response to ABA/AALS mandates, virtually all university-related American law schools have established administrative and supporting staffs largely separate from those of their central administrations. Moreover, not atypically, ABA/AALS inspectors frequently have mandated that a school expand its library, classrooms, offices, and study facilities and augment its professional salaries. Sometimes, as was the case of VUSL in the late 1970s and early 1980s the ABA/AALS in effect required that a new law school building be constructed.

In response to such externally-imposed requirements and to prospective students’ heightened expectations of what they expected to receive from their law school experience, the School of Law has dramatically remade itself during the past three decades. In the process, it has become a more secularized and efficient law school. Besides the construction of the modern 90,000-square foot law school building (Wesemann Hall), the School of Law has quadrupled its library holdings, tripled its faculty and staff, attracted literally thousands of applicants,
raised the academic standards of the student body, established major clinics, become more gender, racially, and national-origin diversified, increased by several fold financial aid available to minorities and to merit-based applicants, doubled the number of courses offered in the curriculum, and required the faculty to engage in substantial research and publication in addition to their institutional primary obligation of continuing to serve as dynamic and effective classroom teachers.

In terms of outward appearance, VUSL resembles many if not most of today's approximate 185 accredited law schools in the United States. Critics of modern day legal education suggest that law schools have become clones of one another. True, law schools in many ways have become "standardized" and "secularized" due in part by conforming with the requirements set by both the ABA and AALS. Still, law schools are different in meaningful and non-superficial ways. One way to assess differences among or between law schools is to consider those intangibles which affect how students learn and interact in their law school community.

These "learning and atmospheric" intangibles include the level of individualized efforts made by faculty members in helping students learn the law; the faculty's demonstrated concern for their students' moral, ethical, and over-all well being; the level of care demonstrated by administrators and staffs when interacting with students; the opportunities for and importance of religious expression on campus including the availability of pastoral counseling and of prayer and worship for those who choose; the school's openness and tolerance for differences—racial, gender, religious, ethnic, age, cultural, language, appearance, political belief; the faculty's and students' concern for social injustice and their willingness to pursue in acts as well as in words a more just world; the level of good will and friendships and even a sense of humor among students and faculty; and the degree to which the school's alumni passionately and positively feel about their experiences when they were law students at the school.

One conclusion is clear even at the beginning of this historical analysis. The four thousand plus men and women who graduated from VUSL over its one-hundred and twenty-five-year existence did empower their lives by doing so. They became practicing lawyers, judges, legislators, governors, law professors, administrators, business women and men, and public servants. Each was trained to possess the skills and knowledge of a competent lawyer as part of the academic mission of the
University. Each had the opportunity to assimilate the values and principles of what it means to be an ethical, moral, and professionally responsible counselor and practitioner.

Moreover, since the University and the Lutherans joined together in 1925, each VUSL graduate has had the opportunity of an additional benefit—the advantage of receiving professional training at a University having a strong normative, faith-based religious tradition. As the ensuing history will document, regardless of students' individual religious preferences, the religious culture of Valparaiso University has meaningfully influenced those who have graduated from its School of Law often in ways they may not at first realize. The values inherent in the Judeo-Christian ethos have been and, it is hoped, will continue to be part of every student's experience at the School.

The story that follows presents a contextual history of the Valparaiso University School of Law. It tells the stories of the men and women who have influenced the institution while weaving relevant historical, economic, social, political, religious, and American legal education threads into the narrative. The story begins on a battlefield during the Civil War. President Abraham Lincoln is about to speak.

Michael I. Swygert, St. Petersburg, Florida

PROLOGUE: A SOLDIER'S LOST JOURNAL

The soldiers were tired. They had ridden miles from Harrisburg to attend the dedication of the newly designated National Soldiers' Cemetery in southern Pennsylvania. Scheduled to speak was Edward Everett, described by historian Gary Wills as "a scholar and Ivy-League diplomat who could hold mass audiences in thrall." Although each of the three men—all officers of the Union Army—anticipated hearing Everett, they came with heavy hearts. They probably knew several among the thousands who had died. It had been one of the bloodiest battles of the Civil War. The dead soldiers had been buried where they had fallen, Union and Confederate men who had taken each other's lives only months earlier and who now shared a final resting place far from their homes and grieving families. After stopping at the Gettysburg College to water their exhausted horses, the men, Army Chaplain Robert

---

McCabe and Captains Benjamin Butterworth and Mark DeMotte, proceeded to the killing field where history had been (and was about to be) made. The thirty-one-year-old DeMotte would later describe what ensued at Gettysburg that day: "As we sat there on our weary horses—who were only too willing to stand quietly among the crowd—we joined the applause that followed Everett's great oration and paused for the President's dedicatory remarks. Many in the great crowd had started to drift away..."2

No wonder. Edward Everett's "great oration" had lumbered on nearly two hours. The President's would last only three minutes. It consisted of a mere 273 words. "At its conclusion," DeMotte recalled, "no one applauded." Those who remained "accepted it as a sort of reverent commentary—a prayer perhaps."

It was November 19, 1863. President Abraham Lincoln had just delivered what would become known as the "Gettysburg Address." Captain Mark Lindsay DeMotte—who two years earlier had left a law practice in Valparaiso, Indiana, to join the Union Army, and who after the war would become the co-founder of a new law school—apparently had not been moved by the President's brief remarks. Few were at the time.

Years later, the same Mark DeMotte would have occasion to recast his recollections of the events of that 19th day of November, 1863. "[Lincoln's] speech was a masterpiece of short oration," he would say. "Its structure, its condensation of thought, its purity of sentiment and its simplicity of diction were remarkable, and clearly understandable [albeit not then appreciated]."3

In time, historians lined up with DeMotte (or vice versa) concerning the significance of Lincoln's curt speech versus Everett's long oration. Indeed, the few but mighty words of the lawyer from Illinois would be

---

2 Judge E.M. Norton, Colonel DeMotte Founded Valpo School of Law, VAL. U. ALUMNI BULL., June 6, 1930, at 1. The story of DeMotte during the Civil War is also included in the materials assembled and reproduced by Louis Bernard DeMotte, Colonel Mark Lindsay DeMotte: Legislator, Author, Dean and Founder Valparaiso University Law School, an undated and unpublished biography authored by a descendant of DeMotte's, in particular, the reproduction of a newspaper story titled History of Col. DeMotte, Man After This Town Was Named, in the DeMotte Herald newspaper, in 1936 (the day and month are illegible and the paper no longer exists.) The DeMotte Herald was a paper published in the town named after Colonel DeMotte—DeMotte, Indiana, a few miles outside Valparaiso.

3 Norton, supra note 2, at 1.
remembered by the lawyer from Indiana the rest of his life. They would also be remembered by millions of Americans as Lincoln’s Gettysburg Address and would become the speech generations of school children memorized. Its words inspired those who heard or read them. The lawyer from Indiana had been fortunate. He was there.

DeMotte’s life had begun like Lincoln’s, in the rural Midwest. One of six children, he was born on December 29, 1832, near the farming village of Rockville in Parke County, Indiana. His mother, Mary Brewer, of Dutch ancestry, had been raised on a farm in Mercer County, Kentucky. His father, Daniel DeMotte, a descendent of French Huguenots, and a New Jersey native, was a Methodist minister who on horseback rode a circuit of villages in west-central Indiana, dispensing religion and wisdom among the predominantly German, Dutch, and French immigrant-descendent families. Daniel DeMotte had begun preaching in 1830, two years before Mark DeMotte’s birth, and continued through 1875, four years before his son would help found a law school a little over 100 miles to the north in Valparaiso. Nearly a century earlier, Mark DeMotte’s grandfather, an immigrant from France, had been a soldier in Captain Ten Eyck’s company from Somerset, New Jersey. The DeMottes had served in both the Revolutionary and Civil Wars.

Mark DeMotte’s father, being a circuit rider (as traveling ministers were then called), often had to be away from home, placing the primary burden of raising and educating the six children on his wife and their mother, Mary Brewer DeMotte. She was a strong, energetic, directed, talented, and self-educated woman. The success of her children was undoubtedly due to her combination of love, discipline, and insistence on life-long study. According to one family history, all six children attended the Indiana Asbury College (later DePauw University) located in Greencastle. Their father, Rev. Daniel DeMotte, helped raise funds for

4 Several descriptions of DeMotte’s life have been published, including LOUIS BERNARD DEMOTTE, COLONEL MARK LINDSAY DEMOTTE: SOLDIER, LEGISLATOR, TEACHER, LAW PROFESSOR, AUTHOR AND SCHOLAR, 1832-1908 (n.d.); Col. Mark Lindsay DeMotte, 1832-1908, in PICTORIAL AND BIOGRAPHICAL RECORD (Goodspeed Bros. 1894) [hereinafter BIOGRAPHICAL RECORD] (copied by Mrs. Katharine E. Bowden, VU Archivist and Librarian Emeritus); WILLIAM S. HAMILTON, MEMORIAL ADDRESS IN HONOR OF COLONEL MARK L. DEMOTTE, FOUNDER AND DEAN OF SCHOOL OF LAW VALPARAISO UNIVERSITY 1-11 (June 18, 1955); Norton, supra note 2, at 1; THE COLONEL’S DREAM (Apr. 1902); Dedicated to the Memory of Col. Mark L. Demotte, For Twenty-Eight Years Dean of Valparaiso Law School, VAL. U. HERALD, Oct. 2, 1908, at 1-8. See also RICHARD BAEPLER, FLAME OF FAITH, LAMP OF LEARNING: A HISTORY OF VALPARAISO UNIVERSITY 50, 51 (2001).
this Methodist college. One of his sons, John Brewer DeMotte, followed his father’s career and became a Methodist minister and lecturer. Another, William Holman DeMotte, earned an advanced degree from Asbury and became a teacher for the deaf. The third brother, Mark, earned both his B.A. and LL.B degrees from Asbury.

An achieving student, Mark DeMotte earned his bachelor of arts degree in 1853, followed by an LL.B. degree in 1855. He was one of six law graduates in Asbury’s first law school class. After receiving his law degree, DeMotte moved to Valparaiso where he commenced law practice. Wasting little time, he became actively involved in the professional, business, and political affairs of the community. He was one of the local civic leaders who contributed $1,000 in 1859 to the new Valparaiso Male and Female College. He quickly developed a reputation as a hard working lawyer and community leader, conscious of public concerns. No doubt, he was well received by the residents of northwest Indiana. A little more than a year after arriving in Valparaiso, DeMotte ran as the Republican candidate for prosecuting attorney for a judicial circuit that extended from the Illinois state line to east of South Bend, an area consisting of Porter, Lake, LaPorte, St. Joseph, Marshall, and Stark counties. Elected in the fall of 1856, he simultaneously served as public prosecutor and continued his private law practice (customary in those days), until the United States found themselves at war—with each other.

Early in 1861, DeMotte enlisted in the United States (Union) Army, holding the rank of Senior 1st Lieutenant of the Fourth Indiana Battery. Four years later he would leave with the rank of Colonel. In between, he endured great hardships, was in the midst of horrendous battles, gave invaluable service to the Union Army’s effort, and kept a detailed journal of his military responsibilities. For the most part, his journal was a log containing a daily listing of his duties as a quartermaster officer. DeMotte noted with specificity the amounts and destinations of supplies including munitions and weapons for which he was in charge.

In the confusion of his unit’s ordered retreat in the face of General Robert E. Lee’s advancing Confederate Army, DeMotte lost his journal. It would not be found until 1976, 113 years later, when workers demolishing an old church in Staunton, Virginia came upon it. How it


6 Id.
got there, no one knows. It was found among several Confederate documents. This suggests that DeMotte’s journal may have been picked up by Confederate soldiers and probably turned over to officers who would have studied it for intelligence purposes. Regardless of its actual history, it is said to have survived in surprisingly good condition.

DeMotte was separated from his journal in the summer of 1863, probably near Winchester, Virginia. Lee’s forces were en route to Gettysburg to engage in what would become the most decisive battle of the War Between the States. Marching north, the Confederates came upon Winchester. There encamped was the 2d Division of the U.S. 8th Army Corps, under the command of Army Major General Robert H. Milroy. His artillery and men were the only obstacles in Lee’s push to Gettysburg. When Milroy became aware of Lee’s advancing troops, he ordered an immediate retreat. Among the hastily fleeing soldiers was Assistant 2d Division Quartermaster, Captain Mark DeMotte. Two days earlier, DeMotte had arrived with 334 wagons of munitions and supplies from Martinsburg. Because of the retreat, 195 of DeMotte’s wagons were lost. The more serious consequence was the opening of the way for Lee’s forces to advance toward Gettysburg.

General Milroy’s ordered retreat at Winchester so angered the Union Army’s commanders that they transported the General to Washington, D.C., to face a military Court of Inquiry to decide if he should stand for a formal court-martial. Quartermaster DeMotte testified on behalf of Milroy. DeMotte’s testimony was said to have “been pivotal” to the Court’s finding, signed by President Abraham Lincoln, that “no court martial [of General Milroy] is deemed necessary or proper in this case.”

DeMotte’s other service during the Civil War included assignments as Assistant Quartermaster with General Fremont in West Virginia and later as a quartermaster at Harrisburg, Pennsylvania. It was from there that he rode to Gettysburg for the dedication of the National Soldiers’ Cemetery in November 1863. Before mustering out in 1865—the year Lee surrendered to Grant at Appomattox—DeMotte was promoted to

---

7 Id.
8 The Washington, D.C. proceedings involving the potential court martial of General Milroy are documented and the transcript of the proceedings can be found in 27:2 THE WAR OF THE REBELLION: OFFICIAL RECORDS OF THE UNION AND CONFEDERATE ARMIES 116-17, 197 (1889).
Rather than return to Valparaiso after his war service, DeMotte chose to relocate to Lexington, Missouri, although his reason for doing so is unclear. He opened a new law practice. Four years into this practice, he purchased the *Lexington Register*, a Republican newspaper in a predominantly Democratic community. He was both owner and editor of the paper for a dozen years. In an unpublished short biography of DeMotte authored by his grand-nephew, Louis Bernard DeMotte, the *Lexington Register* was described as "a leading journal of the 11th Congressional District, then as now [having] the heaviest Democratic registration in the state." Thus, it is not surprising that his two attempts to become the United States Congressman from the 11th Missouri Congressional District, first in 1872 and then in 1876, as the Republican candidate, failed.

Despite his unsuccessful candidacies, he still wanted to hold elective office. In 1876, DeMotte attended the National Republican Convention in Cincinnati. Thoughts of his former residency in Valparaiso, where years earlier he had won an election as a prosecutor, likely came to mind. Within twelve months of his second defeat for Congress in Missouri, he relocated back to Valparaiso. The year was 1877, sixteen years since he had left Indiana to join the Union Army. Upon his return to Valparaiso he resumed law practice. Within three years he would, for a third time, run for the United States Congress, this time from Indiana's 10th (largely Republican) congressional district. On this third try he prevailed and became a member of the 47th Congress of the United States.

But before going to Washington, D.C., DeMotte helped found a new law school, one that became the Valparaiso University School of Law and one that continues today, nearly one and a quarter centuries later.

---

9 An early dean of the nearby Notre Dame Law School, William J. Hoynes (1883-1919), also was referred to as "Colonel" throughout his deanship. Like Colonel DeMotte, Colonel Hoynes enlisted soon after the outbreak of the Civil War. But unlike Colonel DeMotte, Colonel Hoynes mustered out of the service as a Private. Students at Notre Dame assumed Hoynes had risen to the rank of Colonel. Hoynes "seldom bothered to correct this assumption." PHILIP S. MOORE, A CENTURY OF LAW AT NOTRE DAME 17 (1970) [hereinafter MOORE, NOTRE DAME].

10 LOUIS BERNARD DEMOTTE, supra note 4, at 4.

11 BIOGRAPHICAL RECORD, supra note 4, at 4.

12 Id.
Moreover, he would not only become the head of this new school, he remained its dean for nearly three decades, a length of time unheard of in today’s topsy-turvy world of law deans’ musical chairs. Equally impressive, there is no evidence that anyone—student, faculty, staff, or administrator—ever asked for DeMotte to step aside. Testimonials in the University archives include the assertion that he was “beloved by everyone who ever knew him.” True, this was said at his funeral.

I. THE COLONEL’S ERA: 1879-1907

A. Valparaiso Male and Female College

As historian Richard Baepler writes, “Valparaiso University traces its origins to the opening in 1859 of the Valparaiso Male and Female College.”\(^{13}\) This was the same year as John Brown’s raid on Harper’s Ferry. What followed, Baepler reminds us, included the election of Abraham Lincoln, the southern states’ succession from the Union, and the Civil War. Also in 1859, Mark DeMotte, twenty-seven years old, was prosecuting cases out of his Valparaiso law office, while a much younger Henry Baker Brown, only twelve years old, was being raised by Christian parents on a farm in northern Ohio. Within two decades, the lives of DeMotte and Brown would cross. No one could have predicted the outcome of this future intersection. Brown would found and oversee what by 1914 had become the largest and most successful normal school in the United States—claimed to be second in enrollment only to Harvard. DeMotte would help found and then oversee as dean for twenty-eight years a professional law school, associated with Brown’s university, which by the beginning of the twentieth century would have the largest enrollment of any law school in the state of Indiana.

The Valparaiso Male and Female College (“VMFC”) opened its doors in 1859, one of hundreds of proprietary Prairie colleges founded in the West during the nineteenth century.\(^{14}\) It was among the first colleges in the nation to admit both women and men.\(^{15}\) Started by Methodists

---

13 BAEPLER, supra note 4, at 17.


15 See infra notes 31-39 and accompanying text.
largely residing in northwest Indiana, the college survived for twelve years. Nearly 2,000 students (one was named Ira Hoops—more about him later) enrolled during its brief tenure, with the majority attending what was called the preparatory department.16

In those days it was customary for many colleges or seminaries to have preparatory departments, which today would be considered high schools. Nonetheless, these colleges, many from the start, and others later, offered advanced training in various specialties. The "specialties" would become "departments" within the colleges. So it was with the VMFC.

In 1859, approximately 200 colleges were scattered across America, most of them affiliated with Protestant denominations. Within twenty years, the number would nearly double. A list of Indiana colleges in 1880 included: Northern Indiana Normal School and Business Institute (later Valparaiso University), Indiana College (later University), Vincennes College, Central Normal College, Hanover Academy (later College), Wabash College, Franklin College, Asbury College (later DePauw University), Earlham College, Concordia College, Taylor College (later University), Moores Hill College (later Evansville University), North Western Christian College (later Butler University), Union Christian College, Smithson College, Hartsville Academy (later College), Fort Wayne Female College and Fort Wayne Collegiate Institute for Men (later combined to form Fort Wayne College), Indiana Female College, and DePauw Female College. Most had been founded by a Protestant denomination—Presbyterian, Baptist, Methodist, Quaker, Lutheran, Disciples of Christ (Christian), Universalist, United Brethren, and New Light Christian. Roman Catholic-affiliated colleges also had been started in Indiana: Saint Mary of the Woods in 1849; Notre Dame in 1844; and St. Meinrad in 1854.17 But the majority of colleges across the land were neither public nor Catholic; they were Protestant. Why? Historian Baepler offers an explanation, one he describes as a response to the lack of public financed institutions together with "the Protestant impulse":18 "By the 1830s, evangelical Protestant Christianity had become the largest single subculture in the United States ... [T]he popular Churches such as the Methodists and Baptists exhibited a

16 BAEPLER, supra note 4, at 17.
18 BAEPLER, supra note 4, at 18-19.
passion to convert the rough-and-ready frontier population and create the moral commitments necessary to build civilized communities."\(^\text{19}\)

Despite an Indiana constitutional mandate, Indiana’s counties failed to fund public seminaries or secondary schools after 1816.\(^\text{20}\) Private religious-affiliated groups rushed into this vacuum. By 1850, Baepler writes, 175 private academies (many to become colleges) had been opened in Indiana, a partial response to "the Protestant impulse to found colleges."\(^\text{21}\) In 1800, only twenty such schools existed in America. Sixty years later, the number had risen to 200. Others had opened but had subsequently failed along their way. Methodists in particular were responsive to the Protestant impulse.\(^\text{22}\) The founding of the VMFC, therefore, was not surprising. Methodist institutions were sweeping the land.

By 1850, American Methodists constituted the largest single religious denomination in the nation, reportedly thirty-eight percent of those who attended church.\(^\text{23}\) Duke (originally called Trinity College), Northwestern, Emory, Southern California, Boston University, and Vanderbilt—today all prestigious research universities—started out as Methodist colleges. In Indiana, the Indiana Asbury College (1837), Fort Wayne Female College (1846), Fort Wayne Collegiate Institute (1850), Indiana Female College of Indianapolis (1850), DePauw Female College of New Albany (1852), Moores Hill Male and Female College (1856), and the Valparaiso Male and Female College (1859) were all begun by Methodists.\(^\text{24}\)

---

19 Id. at 18; see also FASSETT A. COTTON, EDUCATION IN INDIANA 98 (1934), cited in Bigelow, supra note 14, at 4.
20 See IND. CONST. art. IX, § 2 (1816). "It shall be the duty of the General Assembly, as soon as circumstances permit, to provide by law for a general system of education, ascending in regular gradation from township schools to a State University, wherein tuition shall be gratis, and equally open to all." Id.; see also SCOTT WALTER, AWAKENING THE PUBLIC MIND: THE DISSEMINATION OF THE COMMON SCHOOL IDEA IN INDIANA, 1787-1852, 1, 3, reprinted in HOOSIER SCHOOLS: PAST, PRESENT (William J. Reese ed., 1998).
21 BAEPLER, supra note 4, at 18.
22 See THORNBROUGH, supra note 17, at 512-16.
23 BAEPLER, supra note 4, at 19-20.
24 For histories of Indiana schools, see WILLIAM ALFRED MILLIS, THE HISTORY OF HANOVER COLLEGE FROM 1827 TO 1927 (1927); JAMES L. OSBORNE & THEODORE G. GRENERT, WABASH COLLEGE: THE FIRST HUNDRED YEARS 1832-1932 (1932); OPAL THORBURG, EARLHAM: THE STORY OF THE COLLEGE, 1847-1962, 44-79 (1963); BOONE, supra note 17, at 400-19; JOHN W. WINKLEY, MOORES HILL COLLEGE: AN INTIMATE HISTORY 13, 14, 68 (1954); 1 JAMES ALBERT WOODBURN, HISTORY OF INDIANA UNIVERSITY, 1820-1902, 133-50 (1940); 2
Establishment of the VMFC was authorized by the Northwest Indiana Methodist Conference on March 14, 1859. The VMFC’s first president was a Methodist minister, the Reverend Charles N. Sims. The faculty consisted of four women and one man. This was significant given the VMFC’s name and its attempt to attract women as well as men who would enroll in the coeducational venture.

That women in significant numbers would come and attend classes with men was a monumental gamble for the Methodist Indiana colleges in the mid-nineteenth century. Beyond primary school, co-educational schools were rare. The American ethos provided that women did not need formal, institutionalized learning, and in any event, not in the same classroom with males. Nineteenth century American society and its educational institutions pervasively were male dominated. Women could not vote, and, after they married, they no longer possessed any independent “legal identity.”

VUSL Professor JoEllen Lind wrote in an article titled Women Trailblazers: The Changing Role of Women in American Legal History, that the poor condition of women was largely due to the English common law doctrine (subsequently incorporated into American law) called *femme couvert* or *couverte*. Lind pointed out that under this doctrine, a married woman merged her legal existence with that of her husband, meaning that she was unable to: own property, including her wages or personal effects; inherit from her husband on his death; enter into contracts without his consent; sue or be sued in civil court; obtain a divorce (divorces were generally not granted to anyone before 1800); or have right of custody over her children. Women could have separate property only if held in trust. Many states began to abolish or modify coverture before the Civil War. Moreover, men had little legal


BAEPLER, supra note 4, at 23.


Lind, supra note 26, at 28.

responsibility for children fathered out of wedlock. Young men and women enrolled in law schools today probably find it difficult to imagine what it was like for American women a century and a half ago.

In the early and mid-nineteenth century, besides giving birth to the next generation, most women were limited to a narrow albeit crucial role—the "duties" of wife and mother as then perceived. Women were expected to marry, to have children, and then to stay at home and raise the children, clean the house, cook the food, and, if needed, help the men with the farming. As exemplified by Mark DeMotte's mother, Mary Brewer DeMotte, in many Midwest families women were also expected to educate and raise their children as virtuous Christians. As Baepler writes: "True Womanhood was characterized by piety, purity, obedience and domesticity." Arising first in New England, a few women-only institutions of higher learning—most designed to train (vis-a-vis educate) teachers—appeared. Many were called "seminaries." Certain ones became well known due to the reputation of their founders. Baepler lists examples of women-only seminaries started in New York by Emma Willard, in Massachusetts by Mary Lyons, and in Connecticut by Catherine Beecher. The Civil War began to change things. There arose a need for women to serve as nurses, as helpers in war-parts factories, and as primary school teachers. Men were not available in sufficient numbers, being either off to war or having to work on the farms.

Although women's seminaries first appeared in New England, co-educational institutions—colleges and schools for professional training, especially teaching—began in the Midwest, principally in Ohio, Indiana, Missouri, Illinois, and Iowa. It was the vision of Charles Grandison Finney who caused Oberlin College near Cleveland, Ohio, to become the first co-educational college in America. The next Midwest college to admit both men and women, according to the Northern Indiana School Journal, was Antioch College in 1853 in Yellow Spring, Ohio. But this assertion is mistaken. According to historian Emma L. Thornbrough, men and women were admitted to Franklin College beginning in 1842.

29 BAEPLER, supra note 4, at 26-27.
30 Id. at 26.
31 Id. at 27.
32 Id.
33 Co-Education of the Sexes in Colleges, N. IND. SCH. J., Jan. 1881, at 35. After Oberlin, the next college "of any standing to open its doors to ladies was Antioch." Id.
making it the first to admit both men and women.\textsuperscript{34} Earlham College in Indiana, from the time it was known as the Friends Boarding School, also admitted women.\textsuperscript{35} Soon after followed two other Indiana schools, Fort Wayne College in 1855 (the merged Fort Wayne Female College and the Fort Wayne Collegiate Institute for Young Men), and, also in 1855, Northwestern Christian College (later Butler University) in Indianapolis, which for several years maintained a separate "Ladies Course" of instruction. According to Thornbrough, women were eligible for the degrees of Mistress of Arts or Mistress of Science.\textsuperscript{36}

The VMFC followed the examples of these co-educational colleges in 1859 when it opened. On the other hand, the earlier founded Indiana Asbury College did not admit women until 1867.\textsuperscript{37} One long surviving Presbyterian college in Indiana, Wabash College, never admitted women and still does not, making it one of the last two male-only colleges in America.\textsuperscript{38}

On the opening day of the VMFC, in September 1859, seventy-five students enrolled.\textsuperscript{39} The breakdown of men and women students has not been found. The following year, 1860, the first permanent classroom and office facility was erected on the College Hill campus. Named the "Main College Building," it would stand sixty-three years until destroyed by fire in 1923. By its second year, enrollment at VMFC rose to over 300 students. In November 1860, the Republicans, headed by Abraham Lincoln, won the national election. Soon afterward, the southern states began their secession. In April 1861, shots were fired at Union forces at Fort Sumter. In reaction, the North was eager and ready to go to war.

The day after the Fort Sumter incident, a large group of VMFC students marched to the center of Valparaiso. They, like many in the North, apparently believed that, at worst, there would be a short war but that the Union would quickly triumph over the Confederate renegades.

\textsuperscript{34} THORNBROUGH, supra note 17, at 521-22. In 1850, only five colleges were granting degrees in Indiana: Indiana College (Bloomington), Hanover College, Wabash College, Indiana Asbury University, and Franklin College. Of these, only Franklin admitted women. \textit{id.} at 510-11.

\textsuperscript{35} \textit{Id.} at 521.

\textsuperscript{36} \textit{Id.} at 523.

\textsuperscript{37} \textit{Id.} at 514.

\textsuperscript{38} The other men-only college is Hampden-Sydney in Virginia.

\textsuperscript{39} The information on the VMFC comes from the sources listed in \textit{supra} note 14, unless otherwise noted.
It was not to be. By the end of the war, Indiana would lose approximately 25,000 men out of nearly 200,000 Hoosiers who had gone off to war.

The Civil War did not cause the demise of the VMFC, as suggested in one early history of the University. Rather, historian Baepler points out, the major cause was the school’s decline in enrollment consequent to the Indiana legislature’s 1867 enactment of a funding bill that underwrote the cost of public secondary education in the state. After Indiana had attained statehood, for the most part only denominational, church-affiliated groups had established schools. Church-affiliated schools were also encouraged by the Dartmouth College case of 1819.

After tax-based funding became available in Indiana to local school districts, common, or public, secondary schools began to proliferate. According to Thornbrough, “there was a corresponding decline in private schools.” Since the majority of the VMFC’s students were enrolled in the preparatory department, cheaper, public alternatives probably located nearer to their homes became available. Faced with declining enrollment and lower revenues, the VMFC closed its doors in 1871. After closure, the Methodist Conference continued to own the property and appointed a committee to find some person or group who would use the facilities for educational purposes. Enter Henry Baker Brown from Ohio.

40 BAEPLER, supra note 4, at 35. The tide in Indiana toward public education began with the 1852 passage by the Indiana General Assembly of what is called “the free school law.” HOOSIER SCHOOLS, supra note 20, at 20-21. Its significance was that it made mandatory for the first time local township compliance with state school laws. Id. at 20-23. The previous year, Indiana had promulgated a new State Constitution, succeeding the 1816 Constitution. Id. at 22. The new Constitution provided for “free schooling and like its predecessor it included the language of the Northwest Ordinance of 1787, enacted by Congress under the old Articles of Confederation.” BAEPLER, supra note 4, at 18. The Ordinance had set aside land grants for schooling “in every township in the future territories of Ohio, Michigan, Indiana, Illinois, and Wisconsin,” declaring that “Religion, Morality and Knowledge [are] necessary to good government and the happiness of mankind.” Id. Leading the cause for common or public schools in Indiana was Caleb Mills, described as “the father of the Indiana school system.” HOOSIER SCHOOLS, supra note 20, at 1.

41 COITON, supra note 19, at 98.


43 THORNBROUGH, supra note 17, at 535. “By 1880, the objective of the State’s Constitution of a system of public education from township school to state university, equally open to all, had been in large measure realized.” Id.
B. The Northern Indiana Normal School and Business Institute

In the early summer of 1873, Brown, then a normal school instructor of mathematics, learned of the defunct but "available" VMFC facilities. A graduate of the closed-down College, Ira Hoops, described to Brown the wooded campus and nearby adjacent lake (Sager's) along with the building located in the College Hill area of Valparaiso. Hoops urged Brown to visit the town and the abandoned campus. Although Brown had never been to the northern Indiana town, he was interested in learning more about the college and the community.

Born in 1847 and raised on a farm near Mt. Vernon, Ohio, Henry Baker Brown was enamored of education and educational institutions. He left his parents' farm when he was fifteen to teach at a rural primary school, most likely at a one-room school house where young children of various ages and levels were taught together. It appears he remained for several years. Although paid little, Brown eventually saved enough money to sign up for a teaching-training course at Ohio Wesleyan University in Delaware. Shortly after completing the course, he enrolled in an institution that would change his life—the National Normal School in Lebanon, Ohio. At Lebanon, Brown made friends who would later come with him to Valparaiso to start a new school.

"Normal schools," like women-only "seminaries," first sprang up in New England. Shortly before, but even more so after, the Civil War, they increased in number, especially in the "West" (as it was then called, or Midwest as that section is referred to today). Unlike the popular "commercial schools," designed to prepare students for business and commerce, normal schools were institutions primarily designed to train teachers, both primary and secondary and, in most cases, both men and women. Many of the normal schools expanded their departments to

---

44 STRIETELMEIER, supra note 14, at 15. Strietelmeier writes that in 1953, the daughter of Henry Baker Brown gave to VU four hand-written pages of her father's notes, "apparently intended as an outline of the history of the University." Id. They are located today in the VU Archives in the file of Henry Baker Brown.
45 STIMPSON, supra note 14, at 15; see also Bigelow, supra note 14, at 10-11.
46 STIMPSON, supra note 14, at 17.
47 BAEPLER, supra note 4, at 43. For the history of the National Normal School, see KARL J. KAY, HISTORY OF THE NATIONAL NORMAL UNIVERSITY OF LEBANON (1929).
48 STRIETELMEIER, supra note 14, at 13.
49 BAEPLER, supra note 4, at 41-43.
include specialties in addition to teaching, such as business, commercial, telegraphy, oratory and elocution, and preparatory departments.\textsuperscript{50}

One such school, the National Normal School at Lebanon, Ohio, commenced operations in 1855. What distinguished the Lebanon-based normal school was that it admitted students regardless of their educational background or financial situation.\textsuperscript{51} Brown admired the school’s open admissions policy and comparatively cheap tuition, something he realized was attractive to poor farm kids like himself. But for this low cost and open door admissions policy, poor folks and young men and women off the farm would not be able to obtain the educational benefits offered by most of the nation’s institutions of higher learning.\textsuperscript{52}

In 1871, when Brown was twenty-four, he graduated from the National Normal School. During his school days he made numerous friends, including members of the National School’s Normal faculty who had to respect Brown’s maturity, industriousness, and intellectual abilities. Upon his graduation, they likely gave him strong endorsements, as he was offered the position of professor of mathematics at Northwestern Normal School in Republic, Ohio.\textsuperscript{53} He taught there two years until the spring of 1873, when he heard about the VMFC property’s availability.

George W. Stimpson, himself a graduate of VUSL, authored an early history of VU titled, \textit{The Story of Valparaiso University} in 1921.\textsuperscript{54} He writes that Brown, upon learning of the possibility of finding a location for a new normal school, Valparaiso, reacted immediately because “he was ambitious to run his own school.”\textsuperscript{55} Without telling his friends or colleagues at Northwestern Normal School, he traveled to Valparaiso and met with Azariah Freeman, a trustee of the VMFC property who strongly desired that the old VMFC facilities be revitalized with an educational enterprise. Stimpson comments, “[T]o begin a college in this ramshackle building [Main College Building], without money, and in a strange town several hundred miles from any acquaintance, did not at

\textsuperscript{50} \textit{Id.}
\textsuperscript{51} \textit{See generally KAY, supra note 47.}
\textsuperscript{52} Katharine E. Bowden, Henry Baker Brown as an Educator (n.d.) (unpublished manuscript).
\textsuperscript{53} STIMPSON, supra note 14, at 15.
\textsuperscript{54} \textit{Id.} at 16.
\textsuperscript{55} \textit{Id.} at 15-17.
first appeal to Mr. Brown, then only twenty-six years of age." But Brown continued to ponder the possibilities. He put together a team of men and women to review the apparent opportunity in more depth.

Back in Ohio, Brown persuaded four of his National Normal School friends to consider joining him in the risky venture of starting up a similar school in Indiana. One friend, Martin Bogarte, was only eighteen years old. Another, a young woman, was teaching rhetoric, history, and geography—Samantha "Mantie" Baldwin. Both came with Brown on his return to Valparaiso to see the opportunity for themselves and to consider whether they might join Brown in his ambitious undertaking. To jump ahead of the story, they stayed. And to jump even further ahead, neither could have then imagined that one day in 1973, on a bustling campus of thousands of students in Valparaiso, there would be buildings named after them (subsequently torn down). The two others whom Brown persuaded to consider moving with him from Ohio to Valparaiso were Ida Hutchinson and Benjamin Perrine. In a few weeks all four would be members of the initial faculty of what in their lives would become the largest normal school in America, and, as will be subsequently discussed, an institution of higher learning in America during the 1910-1916 period, which some said was second only to Harvard University in the size of its student body.

Brown decided to name his new school the Northern Indiana Normal School and Business Institute. Quite a mouthful. In time, the school's literature would omit the "Business Institute" portion of the title. Of more importance, the school would be modeled along the departmental lines consistent with National Normal School. Like National Normal School, this new school would have very low tuition, making it affordable for those who could work and pay their way. Additionally, the new Northern Indiana Normal School ("Normal

56 Id. at 17.
57 BAEPLER, supra note 4, at 43-44.
58 Id. One report says that in returning to Valparaiso to begin the new school:
    Brown drove all the way from Ohio in an open, one-horse carriage,
    with his trunk, which contained practically everything he had, tied
    behind the seat. He had only $200.00 in money at the time, but he had
    energy, determination, faith in the future and a thorough
    understanding of the educational needs of America.
59 See infra notes 60-72 and accompanying text.
School") would be open to all, women as well as men, like its predecessor, the Valparaiso Male and Female College.

How could Brown afford to buy the land and the ramshackle building on College Hill? He couldn't. Fortunately for Brown, no other person, group, or institution stepped forward evidencing any interest in the VMFC property. Perhaps in response to the lobbying of Azariah Freeman, the Methodists' Trustees offered the VMFC property to Brown initially rent free if it were to be used as an educational institution. It was understood that Brown and the Methodists would in time settle on a buy-out price, and they did. Within three years, Brown purchased the property from the Methodists for $12,000, which he immediately resold to the city of Valparaiso for the same amount, with the agreement that Brown could repurchase the campus from the City over a ten-year period, which he did. In 1877, Porter County donated $10,000 to Brown's school in installments of $1,000 per year. The Indiana Christian magazine issue dated February 1, 1900, states that "the promoters of this old institution VMFC were glad to turn the building over to Prof. Brown on the condition that he would assume the ten thousand dollars indebtedness hanging over it."

Brown immediately began to recruit students. He persuaded fourteen or fifteen students—presumably from Northwestern Normal School in Ohio, where he had been teaching—to enroll in the new Normal School at Valparaiso. In any event, Brown, working together with an energetic and talented Mattie Baldwin, commenced an extensive advertising campaign throughout northwest Indiana, mailing out 1,500 brochures and other promotive flyers, and attending teachers' institutes where he publicized the school. In 1893, The Chesterton Tribune reported that the school was mailing 500,000 copies of its latest catalog at the rate of 25,000 per day.

As a result of Brown's industriousness along with his organizational and promotive skills, and given the quality of the people he had persuaded to come with him from Ohio, the new Normal School was

---

60 MOORE, CALUMET REGION, supra note 14, at 457.
61 Id.
62 John L. Brandt, President H.B. Brown, 8 IND. CHRISTIAN 1, 2 (1900).
63 BAEPLER, supra note 4, at 44; STIMPSON, supra note 14, at 22.
64 MOORE, CALUMET REGION, supra note 14, at 457.
able to open its doors on the grounds of the old VMFC on September 16, 1873, only eight weeks after the twenty-six year old Brown had come to see the campus. Originally, the school consisted of five departments: preparatory, music, teacher training, scientific, and the business institute. One of the first departments added by Brown was called “telegraphy, to satisfy the demands of the railroads for telegraph operators.” Brown adopted the motto, “Where Theory Squares with Practice,” for his new school, later translated into Spanish “Donde la Teoria se und la Practica,”

On that first day, thirty-five students enrolled. Brown’s recruitment efforts would only get better. An early history of VU, Valparaiso’s First Century, authored by Professor John Strietelmeier in 1959, notes that the University’s enrollment reached nearly five thousand students in 1914-1915. The School of Law’s 1912-1913 Bulletin states that 5,625 students enrolled at the University in 1911. In an unpublished paper on the history of the University by a chairman of the VU Board of Directors, W.C. Dickmeyer, it is claimed that enrollment reached 5,523 students in 1911, but adds that attendance reached the highest point “during the years 1912 to 1914 [when] it approximated 6,000 students.” Dickmeyer asserts, but with no cited authority, that only Harvard was larger, a claim echoed by historian Strietelmeier, noting that the University’s 5,000 students in 1907 placed it “next only to Harvard in enrollment and far above the state institutions.”

Historian Moore, however, disagrees with the assertion, stating that in the academic year 1914-1915, the universities in Chicago, Wisconsin, and Illinois each reported a larger number of students. Historian Baeppler hedges the “second largest school in the country” claim when he observes that by 1910, VU was among the largest American universities, “only a little lower in enrollment than Harvard.” A student dissertation on the early history of VU, located at the University of Chicago, suggests

65 Id.
66 Id.
67 Strietelmeier, supra note 14, at 53.
69 Dickmeyer, supra note 58, at 6.
70 Id. at 6; Strietelmeier, supra note 14, at 49. It appears that the claim that VU had the second largest enrollment in the nation is unsubstantiated and likely resulted from the assertion in the undocumented eight pages of typewritten notes authored by VU Professor Dickmeyer in the mid 1920s, later repeated by Strietelmeier et al.
71 Moore, Calumet Region, supra note 14, at 464-65.
that the enrollment never exceeded 4,300 students, and that the higher figures were taken from catalogs that had numerous duplications; students who enrolled in the summer term in addition to the regular school year terms, it was suggested, were counted twice. The issue remains unclear, as many early enrollment records were not found.

C. Poor Man’s Harvard

Because comparisons of the enrollments of VU and Harvard were frequently made during those years, and due to the appearance of national newspaper and magazine articles highlighting how comparatively inexpensive an education was at Valparaiso, a descriptive albeit self-serving phrase began to be repeated: Valparaiso University was “the poor man’s Harvard.” Picking up on the phrase, Strietelmeier used it as the title of a chapter of his history of VU. He does not provide any attribution, however, to its author or describe the circumstances of its origin. Nonetheless, it had become a commonplace expression. Both the Chicago Tribune and the Chicago Herald newspapers reported that VU was known as “the poor man’s Harvard.” VUSL alumnus John J. Blaine, Governor of Wisconsin, wrote VU President John E. Roessler in 1921, recalling fondly that the University’s reputation was known widely as “the Poor Man’s Harvard.”

Blaine, who served both as a United States Senator and subsequently as a Governor of Wisconsin, in an article published in the VU student newspaper, The Torch, commented:

I don’t believe there was another educational institution in the world like Valparaiso University. A young man or woman could go through there with very little

---

72 Bigelow, supra note 14, at 40. However, a review of the catalogs for the era does not reduce the number, as breakdowns by semesters and by summer do not reveal on their face duplications, and often total enrollment figures are merely quoted. Nonetheless, Bigelow’s point in his dissertation that 4,300 was the highest true number is erodible.
74 MOORE, CALUMET REGION, supra note 14, at 461. Powell A. Moore’s 1959 history of northwest Indiana reveals that living costs were kept so low that VU was widely known as “The Poor Man’s Harvard.” Id.
75 See STRIETELMEIER, supra note 14, at 48-61.
76 Mary Skaggs, Youth on the Campus, Chi. Trib., Mar. 25, 1951.
77 Letter from John J. Blaine, Wisconsin Governor, to John E. Roessler, President, VU (May 9, 1921).
money—and many were penniless—and secure a complete education including the profession which they would make their life's work. . . . I studied law for a period of one-hundred weeks continuously without giving any thought to such a thing as a vacation. . . . Valparaiso University has done a world of good toward the advancement of the progress of the United States.

These remarks were reportedly made at a dinner at the Wisconsin State Capitol in Madison in November 1922 before several then current VUSL students including Albert Seff, William Seff, and August Hof.

Whether that phrase actually caused students to apply will never be known. Brown was a master at promoting the school and its low costs. What drove him? Katharine Ertz Bowden, VU Librarian from 1928 through 1949, and University Archivist, suggested that Brown's life work was built upon two ideas: that an education should be useful in every day life, and that an education should be accessible to all. "The latter was almost an obsession with him," she wrote. "He was born of poor parents, reared in a most meager home, with little time or means for the cultural things of life. . . . He resolved that he would conduct a school where no one should be barred because of poverty, age, or educational qualifications. He lived and fought for democracy in education." Brown's ideals were related to his strong religious beliefs—he served for many years as an elder of the Valparaiso Disciples of Christ (Christian) Church.

Did Brown's vision succeed? To quote Bowden: "There are literally thousands of men and women who never could have risen to the position of influence, power or success they occupy today had it not been for the opportunities which they found here at Valparaiso of low cost tuition, low cost board and room, and privilege of . . . paying for it after the education was secured, or the chance to earn part of their expenses."
The fascinating story of the University's growth in size and programs during its first quarter century under the joint leadership of President Henry Baker Brown and his close associate, Vice-President Oliver Perry Kinsey, is told best by Richard Baepler in his history of the University, published in 2001, titled *Flame of Faith, Lamp of Learning*.

Suffice it to note that their Northern Indiana Normal School (later "Valparaiso" and still later "Valparaiso University") was a phenomenal success for the years they were in charge. The "departments," in reality schools, would expand to include not only law, but also medicine, dentistry, pharmacy, music, business, education, and engineering among others. Several of these would not survive, including the schools of medicine, pharmacy, and dentistry, but one professional school did survive. In the beginning it was called the "law department," then the "Northern Indiana Law School," and finally, and for the majority of its 125 years of continuous existence, the "Valparaiso University School of Law."

D. Can Anybody Be a Lawyer?

Training to be a lawyer in America from the Colonial period through the latter part of the eighteenth Century was a hit and miss process. No courses in law were offered at the few existing colleges or universities during most of this period. Aspiring lawyers usually were in charge of their own training and learned the law as best they could. Some served as assistants to clerks of the courts. A few fortunate ones who had the money studied law in the Inns of Court in London. Among this elite group were leading members of the bar who would exert enormous influence before and during the American Revolution and in the subsequent formation of the Union. Still others became apprentices in the offices of practicing attorneys, an avenue to the bar which Thomas Jefferson thought more demanding of the apprentice's time than it was worth. In a letter to a nephew, Jefferson advised him that "all that is necessary [to become a lawyer] . . . is access to a library, and directions in what order the books are to be read." Similarly, Abraham Lincoln wrote an aspiring lawyer that "the cheapest, quickest, and best way" to become qualified as a lawyer was to read Blackstone, Chitty, Greenleaf,

84 BAEPLER, supra note 4.
85 LAWRENCE M. FRIEDMAN, A HISTORY OF AMERICAN LAW 97-98 (2d ed. 1985).
86 Louis F. Bartelt, Jr., Legal Education in the 18th and 19th Centuries 1 (n.d.) (unpublished manuscript).
and Story treatises, "get a license, and go to practice and still keep reading."\(^{87}\)

Being an apprentice could mean anything from being a proof reader to being a messenger or even one who searched for documents, but it rarely involved any systematic study of the law. Each method of legal training had critics as well as supporters. With inevitable and notable exceptions, the American legal profession of this early era was peopled by lawyers whose limited knowledge and perspective profoundly affected their competence and professionalism. Law was often practiced from what has been called "the seat of one's pants." So serious was the problem that regulations were not uncommon. Perhaps the most extreme example was an earlier-day Virginia statute, enacted in 1645, which prohibited "mercenary attorneys"\(^{88}\) and was designed to prohibit the practice of law for profit. Moreover, various states had begun to enact statutes regulating admission to the bar.\(^{89}\)

By the late eighteenth century, dissatisfaction among many attorneys with the practicing bar in America had grown. Sir William Blackstone's 1765-1769 Commentaries\(^{90}\) was said to have a significant impact on contemporary perspectives of the law, the professional responsibilities of lawyers, and the role of profession in society. Blackstone had been appointed to the position of Vinerian Professor of English Law at Oxford in 1758.\(^{91}\) His Commentaries were based on a series of lectures he had given to Oxford students.\(^{92}\) The Commentaries presented in a discursive, analytic, and systematic fashion the common law as it had evolved in the opinions of the common law English judges and in the decrees of the chancellors in equity.\(^{93}\) Blackstone made it evident to any person who

\(^{87}\) Friedman, supra note 85, at 606 (citing Jack Northup, The Education of a Western Lawyer, 12 AM. J. LEGAL HIST. 294 (1968)).

\(^{88}\) Bartelt, supra note 86, at 2.

\(^{89}\) See Gerald W. Gawalt, The Promise of Power: The Emergence of Legal Profession in Massachusetts, 1760-1840 (1979); Charles R. McKirdy, The Lawyer as an Apprentice: Legal Education in Eighteenth Century Massachusetts, 28 J. LEGAL EDUC. 124 (1976); see also Kermit L. Hall, The Magic Mirror 22-23 (1989).

\(^{90}\) Simpson, supra note 90, at 652.

\(^{91}\) Id.

\(^{92}\) Id.

would read his writings that the study of law required an analytic and systematic pedagogy.

Over 100 years later, a somewhat similar analytic pedagogy would be instituted by Christopher Columbus Langdell, dean of the Harvard Law School. Langdell described his teaching method as the "scientific study" of law, the word "scientific" being much in vogue in the latter half of the nineteenth century. Such scientific inquiry and analysis clearly demanded rigorous training, the kind that can only be accomplished in a full-time academic environment directed by learned masters of the complex and evolving judge-made legal doctrines. The best American lawyers of the era understood this necessity. The majority did not.

Rather, reading the law on one's own or serving as an apprentice were still the most popular paths to entering law practice in America. These paths were bound to lead in many if not most cases to mediocre lawyers. American legal historian Lawrence Friedman of Stanford University in his epic, *A History of American Law*, cites a letter published in the August 19, 1745 issue of the *New York Weekly Post-Boy*:

[Apprenticeship] was an Outrage upon common Honesty ... scandalous, horrid, base, and infamous to the last degree! [No one] could attain to a competent Knowledge in the Law ... by gazing upon a Number of Books he has neither Time nor Opportunity to read; or be ... metamorphos'd [sic] into an Attorney by virtue of a Hocus-Pocus.

Even given the "hocus-pocus" some did well. John Marshall had only modest formal legal training. Abraham Lincoln learned law on his own. And in some circumstances, it depended on to whom one was

---

94 STEVENS, supra note 90, at 51-53.  
95 Id. at 53; see also FRIEDMAN, supra note 85, at 613-17.  
96 For a discussion of how changing economic factors in America aided the transition from the apprenticeship route to academic, often university-based law training, see PETER DEL. SWORDS & FRANK K. WALWER, THE COSTS AND RESOURCES OF LEGAL EDUCATION 32-34 (1974). See also Jon W. Bruce & D. Don Welch, Vanderbilt Law School in the Nineteenth Century: Its Creation and Formative Years, 56 VAND. L. REV. 501, 503 (2003) (suggesting that the growth of corporate and business law requiring specialized expertise was a spur for the growth of academic law schools generally and in particular, Vanderbilt).  
97 See generally FRIEDMAN, supra note 85.  
98 Id. at 98.
apprenticed. Thomas Jefferson, Friedman points out, was an apprentice to George Wyeth, who years later was to become America's first law professor.\textsuperscript{99} Another successful pupil was James Wilson, who, Friedman notes, sold his farm to pay the apprentice fee to John Dickinson.\textsuperscript{100} Nonetheless, for many aspiring lawyers, the quotation above was somewhat accurate.

Despite the high level of training that a careful study of Blackstone's \textit{Commentaries} implicitly demanded for entry into the legal profession, the rigorous academic study of law for aspiring lawyers was, for the most part, at least a century away from being realized. Interestingly, the new American nation, which had broken its political ties with England but had retained two of its most valuable and refined assets, the English language and the Common Law, had not retained an appreciation of what was required to become a professional lawyer. Within the vast lands comprising "frontier America," a set of values and an ethos, different from Mother England's, already had developed, culminating in what has been called the period of Jacksonian Democracy.\textsuperscript{101}

During the Jacksonian period, roughly 1820 through 1860, many people in the "West" believed there was no real need for formal education. Moreover, their attitude toward what was perceived as elite, professional education, might be described as downright hostile. Yet, in any age there are always currents running in a direction opposite to the main stream, eventually becoming the new main stream. The rough and tumble notion of Jacksonian Democracy, which emphasized equality, rugged individualism, and the freedom of frontier America, in time gave rise to the recognition of unlimited opportunities that the freedom produced—opportunities in business and commerce and in the professions of law and medicine. Those in the West could have the freedom and "right" as equal Americans to leave their farms and small towns and enter these trades and professions.

The pendulum of history, of course, in time swings back. The Jacksonian freedom-of-opportunity-teach-yourself-ethos itself led to the

\textsuperscript{99} Id.
\textsuperscript{100} Id.
recognition once again of the advantages of formal education. Thus, the School of Law was an institution built on the principles of rugged individualism and recognition of one's power and opportunity to change one's life but with the added recognition that education may be helpful in the transformation. In time notions of Jacksonian Democracy themselves evolved into what might be called "Midwest Populism," especially from the end of the Civil War through the close of the nineteenth century.

An "academic" education in law, that is, when an aspiring lawyer would attend a school or university where a course in law was taught, first came into being in America in 1779. Then, George Wythe, Thomas Jefferson's tutor, was appointed to the first "chair," or professorship, in law at the College of William and Mary in Williamsburg, Virginia. Two years later, Isaac Royall, who died in 1781, bequeathed property to Harvard University to establish a "Royall" professorship of law, but the chair was not filled until 1816 by Isaac Parker, chief justice of Massachusetts. Charles Warren in his A History of the American Bar, published in 1913, describes how the University of Maryland Regents in 1816 established a professorship of law and appointed David Murray Hoffman to the post. Hoffman lectured on law for nine years, and he wrote on law for twenty-five years. His efforts culminated in a 876 page treatise—what today might be called a learn-it-yourself textbook—titled A Course of Legal Study Addressed to Students of Law in the United States. Hoffman described it as "the first manual ever arranged for law students in England or this country." The most significant contribution Hoffman has made to law students and the bar, however, was not his gigantic manual, it was his emphasis on legal ethics.

102 A political scientist, George McKenna, has noted that the era of Jacksonian "populism," as he describes it, was one where the majority of citizens desired freedom of opportunity rather than equality of condition. See GEORGE MCKENNA, AMERICAN POPULISM 74 (1974). Eventually this desire would contribute to the founding of academic law schools throughout the Midwest that would be accessible to women and men regardless of their economic class or circumstances.

103 FRIEDMAN, supra note 85, at 320.
104 Id. at 321.
105 1 CHARLES WARREN, A HISTORY OF THE AMERICAN BAR 356 (1913).
106 See STEVENS, supra note 90, at 12 n.17.
107 WARREN, supra note 105, at 356-57.
A few institutions followed these early examples, notably, the creation of a new professorship of law at Columbia University held by Chancellor James Kent whose lectures became the basis for his famous American Commentaries on the law. Princetoon University commenced a law program from 1795 until 1812 when it was discontinued. Even Dartmouth College contemplated a law course, but nothing came of it. Despite these short but significant inroads, academic training in the law for the vast majority of aspiring lawyers was still decades away.

Dean Albert Harno of the University of Illinois College of Law, in his book Legal Education in the United States, writes that lectures by these early teachers were not intended to be one's exclusive professional training in law, but rather were designed to lay a broad foundation for the further education of existing lawyers as a supplement to apprenticeship. Although there was appreciation of the importance of well-educated lawyers, the office apprenticeship still remained the principal route to the practice for many years to come. The chairs of law may well have been established in the hope that they would develop into university-based law schools. They were, indeed, important precursors for the long-range development of academic legal education but, because of nineteenth century disruptive forces, their immediate impact was minimal.

Another approach to improve the quality of legal training and consequently the bar was a method of teaching law more systematic than office apprenticeship, one adopted by a law tutor named Tapping Reeve. Beginning in 1784, he employed a lecture method before a group of apprentices who sat in a "classroom" in a small building located in Litchfield, Connecticut. Given the structure, the setting, and the pedagogy, Reeve has properly been credited with founding the first law school in America. During its subsequent fifty-year existence, the Litchfield Law School served students from all parts of the country. The full course was fourteen months in length (including two vacations of

109 See 1-4 JAMES KENT, COMMENTARIES ON AMERICAN LAW (14th ed. 1896). In 1816, Middlebury College in Vermont began a professorship in law. FRIEDMAN, supra note 85, at 356.
110 Id. at 355.
111 Id.
112 See ALBERT J. HARNO, LEGAL EDUCATION IN THE UNITED STATES 1-90 (1953).
four weeks each), during which students heard lectures on forty-eight subjects. Many students did not stay through the entire term, and enrollment at any time rarely exceeded thirty. It attracted students from across America. The Litchfield Law School served a purpose. It was not the university-related kind of legal education envisioned by some members of the bar, but it did provide at least a superficial coverage of a wide variety of subjects.

Moreover, being privately owned, it was the forerunner of the typical proprietary law school that is rarely affiliated with a university, often claimed to be the purveyor of a very practical brand of legal education, which became very common in the United States during the nineteenth century. Although the Litchfield Law School had its imitators near the end of the eighteenth century, most were short-lived. By the time it shut its doors in 1833, more than a thousand students had graduated.

Isaac Parker, Harvard University's first Isaac Royall Professor of Law, proposed the establishment of a law school at that institution, a school that would provide both "practical and theoretical" training. His proposal became a reality in 1817 when the school announced that only college graduates were eligible for admission, but not for long. Within two decades, Harvard Law School's admission requirements became less stringent. By 1829, the school admitted virtually anyone, to any part of the program, at any time. This reversal of policy reflected changing national attitudes and the influence of a "democratic feeling that rose early in the West and the South, and with the advent of Jacksonian Democracy, swept over . . . the country."

Jacksonian Democracy was taking its toll. Its adherents eschewed formal education and decried prerequisites for admission to the bar. Jacksonianism has been called "a retrograde movement in the sciences and the professions." It delayed the advancement of scientific [i.e.,

114 See generally ALFRED Z. REED, TRAINING FOR THE PUBLIC PROFESSION OF THE LAW (1921) [hereinafter REED, PUBLIC PROFESSION].
115 FRIEDMAN, supra note 85, at 319.
116 WARREN, supra note 105, at 299.
117 STEVENS, supra note 90, at 14 n.46.
118 ALFRED Z. REED, PRESENT-DAY LAW SCHOOLS IN THE UNITED STATES AND CANADA 5 (1928) [hereinafter REED, LAW SCHOOLS].
119 See generally WARREN, supra note 105.
intellectual] thought and experimental research in the United States.\textsuperscript{121}

On the more positive side, Jacksonianism advanced the popular pioneer belief that every man was as good as every other. Consequently, for some it followed that every citizen had an inherent right to practice law. This belief had to be especially ingrained for those who drafted the Indiana Constitution of 1851, for only one word can describe Article VII, Section 21—astonishing.

The State’s new constitution included a provision unlike any other in the Nation: “Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.”\textsuperscript{122} The open-door policy to practice law goes back a long period: “The qualifications of an attorney were considered too rigorous for the new Territory of Indiana... The Constitutional provision was adopted with little discussion in the Constitutional Convention.”\textsuperscript{123} This presumably meant that any citizen twenty-one years or older, and not a felon, could practice law even if the person had no education whatsoever. Consider that the English Parliament in 1729 passed an act which required a minimum of five years of clerkship with a barrister or solicitor for entry into law practice.\textsuperscript{124} In fact, these minimum requirements were also in effect at the time in other states, including Maine, but none had the constitutional endorsement as did Indiana.

Several attempts were made over the next eighty years to repeal the infamous Article VII, Section 21, but failed.\textsuperscript{125} Richard P. Tinkham, an active member of the Indiana Bar, was one of the leaders who led the efforts for repeal, culminating successfully in 1932. Another leader of the repeal effort was Indiana University Law Professor Bernard Gavit. In a two-part article in the American Bar Association Journal published in 1930, Gavit made the argument, with supporting case authorities, that “good moral character” as used in the 1851 Constitution did not prohibit the legislature and courts of the State from imposing reasonable educational

\textsuperscript{121} Id. at 91.

\textsuperscript{122} IND. CONST. art. VII, § 21 (1851). The most thorough discussion of the history of the 1851 Constitution is found in James J. Robinson, Admission to the Bar as Provided for in the Indiana Constitutional Convention of 1850-1851, 1 IND. L.J. 209 (1926).

\textsuperscript{123} W.W. Thornton, Attorneys at Law, in TAYLOR, supra note 24, at 120, 124.


\textsuperscript{125} Id. at 466-69; see also Bernard C. Gavit, Indiana’s Constitution and the Problem of Admission to the Bar, 16 A.B.A. J. 595, 596-602, 743-44 (1930).
In fact, the Indiana Supreme Court had allowed local bar associations to require educational qualifications for admission to the bar. It can be argued that these strained and obscurely reasoned cases held that "good moral character" in the State's 1851 Constitution properly interpreted included "reasonable educational qualification."

In response to the Jacksonian egalitarian and anti-intellectual focus, the number of law schools in America remained stagnant during the period. By 1840, the seven university law schools still in existence had an aggregate population of only 350 students. Bar admission requirements were anathema to the dominant political forces. In 1800, fourteen of nineteen states or organized territories prescribed definite periods of preparation for admission to the bar. By 1840, only eleven of thirty had such requirements, and by 1860, only nine of thirty-nine. Although twenty-one university law schools were in existence by 1860, enrollments were minimal, some of the schools were short-lived, and a few which did survive operated sporadically through much of the nineteenth century. Among the law schools or departments that opened and then closed in the first few decades of the nineteenth century were the University of Pennsylvania (1817-1818) and Indiana University (1842-1872).

Some, who claimed that a bench and bar populated by incompetent and irresponsible members threatened the structure of the legal system, believed this downward trend in legal education and bar admission had a profound effect on the administration of justice. The de-professionalization of the American bar reached unprecedented proportions by the eve of the Civil War. Professor Anton-Hermann Chroust of the University of Notre Dame Law School added that the public's general contempt for and distrust of the contemporary legal profession around the mid-nineteenth century often was well deserved. Not all agree with this dire assessment of the antebellum

---

126 Tinkham, supra note 124, at 465; see also, STEVENS, supra note 90, at 18 n.69, 19 n.70.
127 See In re Boswell, 179 Ind. 292 (1912); In re Denny, 156 Ind. 104 (1900).
128 REED, PUBLIC PROFESSION, supra note 114, at 442, 444.
129 Id.
130 STEVENS, supra note 90, at 15 n.47, 43 n.7.
131 See generally ANTON-HERMANN CHROUST, THE RISE OF THE LEGAL PROFESSION IN AMERICA TWO (1965); see also WARREN, supra note 105.
132 See generally CHROUST, supra note 131.
In any event, the prevalent view seems to be that legal education and the legal profession did not begin to recover from the effects of these professionalizing forces until well into the first and second decades of the twentieth century. But efforts to improve the bar by recommending admission requirements for law schools were being earnestly promoted by the ABA and state and local bar organizations as early as 1879.

Law school historian Robert Stevens explains that the ABA, organized in 1878, instructed its newly-formed Committee on Legal Education and Admissions to the Bar to present at the Association’s next annual meeting a plan for assimilating requirements of candidates for admission to the bar. In 1879—the founding year of VUSL—the Committee reported that the best informed members of the bench and bar clearly favored law school education over mere practical training or apprenticeship. The Committee recommended that public authorities maintain law schools with a minimum of four teachers. It also recommended that the course of instruction cover three years, and that three years of college work be prerequisite to admission to law school, but the practicing bar obviously was not ready for such revolutionary changes. The Committee’s resolution was tabled and languished there for thirteen years!

At the ABA’s 1892 convention, a resolution recommended that the power to admit applicants to the bar should be vested in the highest court of each state. This resolution could have been promulgated by an elitist cartel seeking to keep out “undesirables” and hold down competition. Regardless, the ABA further suggested that two years of law school should be required before a candidate for admission might write the bar examination. The membership adopted this resolution, a watered-down version of its 1879 counterpart. Nonetheless, the objection was still heard that more stringent requirements would have

133 See Stevens, supra note 90, at 5-10 (citing Perry Miller, The Legal Mind in America: From Independence to the Civil War (1962); Perry Miller, The Life of the Mind in America: From the Revolution to the Civil War (1965); Schlesinger, supra note 101.
134 See infra text accompanying notes 308, 626-47 and accompanying text.
135 Warren A. Seavey, The Association of American Law Schools in Retrospect, 3 J. Legal Educ. 153, 155 (1951); Russell N. Sullivan, The Professional Organizations and Legal Education, 4 J. Legal Educ. 401, 401-02 (1952); see also Stevens, supra note 90, at 92-93.
136 Bartelt, supra note 86, at 9.
137 Stevens, supra note 90, at 95.
138 Id. at 99-100.
precluded from the profession "poor boys," such as John Marshall and Abraham Lincoln, who would have been, it was presumed, unable to afford the expense of protracted formal education.

Moreover, by the 1890s, American populism had bubbled up to the surface in the Midwest. The voice of rural and small town America was being heard, especially by way of William Jennings Bryan. In 1896 at the Democratic National Convention in Chicago, Bryan, in what became known as "The Cross of Gold Speech," rallied the delegates to his expansive concept of the "business man," which included "the small town lawyer," the farmer "who goes forth in the morning and toils all day—who begins in the spring and toils all summer—and who by the application of brain and muscle to the natural resources of the country creates wealth, . . . the miners who go down a thousand feet into the earth." In effect, Bryan was voicing the populist belief that everyone in American society is a contributor, not just the powerful commercial financiers of the northeast. And one's contribution can be as a lawyer, not only as a corporate lawyer in New York City, but also as a small town lawyer in the rural Midwest. He might have added that in one Midwestern state, Indiana, becoming a lawyer required no education, absolutely none. There was in the Hoosier state what appeared to be universal access for all adult citizens to practice law before the courts.140

E. Law Schools Sprout from the Hoosier Soil

Richard G. Boone, an Indiana University professor, in his early history of education in Indiana, notes that LaPorte University, chartered in 1841, had closed its medical department in 1851 and abandoned its instruction in law some years earlier.141 If LaPorte University's law program under the tutelage of Judge William Andrew did in fact begin in 1841 (Bartelt notes that the record is unclear), then the beginning of formal legal education in Indiana may have been in LaPorte.

One year later, in 1842, Indiana University established a professorship of law.142 This Indiana law program got off to a slow start and had somewhat of an erratic history. Its founders envisioned a program that would coincide with collegiate terms and years.143 Finally,

139 MCKENNA, supra note 102, at 130-31.
140 See supra notes 123-26 and accompanying text.
141 Bartelt, supra note 86, at 10 (citing BOONE, supra note 17).
142 T. WYLEY, INDIANA UNIVERSITY: 1820-1890, 56-68 (1890).
143 See generally 1 WOODBURN, supra note 24.
in 1877, the Indiana Legislature abolished Indiana University's association with its medical and law schools, declaring that there is no duty of the people to help men into these easy professions. The Indiana University Law School was not reestablished until 1889, when VUSL had already been in continuous operation for ten years.\(^{144}\)

Despite the ease of entry into the legal profession in Indiana, other academic programs in law came into being. Indiana Asbury College became the next entrant.\(^{145}\) In August 1853, the college advertised that it would open its law school in the fall, and it did so with one professor and eight students. The history of Asbury's law school parallels that of Indiana University's.\(^{146}\) In Asbury's first decade it conferred only fifty-four law degrees and suspended operations in 1862.\(^{147}\) It reopened in 1871 and offered courses for the following three years and, apparently offered some instruction until 1882, but no law degrees were conferred for several years after 1882.

When Asbury was reorganized as DePauw University in 1884, school officials announced that the law school would reopen immediately, and for the next ten years the school enjoyed a measure of success. In the early 1890s annual enrollment was near fifty, and each year the University conferred twenty to twenty-five law degrees. But the cost of operating the law school—the dean's salary in 1887 was only $100 less than the president's—contributed to the University's deficits in the 1890s, and in 1894 DePauw closed its law program permanently.\(^{148}\)

Following the Asbury/DePauw venture, the Central Law School in Indianapolis was established in 1858, with the goal of combining law office training and formal legal education.\(^{149}\) Central Law School began as an independent school but became aligned in 1871 with the Northwest Christian University (today Butler University).\(^{150}\) Then, in 1875, the Central Law School again became independent and apparently became known as the American Central Law School, one of three law schools, which included Benjamin Harris Law School and Indianapolis College of Law, that would become the Indiana Law School, officially organized in

\(^{144}\) Bartelt, supra note 86, at 11.
\(^{145}\) Id.; see also THORBROUGH, supra note 17, at 510-11.
\(^{146}\) Bartelt, supra note 86, at 11; see also TAYLOR, supra note 24, at 164, 167.
\(^{147}\) Bartelt, supra note 86, at 11.
\(^{148}\) Id. at 11-12.
\(^{149}\) Polston, supra note 24, at 162.
\(^{150}\) Id.
1893, and later became part of Indiana University in 1945.\textsuperscript{151} Today, the school remains in existence and is known as the Indiana University School of Law—Indianapolis.

During the nineteenth century, twelve law schools were established in Indiana, most after the Civil War. These included Indiana (Bloomington), Notre Dame, Valparaiso, Asbury, LaPorte, Benjamin Harrison, Central, Indianapolis, Central Normal College (later called American Central), Indiana (Indianapolis), Tri-State College, and Northwest Christian law schools. Of these, only four survive today: Indiana University School of Law - Bloomington; the University of Notre Dame Law School, South Bend; Indiana University School of Law - Indianapolis; and the Valparaiso University School of Law. Interestingly, VUSL had its roots via Mark DeMotte in one of the pre-Civil War law schools that did not survive—Asbury.

\section*{F. Founding of Northern Indiana Law School}

During the latter decades of the 1800s, the country’s industrial and commercial activities were expanding. President Brown surely foresaw the need for lawyers, especially in business. A bulletin of the Normal School for the 1879 sessions announced that a complete two-year course in law was being established “[o]wing to the continued solicitations from all parts of the land,” with Professors H.N. Carver and C.W. Boucher in charge, which “is sufficient guarantee that it will be thorough and practical.”\textsuperscript{152}

Professor Carver taught philosophy and classics at the Normal School from 1878 to 1917. In Valparaiso’s First Century, historian John Strietelmeier describes Professor Carver as a compulsive teacher: “His whole life was spent in reading and teaching, his class load in his earlier days at Valparaiso running as high as ten hours a day.”\textsuperscript{153}

Carver clearly was talented and had wide interests. Professor Boucher was head of the Normal School’s Commercial Department where he taught business law courses from 1877 to 1883, the year he resigned to open his own normal school in Muncie, Indiana. Given Carver’s enthusiasm for teaching and Boucher’s business law

\textsuperscript{151} Id. at 165.
\textsuperscript{152} N. IND. NORMAL SCH. & BUS. INST. ANNOUNCEMENT (Valparaiso, Ind.), Apr. 15, 1879, at 3.
\textsuperscript{153} STRIETELMEIER, supra note 14, at 31.
background, even though neither of these men were lawyers or even law-trained, Brown selected them to offer law courses presumably because no "lawyer" teachers were then available.

Stimpson in his history of the University writes that in the spring term of 1879, Professor Carver instructed a course at the Normal School in common law, using Blackstone’s Commentaries as a text, and that he organized a moot court, and students attended sessions of "Porter County Court" to learn procedure from observing actual trials. No mention of DeMotte is made at this point. Yet, Stimpson writes, "DeMotte was considered the head of the department from the beginning."

Except for an occasional lecture on English legal history by Carver, there is no indication that he or Boucher ever were involved in the operation of the law program once it commenced in the fall of 1879. Stimpson said nothing about Boucher teaching any law course. Stimpson writes, "Professor Carver [at least] has the honor of arousing the interest which led to the founding of the Law School." Baepler points out, however, that President Brown had obtained a new charter for the Normal School which envisioned future programs in both law and medicine. Brown apparently had been making plans for the new professional departments for some time.

DeMotte may also have been involved in the early planning, but we do not know. How and when DeMotte actually became involved in working with Brown remains a mystery. Did he, hearing the news about the Normal School’s plans to offer instruction in law, offer his services? Did Brown, knowing of DeMotte’s background, consult with him and solicit his assistance and involvement? DeMotte was well-educated even by today’s standards, and extremely well by the standards of his day. The legal education he received at Asbury was probably as good as any available in the pre-Civil War years. Recall that DeMotte did not begin his legal education until after having received his collegiate degree. His own academic and professional experiences and his background are the hallmarks of a man who recognized the worth of formal education for entrance into the profession. He would be interested in and supportive of efforts to improve the quality of the bar through formalized, academic instruction.

154 STIMPSON, supra note 14, at 50.
155 Id.
156 Id.
157 BAEPLER, supra note 4, at 48.
There had to have been considerable contact between Brown and DeMotte after the bulletin announcement in the spring of 1879, if not before. In any event, it is clear that DeMotte was involved with the operation of the law school from its opening day in the fall of 1879 and remained so for twenty-eight years.158 "Contemporary newspaper accounts [at the time] support the notion that the idea for a law school [or department] originated on the Normal School campus."159

President Brown's approach to education was no-nonsense hard work, absent the frills of intercollegiate athletics, Greek letter organizations, and partying. As a result, the Normal School's program was a respectable, if not outstanding, brand of education. In its weekly edition of October 16, 1879—less than a month before the Law School opened—the Valparaiso [Weekly] Messenger commented editorially about the new [law program] at the Normal School. [It noted] that law schools often charge fees that are three or four times higher than those for classical and scientific students, putting legal education beyond the means of many people. President Brown, the editorial continued, saw no reason why his educational philosophy could not be applied to law schools. He believed that if high fees were an "impediment to gaining knowledge, they ought to be removed, and he proceeded to organize the present law school." Although the [editorial] writer indicated that DeMotte and Judge H.A. Gillett would be in charge, the "he" [of the editorial was Brown and this further] suggests that the original idea and impetus [for a law school was his].160

Other accounts of the Valparaiso University School of Law (originally known as the Law Department), including newspaper reports of the opening convocation and stories on the School of Law's progress during its first year, refer to DeMotte as a member "of the law faculty," or as "one of the professors in the new department." Although an 1880 Normal School bulletin states that the "Law Department is now fully

158 For a more thorough discussion of the issue of who actually was the founder of the School of Law, see Bartelt, supra note 86, at 13-20.
159 Id. at 18.
160 Id.
established, and in charge of Mark L. DeMotte, LL.B., and Hon. H. A. Gillett," it also lists President Henry Baker Brown as the Law Department’s "Principal." This appellation may have been titular only, but it does suggest where ultimate authority lay. Not until 1894 do the catalogs identify DeMotte as dean, but that is understandable because the nomenclature of "dean" was just coming into existence.

Although it is not clear who first proposed a law school/department at the Normal School, it is clear who "owned" the School of Law from the beginning. It was Colonel DeMotte’s. Strietelmeier, in describing the establishment of the department of telegraphy in Brown’s first year as head of the institution (1873), states that telegraphy was "the first of several specialized departments which were organized around the nucleus of the Normal School," and, significantly, that it "set a pattern which became typical of specialized departments." It was a common practice in the late nineteenth century for proprietary operations to be affiliated with universities. They were autonomous schools owned and managed by their deans or heads who collected student fees and remitted a percentage to the Normal School for publicizing their existence and programs. From the outset the School of Law was one of these specialized departments maintaining a semi-autonomous affiliation with the Normal School until 1907 when DeMotte sold his interest to Brown. Until the sale, DeMotte paid a percentage of the gross tuition revenues to Brown as the "rent" of the University’s facilities, services, and good will. Stimpson writes that the Law Department operated like the Telegraphy Department, "under the per cent system."

In summary, the evidence and records strongly suggest that DeMotte and Brown were the co-founders of the Valparaiso University School of Law. Brown without question desired the Normal School to expand to include the professions. If the idea for a law school was not DeMotte’s originally, clearly he was involved in the planning by the fall of 1879 when the School of Law officially began. Moreover, DeMotte’s deanship over the next twenty-eight years would raise the School of Law

161 N. IND. NORMAL SCH. & BUS. INST. SPECIAL ANNOUNCEMENT (Valparaiso, Ind.), 1880, at 2, 4.
162 STRIETELMEIER, supra note 14, at 27.
163 Interview with Walter F. Pratt, Professor, University of Notre Dame (Feb. 2002).
164 STIMPSON, supra note 14, at 50.
from its infancy, nourish it to robust health, mold its character, and bring it to maturity. That story follows.

G. Enrollment and Admissions

On November 9, 1879, the Valparaiso Weekly Messenger ran a brief article announcing that "the Law Department of the Normal School will be formally opened on next Tuesday, November 11, at 1:30 P.M. with an address by Mr. Mark L. DeMotte of the Law Faculty. The exercises will be in the College Chapel and free to all."\textsuperscript{165} DeMotte’s remarks were titled, \textit{The Profession of Law}. According to the newspaper’s account, he discussed "how the profession of the law and the lawyers had been abused, \ldots on account of the ignorant quacks and pettifoggers who sometimes disgrace the profession."\textsuperscript{166} A well-educated person, DeMotte appreciated the need for properly trained professionals and echoed the suggestion made that same year by an ABA committee that lawyers should be trained in law schools. America was changing.\textsuperscript{167} Only three years earlier, Alexander Graham Bell had invented the “speaking telephone,” and, just one year earlier, Thomas Edison had come up with something he called the “incandescent electric light.” America’s society was entering a vast transformation, from one primarily of farming to one of industry and commerce. And whether he understood it or not, DeMotte and his law school were going to be tools of the transformation.

During the School of Law’s first three years, DeMotte’s direct involvement in its day-to-day operation was sporadic because he sought and became a Representative in the U.S. House of Representatives. "Normal Notes," a column in the Valparaiso Weekly Messenger, reported on several occasions in 1879 and 1880 that the law class was taken over by Judge Hiram A. Gillett because DeMotte was looking after his Congressional interests. In 1882, DeMotte again ran for re-election as the Republican candidate for Congress, but this time the entire party went down in defeat. DeMotte then resumed full-time involvement in the School of Law. In addition to Col. DeMotte and Judge Gillett, another member of the faculty at the School of Law during its first few years was W.A. Yohn, a practicing medical doctor in Valparaiso who also served as

\begin{thebibliography}{9}
\bibitem{165} Bartelt, \textit{supra} note 86, at 24.
\bibitem{166} Id.
\bibitem{167} Id.
\end{thebibliography}
head of the Science Department of the Normal School. On the law faculty, Yohn held the title of "lecturer in medical jurisprudence."\textsuperscript{168}

The first classes in the law school began on November 14, 1879. It is difficult to determine the exact number of students enrolled during the School of Law's first-year of operations. "Normal Notes" in the November 20th \textit{Weekly Messenger} lists the names of the law class—a total of nine students, including two women. The December 18th \textit{Weekly Messenger} reports that there were thirty law students, and on April 8, 1880, that the "law class now numbers an even dozen." Another source states that there were fifteen juniors and one senior. The 1880 Commencement program for the Law Department lists eighteen juniors and one senior.\textsuperscript{169} The figure from the 1880 commencement program probably includes everyone who spent at least one term in the law department during the initial 1879-1880 academic year, a year divided into three terms of ten weeks each.

The senior listed in the program was John A. Whitmore.\textsuperscript{170} He has the distinction of being the first graduate of the School of Law. After graduation, Whitmore began practicing law in Nebraska. In an undated clipping found in the University archives, it is noted that Whitmore "enjoys a large and lucrative practice in Nebraska and that he had made the Law School a pleasant visit last week, giving a splendid talk at the Law Building."\textsuperscript{171}

There were no stated admission requirements when the law school opened. Once an applicant paid his fee for the term, he was admitted. There were two classes, a junior class (first year of law study) and a senior class (the second and final year of law study).

\begin{equation*}
\text{[If an applicant for the junior class sought admission to either the second or third terms, he was required to pass an examination indicating sufficient familiarity with the subject matter studied during the preceding term or terms. An applicant for admission to the senior class was admitted if he had finished one year of law study at another school, or had clerked in an attorney's office and}
\end{equation*}

\textsuperscript{168} N. IND. NORMAL SCH. ANNOUNCEMENT (Valparaiso, Ind.), 1882, at 3.
\textsuperscript{169} \textsc{LAW DEP'T COMMENCEMENT PROGRAM 2} (1880).
\textsuperscript{170} \textit{Id.}
\textsuperscript{171} \textit{Senior Law Brief, COLLEGE CURRENT} (on file with the VU Archives in the "Old School Files").
was "found competent" after examination by the faculty.¹⁷²

"The absence of admission standards or entrance qualifications was typical of most law schools in the last half of the [nineteenth] [c]entury. After 1849, even Harvard Law School required only that an applicant be nineteen years of age and of good moral character."¹⁷³ Friedman calls this the beginning of Harvard Law School's "dark age, which lasted until 1870."¹⁷⁴ In 1892, the ABA recommended that applicants for admission to the practice should have two years of law school before being permitted to write the bar examination, but it made no recommendations respecting requirements for admission to law school.¹⁷⁵ Indeed, a year earlier, the ABA's Committee on Legal Education went on record in opposition to a suggestion that a baccalaureate degree be a prerequisite to law school admission, and took the position that law schools should be open to all who have a good English education. The ABA Committee argued that the less educated needed the drill and discipline of law study, and that to shut law school doors to all but college graduates would be to turn away the very class that most needs the benefits of a legal education. Not until 1897 did the ABA recommend that applicants for admission to law schools have at least a high school education.¹⁷⁶

Despite the minimal or non-existent admittance requirements, DeMotte and Gillett demanded much of the students once they matriculated. It was DeMotte's position that anyone should be afforded the opportunity to acquire a profession. Although there were no requirements for admission to the junior class, the student still had to earn his degree.¹⁷⁷ This seeming inconsistency may have prompted the often-heard comment that the law school was too easy to enter, and too hard to get through. There was truth in this assertion even into the late 1960s.

¹⁷² Bartelt, supra note 86, at 26-27.
¹⁷³ Id. at 27.
¹⁷⁴ FRIEDMAN, supra note 85, at 610; see also CENTENNIAL HISTORY OF THE HARVARD LAW SCHOOL 1817-1917, 22-23 (1918).
¹⁷⁵ 15 A.B.A. REPS. 328, 329 (1892).
¹⁷⁶ 20 A.B.A. REPS. 33 (1897).
¹⁷⁷ Bartelt, supra note 86, at 28.
H. Teaching Pedagogy: Recitations/Textbooks

The new dean of the Harvard Law School, Christopher Columbus Langdell, began a revolution in the pedagogy of legal education in 1871 by introducing the casebook method of instruction together with a Socratic style of classroom discourse involving a professor and his students.\(^{178}\) Even so, most law programs continued to use a combination of textbook and recitation method along with in-class lectures by their instructors. Friedman points out that in time virtually all American law schools would adopt Langdell’s new pedagogy.\(^{179}\) For one thing, it was efficient. Law schools could have large classes as only a few students might be called upon in Socratic fashion in any given class, rather than having each student recite daily as was typically required under the earlier classroom pedagogy. It also permitted students to see into the minds of individual judges, to study their decisional thought processes, and to understand more clearly the interplay of theory and practice.

Despite these advantages, there was no rush to substitute the new system for the old. In fact, many schools continued to use the more familiar recitation/lecture approach for a quarter of a century or more after Langdell introduced the casebook alternative. Valparaiso’s law program was among those schools. There students would have to wait for a new dean before the Langdellian teaching pedagogy would be adopted.

The 1880 Normal School “Quarterly Catalogue” states: “Instruction consists of daily examinations; previously assigned portions of the adopted textbooks in connection with oral comments and explanations; lectures by members of the faculty and eminent members of the bar, and Moot Courts. Special attention will be given to familiarizing students with the practice of law.”\(^{180}\) The word “examinations” probably was used as a synonym for “recitations.” The catalog announcements also provided for examinations at the end of the academic year as a requirement for graduation and advancement to the senior class and provided for term examinations “when deemed necessary.”\(^{181}\) No explanation of “when deemed necessary” was given.

---

\(^{178}\) FRIEDMAN, supra note 85, at 612-13. 
\(^{179}\) Id. at 613. 
\(^{180}\) N. IND. NORMAL SCH. & BUS. INST. Q. CATALOGUE (Valparaiso, Ind.), 1890, at 18. 
\(^{181}\) Id.
I. An Austere Curriculum; An Austere House

The 1880 Law Department announcement sets forth the courses of study and textbooks to be used. In the junior year students studied *Kent's Commentaries*, *Washburn on Criminal Law*, *Stephen on Pleading*, and *Greenleaf on Evidence*. As seniors they would study *Parsons on Contracts*, *Cooley on Torts*, and *Washburn on Real Property*. Looking back from today's law school curriculum, this "basic" offering seems the essence of austerity, but it was not much different—if different at all—from the curricula of most other law schools of the era. Prior to the 1870s, lawyers had little personal injury business, but the spread of mechanized transportation, manufacturing, mining, and railroading made the personal injury field a major new challenge to the bar and to legal education. Few skills or practice-oriented courses were offered. DeMotte did organize moot court sessions which met on Monday and Wednesday evenings. Apparently, this fulfilled the "attention given to practice" promised in the catalogs of the era. One law student, writing in *The College Current* in 1899, noted, "the interest in moot court continues and we feel that it is the next thing to actual practice."\(^{182}\)

Three versions exist regarding where law classes met up until 1886. One source reports that they met in a storefront downtown; another suggests that they were held in a classroom in the Main College building on the College Hill; and still another claims that they met in DeMotte's own law office. In 1886, Professor Felix Ecblad, head of the Normal School's fine arts department, had a house built a short distance from campus near the corner of Greenwich and Monroe Streets.\(^ {183}\) Two years later, DeMotte purchased the house and had the interior remodeled. He then converted it into the law building with the name "Northern Indiana Law School" painted on its front. This structure housed the School of Law for almost forty years. Many photographs of it have survived; several show the law students assembled outside in front of the structure and sitting in its open windows, feet dangling toward the street below. An alumnus described the two story building as consisting of a classroom located on one floor and the library on the other.\(^ {184}\) The building had a stove, apparently the only source of heat in the winter. *The Current* reported that when spring came, "the boys would

\(^{182}\) *Moot Courts*, COLLEGE CURRENT (Valparaiso, Ind.), Apr. 15, 1899, at 10.
\(^{183}\) Bowden, supra note 52, at 2.
\(^{184}\) Oral History of Francis Tilton Weaver (n.d.).
congregate in front of the law building instead of in front of the stove."\textsuperscript{185} The "old house," as some called the law building, was sold to the city of Valparaiso in 1926. In 1938 it was torn down.\textsuperscript{186} Today, Professor Emeritus John Strietelmeier's home sits on the site, 355 Greenwich Street. After abandoning the "old house" in 1926, the School of Law was relocated to the then named Domestic Science Building, a three-story brick structure on College Hill, later to be renamed the Arts-Law Building, and later still, DeMotte Hall, after the School of Law's co-founder.

\textit{J. "One-Half the Expense"}

One of the most interesting aspects of the School of Law in its early years was the cost of a legal education. As mentioned earlier, President Brown offered his brand of education at bargain-basement prices. In its October 16, 1879, issue, the \textit{Messenger}, speaking editorially about the new law program, pointed out that law schools charged high fees, sometimes three or four times more than other disciplines, thereby putting legal education beyond the means of many people.\textsuperscript{187} President Brown, the paper continued, saw no reason why his philosophy of keeping costs as low as possible should not also be applied to law programs.\textsuperscript{188} Since high fees were an impediment that would make a legal education inaccessible for many, he believed that impediment must be avoided.

The 1879 bulletin regarding the opening of the law program states: "It is arranged so that the Law Course may be taken alone, or in connection with other studies. This will give students advantages superior to those of any regular Law School while the expenses will not be one-tenth as great."\textsuperscript{189} Brown probably overstated the comparison. The 1880 announcement extols the careful, thorough work done in the School of Law's first year as proof that the amount of money expended does not make the scholar. The student has all the advantages of any regular Law School and at an expense not one-fifth so great.\textsuperscript{190} In one year, Valparaiso's law program had gone from being one tenth as expensive to now only one fifth. Was inflation rampant in Valparaiso?

\textsuperscript{185} Notes, COLLEGE CURRENT (Valparaiso, Ind.), Apr. 15, 1890, at 10.
\textsuperscript{186} Workman Raze Old Law Building, THE TORCH (VU), Dec. 15, 1938, at 1.
\textsuperscript{187} Bartelt, \textit{supra} note 86, at 18.
\textsuperscript{188} Id.
\textsuperscript{189} See generally N. IND. NORMAL SCH. & BUS. INST. BULLS. (Valparaiso, Ind.), for the years 1879-1882.
\textsuperscript{190} See \textit{supra} note 189.
More likely, the 1880 School of Law catalog had contained hyperbola. By 1898, the School of Law’s publications began to state that the cost of a “law education can be obtained at less than one-half the usual expense,” adding that the Northern Indiana Law School “has enabled hundreds to make preparation for the law that otherwise could not have been done so on account [of] the high expense at other schools.”

Regardless of what the accurate comparison in costs was, students who studied law at Valparaiso obtained a legal education for an amazingly low price by late nineteenth century standards. Tuition for each ten-week term was only ten dollars, or one dollar a week, for juniors. Seniors had to pay the equivalent of one dollar thirty cents a week. Eighty-five dollars covered tuition, room, and board for an entire academic year. By contrast, a Chicago law school, unidentified in the Messenger’s October 16th editorial, charged eighty-six dollars for tuition alone, excluding room and board.

The numerical growth of the School of Law during its first decade was slow and erratic. There were ten graduates in 1881, in contrast to the lone graduate of 1880, but there were only four in 1882. Although records are incomplete, total enrollment in any year of the school’s first decade probably did not exceed forty, and during that period it conferred only about 100 LL.B. degrees.

K. Florence Higgins: A Legal Education Pioneer

During the 1890s—the second decade of the School of Law’s existence—enrollment increased dramatically. In response to both the larger enrollment and an expanded curriculum, DeMotte increased the size of the law faculty by fifty percent. Of all the appointments he made, the most historically significant was his hiring Florence Higgins as a member of the full-time law faculty. In June of 1898, Higgins graduated from the School of Law, the first woman to do so. Although other

---

191 Northern Indiana Law School Commencement, COLLEGE CURRENT (Valparaiso, Ind.), June 4, 1898, at 4; see also N. IND. L. SCH. ANNOUNCEMENT (Valparaiso, Ind.) 1899 & 1900, where on the front cover it is proclaimed that “A Thorough Legal Education Can Be Secured at ONE HALF THE EXPENSE.”

192 Northern Indiana Law School Commencement, COLLEGE CURRENT (Valparaiso, Ind.), June 4, 1898, at 18.

193 See N. IND. L. DEP’T BULL. (Valparaiso, Ind.), 1882; N. IND. L. DEP’T BULL. (Valparaiso, Ind.), 1881.

194 Graduates of 1898, N. IND. L. SCH. ANNOUNCEMENT 1899 & 1900, 1899, at 6. Florence E. Higgins of Valparaiso, Indiana, is on the list of thirty-two graduates of the class of 1898. Id.
women had previously commenced the study of law at the School of Law, Higgins was the first woman to earn the LL.B. degree.

Of greater historical significance, Florence Higgins was among the first women in America to hold a full-time teaching position on a law faculty. A note about her in a Northern Indiana Normal School publication titled Headlight in 1898 states that as a result of a reorganization of the law faculty, Florence Higgins was elected secretary of the department, adding that "she is the only woman on record who occupies such a [law faculty] position." It turns out that the claim was not correct. Florence Higgins, it seems, was one of three women who first taught on American law school faculties. Interestingly, all three began their law school affiliations at the same time—in the fall of 1898.

The other women were Ellen Spencer Mussey and Emma Gillett. The two founded the Washington College of Law in Washington, D.C. Their primary purpose in starting up this new law school was to provide opportunities for women to gain an academic legal education and become lawyers. The two women not only taught law courses, they also served as America's first female law deans. Although it was their intention to admit as many women as possible, from the beginning they admitted men as well as women. Among Mussey's and Gillett's motivations in founding the school were their own experiences with gender inequality, both having been denied admission earlier to Washington, D.C.'s predominantly all white, all male law schools. The one notable exception in the District of Columbia which admitted women was Howard University School of Law, which in those years was among a group of schools attracting primarily African-American students, known as "Colored" schools.

Although the accomplishments of Mussey and Gillett have been previously noted in historical accounts of American legal education,
Baepler's history of VU appears to be the first time that Florence Higgins' appointment to a law faculty has been historically noted.\footnote{See BAEPLER, supra note 4, at 75.} Robert Stevens, in the most comprehensive history of American legal education to date—Law School: Legal Education in America from the 1850s to the 1980s—points out that women were not welcome in the law school classroom. Noting that women had more difficulty becoming lawyers than doctors during the middle decades of the nineteenth century, Stevens explains that the medical profession at the time did not have licensing powers, but the lawyering profession generally did and was inclined not to admit women to practice law.\footnote{STEVENS, supra note 90, at 82.} The first woman to be admitted to practice law in the United States was Belle A. Mansfield, who was admitted in 1869 in Iowa, after having studied law in her home.\footnote{Lelia J. Robinson, Women Lawyers in the United States, 2 THE GREEN BAG 10, 20-21 (1890).} She never actually practiced law but instead became a professor and chairman of the history department at DePauw University in Greencastle, Indiana.\footnote{Id. at 21.}

Historian Lawrence M. Friedman, in A History of American Law, writes that women and blacks both “were truly outsiders” during the second half of the nineteenth century, both as members of the bar, and as students—let alone professors—in law schools; no women practiced law before the 1870s.\footnote{FRIEDMAN, supra note 85, at 639; see also Cynthia Grant Bowman, Women and the Legal Profession, 7 AM. U. J. GENDER SOC. POL'Y & L. 149 (1999).} Myra Bradwell was turned down for admission to practice by the Illinois Supreme Court because of her gender in 1869, a decision upheld by the United States Supreme Court.\footnote{Bradwell v. Illinois, 83 U.S. 130 (1872). Myra Bradwell later became editor of Chicago Legal News. For a good exposition of her own beliefs, see Myra Bradwell, Admission of Women to the Bar, 11 CHI. LEGAL NEWS 179 (1879). See also Virginia G. Drachman, Women Lawyers and the Quest for Professional Identity in the Late Nineteenth-Century America, 88 MICH. L. REV. 2414 (1990).} In a concurring opinion authored by Justice Bradley, it was claimed that:

the civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, a woman’s protector and defender. The natural and proper timidity and delicacy which belongs to the
female sex evidently unfits it for many of the occupations of civil life.206

Not so, proclaimed Florence Higgins’ actions at the School of Law in Valparaiso two decades later. Before obtaining her law degree in the spring of 1898, Higgins had earned a degree in elocution from the Northern Indiana Normal School’s Elocution Department. She then took further studies first at the Chicago Conservatory and at Chicago’s Schiller Dramatic School.207 President Brown offered her a teaching position in the Normal School’s Elocution Department in 1894. It appears that she attended law school and taught elocution and oratory simultaneously from 1896-1898. An 1898 issue of The College Current includes her picture. Under a heading titled “DEPARTMENT OF ELOCUTION AND ORATORY,” appears this brief entry:

This department is one of the most pleasant and satisfactory courses in the school... Miss Florence Higgins, who has recently had almost immediate charge of the work, is regarded as one of the best elocutionists and teachers of elocution and oratory in the west. She has had several years of training in the best schools in America. Being possessed with a great deal of natural ability and being highly intelligent and thoroughly educated she has been able to make the work in this department of the very highest order.208

In the same issue of The College Current, but this time under the heading “THE NORTHERN INDIANA LAW SCHOOL,” the photograph of Higgins again appears. The text beside it states: “In the ninth year of the [law] school Judge A. Lytle Jones was added, and later

206 Bradwell, 83 U.S. at 141. Nonetheless, three years prior to the Bradwell decision, Friedman and Stevens each observe that Arabella Mansfield was admitted to practice before the Iowa bar. One year later, a women named Lemma Bankaloo was allowed to try a case in a St. Louis court. Then, in the same year, 1870, Stevens claims that the first women to have actually received a law degree was Ada Kepley, who had graduated from Union College in Chicago (later Northwestern University). The first woman graduate of the University of Chicago Law School reportedly was Sophonisba Backinridge in 1904. Like Florence Higgins, she would later join a law school faculty.
207 Higgins, Dramatic Reader, supra note 195, at 15.
208 Department of Elocution and Oratory, COLLEGE CURRENT (Valparaiso, Ind.), Aug. 6, 1898, at 13.

http://scholar.valpo.edu/vulr/vol38/iss3/1
on, Attorney T.H. Heard and Prof. Florence Higgins." She was on the law faculty, but was she instructing law students in addition to her teaching in the department of elocution and oratory from 1898 onward? It is unclear. Her name is listed as a member of the Normal School faculty in a 1894 Normal School catalog and continues in catalogs of the Normal School through the 1904-1905 academic year. An earlier issue of The College Current observes that she served as "Toastmaster" of the evening at a School of Law dinner in 1898, and she "called the house together and in a graceful manner introduced the speakers." The article goes on to state that "Miss Higgins is a graduate of the class of '98. She is a popular member of the class and has received frequent testimonials of worth at the hands of her classmates."

Unfortunately, we know little more about Florence Higgins except that in 1899 she married Harold L. Butler, who was a Normal School professor and an instructor in voice in the Music Department. Professor Butler was a "Basso-Cantante" who sang opera in Italian, German, and English. An announcement of their wedding notes that it took place "in the home of the bride’s parents in Wanatah[, Indiana]." She is referred to by her new married name—"Mrs. Florence Higgins-Butler." It is interesting to note the hyphenation of her maiden and married names. Perhaps she was decades ahead of her time in many respects.

One thing is clear—law students liked her. The graduates of the School of Law class of 1907 praised her as a teacher who cared for her students. Her efforts would be remembered years later. In a "Memorial Address" given in 1955 at the unveiling of a monument dedicated to Colonel DeMotte, School of Law graduate William S. Hamilton of the class of 1902 spoke not only of DeMotte, but of his teachers, in particular—Florence Higgins-Butler. Noting that DeMotte also valued the "ability to read understandably," Hamilton explained that the dean had established an elective course in reading the law. "In my days in the college this course was taught by a beautiful and attractive woman professor, Florence Higgins Butler. . . . In my opinion

---

209 The Northern Indiana Law School, COLLEGE CURRENT (Valparaiso, Ind.), Aug. 6, 1898, at 9.
210 Notes, COLLEGE CURRENT (Valparaiso, Ind.), Apr. 15, 1898, at 4.
211 Butler-Higgins Wedding, COLLEGE CURRENT (Valparaiso, Ind.), May 27, 1899, at 10.
212 Id.
213 Lewis G. Roterin, Class President's Address, VAL. U. HERALD, June 5, 1907, at 10.
that course was almost as great a benefit to me as the courses in the legal
subjects.”

Hamilton went on to tell the story that in arguing before an
Oklahoma court, in his home state, “I read to the Judge the same
authority that opposing counsel had used. The Court ruled with me.
[My opponent] remarked Mr. Hamilton is a better reader than I am.
Florence Higgins-Butler taught me how to place the emphasis on words
to bring out the true meaning.” Although holding back no praise for
his teacher, it is interesting to note that Hamilton did hedge a little about
the value of the course when he said that the subject she taught was
“almost” as great a benefit as the substantive law courses. Then, in
1938, a retired Indianapolis attorney—VUSL alumnus Charles E.
Fensternacher—told VUSL students, “The most popular law class 40
years ago was Miss Higgins’ elocution class.”

In any event, the first woman to graduate from the School of Law in
Valparaiso, Florence Higgins-Butler, was also among the first women in
America to be appointed to teach on a law school faculty. She left VU
after her husband took a teaching position at Syracuse University.
There, Professor Butler was dean of the School of Fine Arts for twenty-
one years while his wife continued to teach. At the time they retired
together in 1847, they had taught a total of ninety-eight years between
them, he for fifty years at VU and Syracuse, and she for forty eight—a
remarkable story in itself.

L. Law Faculty in the Early Years

Other law faculty members of the first decades of the DeMottte era
deserve to be mentioned. Foremost was Judge Hiram A. Gillett. Judge
Gillett had been Judge of the thirty-first Judicial District in Indiana from
1873 until 1879. A graduate of the University of Vermont in 1853, he
studied law (presumably as an apprentice) in Buffalo, New York, where
he was admitted to the bar in 1856. Coming to Valparaiso in 1861, he
was elected judge of the Common Pleas Court. A few years later he was

215 Id. at 11.
216 Id.
217 Id.
218 Lawyers Favored Elocution in 90’s, THE TORCH (VU), Nov. 4, 1938, at 2.
220 Id.
221 Hon. H.A. Gillett, HEADLIGHT (Valparaiso, Ind.), 1898, at 15.
appointed by Indiana Governor Hendricks to the post of Circuit Judge for the circuit comprised of Lake, Starke, and Porter counties. Judge Gillett was one of the original three faculty members of the law school when it opened in 1879. He taught more courses and students than any other faculty member of the era. Serving on the faculty for twenty-five years until his death, he was remembered for being judge of the school's practice court. The students often wrote favorable accounts of the mock trials in issues of the Valparaiso University Herald and The College Current. Gilbert died in 1904. He was succeeded on the School of Law faculty by his son, the Honorable John J. Gillett, who had served several years as a Justice of the Indiana Supreme Court.

The Honorable Aaron Lytle Jones, who DeMotte appointed in 1887 to the law faculty, reportedly was one of the first members of the Porter County, Indiana bar and the first to study law in the county. Born in Ohio in 1835, he moved with his family to Porter County in 1847. He graduated from Indiana University in 1856, then studied law in Valparaiso with Samuel Anthony, and subsequently was admitted to practice. From 1863 through 1965, Lytle served as a Captain of Company E, 151st Infantry Regiment of Indiana in the Civil War. In 1882, Jones became senior partner in the Valparaiso firm of Jones, DeMotte, and Jones, DeMotte being the dean of the School of Law, and the latter Jones being A.L. Jones' son. DeMotte asked A.L. Jones to join the faculty (likely on a part-time basis) in 1889. Professor Jones remained on the School of Law faculty until his death in 1902. Well liked by the students, he was well read in the law. He and DeMotte were described as the "backbone" of the law school during the fifteen years of Jones' tenure. He taught real and personal property, remedies, and trusts.

Professor Jones appears to have taken a personal interest in his students' careers. In the fall of 1899 before one of his law classes, Professor Jones announced how proud he was that senior law student Louden L. Bomberger of Shippensburg, Pennsylvania, had just accepted

---

222 The information on Hiram Gillett comes from several sources, including notes of VU Archivist Katharine E. Bowden, issues of The College Current, and the Highlight, and from several VUSL catalogs.

223 Information on Aaron Lytle Jones also comes from several sources, including volume three of the Headlight (1898), issues of The College Current, especially the issue dated March 1902; and again, from written notes of VU Archivist Katharine E. Bowden. See Bowden, supra note 52.

224 Notes, COLLEGE CURRENT (Valparaiso, Ind.), Aug. 6, 1898, at 1.
an offer to join the Hammond, Indiana, law firm of A.S. Griffin. Louden L. Bomberger, a graduate of the School of Law class of 1900, years later would become president of the Indiana Bar Association.

About the same time DeMotte hired Jones, the dean made another addition to the law faculty, the Honorable E.D. Crumpacker. After attending the old Valparaiso Male and Female College, Crumpacker went to law school at Indiana University in Bloomington, known as Indiana State College at the time. He was admitted to the bar in 1879. After serving as a prosecutor for several years, he became judge on the Indiana Appellate Court from 1880 to 1890. In 1896, he was elected to the United States Congress. By 1898, Dean DeMotte had persuaded Judge Crumpacker to join the Valparaiso law faculty. Throughout his career, Crumpacker used his legal talents on behalf of Civil War veterans, who, in many cases, did not have the resources to pay for legal services. Crumpacker’s portrait adorns the cover of an 1898 issue of The College Current. He was highly regarded in the School of Law and in the Valparaiso community and was a much sought-after public speaker.

Finally, DeMotte added Stewart McKibbin to the faculty in 1904. McKibbin later became a prominent South Bend attorney and superintendent of the South Bend Public Schools. Others DeMotte added to the faculty during the period included William Daly, William Dowdell, and T.H. Heard.

DeMotte had enlarged the law faculty in part because he was expanding the School of Law’s curriculum. Except for the addition of Negligence and a course on Bills and Notes (the predecessor of commercial paper) in 1887, the curriculum had remained essentially the same during the School of Law’s first twelve years. In 1890, however, DeMotte effected major curricular changes. He extended the school year from three to four terms. Virtually all of the previously-offered courses were retained, but instead of being offered over two years, now most were offered in the junior year together with a new course on Code Pleading (some four decades after New York adopted its “Field” Code of

225 Letter to Floyd Draper, President, VUSL Alumni Association & John Morland, Dean, VUSL (mid-1930s).

226 Information on E.D. Crumpacker comes again from notes of Archivist Katharine E. Bowden, issues of The College Current, and VUSL announcements and catalogs.

227 Hon. E.D. Crumpacker, COLLEGE CURRENT (Valparaiso, Ind.), July 16, 1898, at 1.

228 See N. IND. L. SCH. ANNOUNCEMENT (Valparaiso, Ind.), 1890, at 1-6.
Civil Procedure). DeMotte then added several new courses to the senior second-year program, including: Wills, Remedies, and Interstate Law (an earlier designation for Conflicts of Law).

M. Early Alumni: Senator George W. Norris et al.

By the end of its first two decades, the School of Law had produced numerous successful lawyers and leaders who took their professional training coast to coast. Included were a dozen state appellate court or supreme court justices, five United States senators, four state governors, seven members of the United States Congress, and scores of state legislators, including five members of the Oregon Legislature, four serving as state senators at the same time.

The best known alumnus of the early years was George W. Norris, who served a combined forty years in the House of Representatives and the United States Senate. Born in 1861 in New York, and subsequently raised with other siblings on a farm in Sandusky County, Ohio, George at the age of three was left without a father, who died following a carriage accident. Although his mother “struggled” to raise the children by herself, she did an amazing job. In time, George would go off to a law school in neighboring Indiana. After that? Well, probably neither she nor he could have imagined.

Considered a populist liberal and fiercely independent Republican throughout his public career, George W. Norris helped bring about significant reforms and new institutions for the country. He was elected to the United States Senate from the State of Nebraska in 1913, twenty years after graduating from the School of Law in Valparaiso. He may be most remembered as the “father” of the Tennessee Valley Authority, which he had pushed hard to get through Congress.

He also was one of the principal sponsors of the Lame Duck Amendment to the United States Constitution. And he was well respected or disrespected, as the case may be, for his opposition to the League of Nations, as well as for his pushing the passage of pro-labor...
legislation named in part after him—the Norris-LaGuardia Act.232 Regarding the latter, Senator Norris was a strong advocate for correcting the alleged wide-spread abuses in labor relations. These included what were called "yellow dog contracts" by which workers signed away all rights to organize or engage in any concerted effort to seek better conditions and higher wages under pressure from their corporate employers.233 Another was the alleged wide-spread abuse of discretion by courts routinely granting requests of corporations which would seek prohibitory injunctions against American workers whenever they attempted to organize or conduct workplace concerted actions. One of the other senators Norris worked with on the labor act was Wisconsin Senator John J. Blaine, also a School of Law graduate.234

In his autobiography, Fighting Liberal, Norris describes his days as a student at Valparaiso. He writes:

[Valparaiso University] in many respects was a remarkable institution. At that time it was the largest normal school in the United States . . . . It was known as the "poor boys' school": hardly a student enrolled [who wasn't] working his way through.

Very few of the pupils came from rich families. As a result, there was on the campus of Valparaiso a spirit of democracy and of deep companionship; and I was not long in recognizing that my associations there were to have a profound influence on my life. I have met graduates of this institution, which is now known as Valparaiso University, in all parts of the United States.235

Norris received two degrees at Valparaiso, the first in 1881 from the Northern Indiana Normal School, and the second, in 1883, from the School of Law. In the Normal School, Norris took courses in elocution and oratory and was elected president of the Normal School's oratory

233 NORRIS, supra note 231, at 308-17; see also MCKENNA, supra note 102, at 170-80.
234 MCKENNA, supra note 102, at 175; NORRIS, supra note 231, at 316. Speaking of fellow VUSL alumnus John Blaine, Norris wrote that Blaine "was as free from prejudice as any man I ever have met." NORRIS, supra note 231, at 316.
235 Id. at 33-37.

http://scholar.valpo.edu/vulr/vol38/iss3/1
club, then known as the Claytonian Society. After obtaining his degree, he entered the two-year law program, graduating in 1883.236

During his student days at VU, George Norris resided in Flint House on College Hill.237 After graduating, he would not return until 1943, when as United States Senator Norris he gave the University commencement address. Among the VU law alumni, he pointed out in his speech, "were lawyers from nearly every state in the Union."238

Another Valparaiso graduate elected to the United States Senate was a classmate of Senator Norris—Senator Andrieus A. Jones, a Democrat, of New Mexico. Senator Deneen of Illinois was the third VUSL graduate reportedly elected to the U.S. Senate. Senator Samuel J. Ralston was the fourth. Senator John J. Blaine of Wisconsin,239 who graduated from the Northern Indiana Law School in 1896, was the fifth. Senator Blaine also served as the elected Governor of Wisconsin for six years, beginning in 1920, the same year that law school alumnus Len J. Small was elected Governor of Illinois. J. Frank Hanly, another VUSL graduate, served as Governor of Indiana, while still another early graduate, Flem D. Sampson, class of 1894, was elected Governor of Kentucky and served from 1927-1931. According to Baepler, seven graduates from the school’s first two decades were elected to the House of Representatives. The Valparaiso University Herald notes that VU President Brown had traveled to Washington, D.C., where he was "royally entertained by five former law boys who are United States Congressmen now." One was Albert H.

236 Senator Norris at Valparaiso, THE VALOON (VU), Apr. 1921, at 18 [hereinafter Norris at Valparaiso]; see also Kathleen L. Jacob, Alumni in Focus: George William Norris, Class of 1882, THE AMICUS (VUSL), Summer 1992, at 17.
237 NORRIS, supra note 231, at 36. "One of the things I remember is Flint Hall [later House] ... which provided furnished rooms and board for men for $1.40 a week." Id. A few decades later, the structure would house the Government Department under the chairmanship of Professor Albert Wehling, a law-trained gentleman who had served several years on the School of Law faculty. Having earned a juris doctor degree from the University of Illinois College of Law, Wehling supported the School of Law throughout his years at Valparaiso, encouraging many undergraduate students to go to law school (among them, the author of this history).
238 Norris at Valparaiso, supra note 236, at 18.
239 Senator Blaine’s younger brother, Samuel E. Blaine, graduated from the School in 1903 and joined his older brother to form the firm of Blaine Bros. in Bascobel, Wisconsin. See Senior Law Briefs, COLLEGE CURRENT (Valparaiso, Ind.), Nov. 1902, at 4.
Vestal of the class of 1894, who represented the Eighth Congressional District of Indiana.\textsuperscript{240}

Valparaiso law-trained state supreme and appellate court justices included Justice Daniel N. Stroup of the Utah Supreme Court, class of 1888; Chief Justice D.N. Strang of Utah, class of 1896; Chief Justice Augustus Thomas of the Court of Appeals of Kentucky; Justice S.E. Ellsworth of the North Dakota Supreme Court, class of 1891; Justice Claude Dúval of the Oklahoma Supreme Court, class of 1902; Justice Walt H. Evans of the Oregon Supreme Court; and Justice Frederick R. De Young of the Supreme Court of Illinois. VUSL alumni have served on the Indiana Supreme Court, including Justice Alfred Pivarnik, class of 1951, and Floyd Draper, who served as Chief Justice of the Court. In 2003, a VUSL graduate, Justice Robert D. Rucker, class of 1977, became the latest to serve on Indiana's highest court. Moreover, Justice Rucker is the second African-American VUSL graduate to hold this position.\textsuperscript{241} Several alumni have served on the Court of Appeals of Indiana including Justice Rucker; Justice Draper; Wesley W. Ratliff, Jr., class of 1950; George B. Hoffman, Jr., class of 1951; William G. Conover, class of 1951; and Nancy Vaidik, class of 1980.

According to the \textit{Valparaiso University Herald} of October 14, 1910, with Justice Strang's appointment as Chief Justice of Utah, he had the distinction of being the ninth Valparaiso law graduate to become a chief justice of a state supreme court.\textsuperscript{242} VUSL alumni held other public offices as well. Caleb Powers, for example, who graduated in 1894, was subsequently elected Secretary of State of Kentucky.

Not all early law alumni went into law practice, on the bench, or into government service. Some went into teaching. Besides Florence Higgins-Butler, Grant Orr went to Chicago and became head of the Chicago College of Commerce. Others returned to the Normal School and taught in various departments including commerce and science. Many of the Valparaiso alumni had come off farms, and some of them would end up in big cities. One example is D.H. McGilvray, who,

\textsuperscript{240} The sources for this paragraph include issues of \textit{The College Current} and \textit{The Valparaiso University Herald}, letters on file with the VU Archives, and various newspaper clippings, also on file with the VU Archives.

\textsuperscript{241} See Letter from H.M. Evans, President, VU, to Will Brown, Senator of Indiana (Feb. 10, 1925) (listing "famous" graduates); see also North Dakota Alumni Association, VAL. U. HERALD, Jan. 20, 1911, at 9; General News, VAL. U. HERALD, Oct. 14, 1910, at 4.

\textsuperscript{242} General News, supra note 241.
according to the August 1899 Northern Indiana Normal School Commencement Program Souvenir, *The Fine Arts*, had been raised on a farm in Iroquois County, Illinois. Having graduated from the School of Law with high honors, he subsequently was admitted to practice before the United States Supreme Court. He practiced law in offices located in the old Chicago Title and Trust Building at 100 North Washington Street.243

One other alumnus of some national repute should be mentioned—Judge Arthur J. Lacy. He was only twenty years old when he graduated from the VUSL in 1896. After serving as an Indiana judge for several years, he went to Detroit and joined an existing firm. In representing the minority Ford stockholders in the $40,000,000 Couzens-Mellon controversy, he earned a national reputation as a tax specialist, later helping out many banks that failed during the Great Depression, becoming known as the "Doctor of Sick Banks."244

There is one interesting alumni note in the June 1903 *Record*. It was reported that one John B. Dandrige, a VUSL graduate, had changed positions in Chicago. Leaving the firm of Masterson, Haft & Dandrige, he had obtained an office in the suite of Clarence S. Darrow, 1202 Ashland.245 A biography of Clarence Darrow does not mention Dandridge. Taken together, the little information available suggests that the syntactical ambiguity of the story in the *Record* leads to an inference that Dandridge may have been "renting" office space rather than working together with Darrow in the practice of law in this "office."246

N. Erle Stanley Gardner

Perhaps the most famous student of the School of Law who did not graduate, who in fact was in attendance for only a few weeks, was Erle Stanley Gardner, the author of the Perry Mason novels. Historian Baepler reports that Gardner "studied law at VU for several weeks before fleeing after a fight with an instructor."247 The real story was told

244 Judge A.J. Lacy to Address Seniors at Commencement; National Legal Figure Known as "Doctor of Sick Banks" Here Next Week, *The Torch* (VU), June 3, 1932, at 1.
245 Briefs, *College Current* (Valparaiso, Ind.), June 1903, at 5.
247 Baepler, *supra* note 4, at 84.
in an article in the *Atlantic Monthly Magazine* and retold in the law student newspaper *The Forum* as follows:

Gardner was admitted to the School of Law in 1909; he loved boxing and practiced the sport frequently in his dormitory room. [An instructor] entered Gardner’s room one evening and threw out boisterous students who had gathered; one student (not Gardner) refused to leave and the prof threw him out physically; in revenge, Gardner and his friend tried to have the prof arrested for being the aggressor; shortly thereafter, Gardner found out there was a warrant out for his arrest in connection with a bottle-smashing rampage that had taken place shortly before in the halls of his dormitory; claiming his innocence, yet fearing he would be forced to perjure himself in court or break the “code” in order to protect his friends who had been involved in the rampage, Gardner abruptly snuck out of town; [he] ended up in California where he studied law on his own; he was admitted to the California bar in 1911 at the age of 21 . . . in 1933 Gardner published *The Case of the Velvet Claws*, a story in which a lawyer named Perry Mason brilliantly solved an impossible case; thereafter, he published scores of Mason stories as well as other detective novels; in all he wrote over 135 books . . . . Gardner died in 1970 at the age of 80; as for Valpo [School of Law] Gardner was quoted in the *Atlantic Monthly* as saying, “I learned more law there in a period of three or four weeks than ever learned anywhere.”

O. Women and Minority Law Students

From the day Henry Baker Brown opened the doors of the Northern Indiana Normal School in 1873, it was understood that the school welcomed men as well as women and people of all ethnic, financial, and educational, but not racial, backgrounds. Despite the ratification in 1870 of the Fifteenth Amendment to the United States Constitution guaranteeing “Negroes” the right to vote, the Normal School did not

---

admit or welcome them. Stimpson, in his history of the University, notes without explanation that none were enrolled at the Normal School during the first three decades of its existence.

Valparaiso was not the exception. VU was discriminating on the basis of race as were most schools of higher education after the Civil War, including nearly all law schools. The first "Negro" to graduate from an American law school was George Lewis Ruffin, who graduated from Harvard Law School in 1869. From the time the School of Law opened in 1879 though 1928, the years of Deans DeMotte and Bowman, very few African Americans were being admitted to law schools anywhere in the country except for those designated "colored." From 1917 through 1925, the VU Bulletin had a sentence that read that the University had "no accommodations for Negroes or students below the age of sixteen." It was not until 1947 that the first African American was admitted to the School of Law.

In reality, few African Americans lived in northwest Indiana prior to World War I, according to historian Powell A. Moore. In 1910, eight resided in Porter County, increasing only to seventeen by 1930. And for the many Blacks leaving the South after World War I and coming north to Indiana, they found the communities of Hammond, Gary, East Chicago, Valparaiso, and Whiting as segregated, if not more so, as the communities they had left. By 1930, Gary’s Blacks numbered nearly 18,000, but the city was strictly segregated. As one example, Negroes were not permitted to be in Marquette Park along Lake Michigan by order of the Gary Park Board.

Thousands of African Americans migrated from the southern states during and after reconstruction to northern cities including Chicago and Detroit, but there were few industries or large employers hiring Blacks in

249 STRIETELMEIER, supra note 14, at 33. The only restrictions on admission were that the applicant had to "be at least sixteen years old and not a Negro." Id.
250 See Reed, Public Profession, supra note 114, at 423-30.
251 This name was Hilbert L. Bradley, and he became the first African American to graduate from the School of Law in 1950. See infra Part IV.S.3.a.
252 MOORE, CALUMET REGION, supra note 14, at 386.
253 Id.
254 Id. at 390-91.

Produced by The Berkeley Electronic Press, 2004
northern Indiana until after 1920. Judge Elbert H. Gary, president of the then infant U.S. Steel Corporation, did not start construction of the "Gary Works" until 1905, and the plant did not begin operations until after 1908. Up until about 1930, African Americans in the region were few in number. Nothing suggests that any applied to the School of Law.

Lists of student graduates during the early decades do reveal, however, a sizeable number of Hispanic names. Catholics and Protestants of all denominations were in abundance. Probably the largest ethnic backgrounds were German and Irish, although Polish, Scottish, English, and a few Scandinavian names could be found. Later, immigrants in large numbers would enroll.

Moreover, it appears that women were present on the first day the School of Law opened. One report lists two women as being included in the incoming "junior" class of nine students in the fall of 1879. But there is no indication that either woman graduated. As discussed above, Florence Higgins received an LL.B. degree from the law school in 1898. A listing of her classmates suggests that another woman may have also graduated with her, but it is difficult to tell. For one thing, many of the names in use at the time could be either feminine or masculine, for example, Jessie, Marion, Asa, and Ora. A far more serious difficulty in discerning how many women were included in any given class was that the majority of students' names were listed by their last names and only initials for their first and middle names. It turns out that C.M. Hane was "Mrs." C.M. Hane of the class of 1899; so too, E.A. William was Mrs. E.A. William of Minnesota.

A few of the women were the subjects of articles. Mrs. C.M. Hane, mentioned above, was the only woman in the School of Law graduating class of 1899. In an issue of The College Current dated April 28th of that year, her picture adorns the cover. A story about her says that although born in Indiana, she moved with her family to central Kansas where she "grew to young girlhood before the central part of the state had fully emerged from the cowboy period." Her father, O.M. Thorp, was a judge and an extensive land owner, and later was president of a
Kansas Bank. In the early 1890s, she married C.M. Hane, who edited a newspaper in Knox, Indiana. The story notes that Mrs. Hane "is possessed of some of the characteristics that designate the 'new woman,' but without their hobbies—[she] does not believe in nor advocate female suffrage." Her maiden name was Eliza E. Thorp, but apparently she was commonly referred to as Mrs. Hane.261

One year later in 1900, another woman, Elizabeth Holste, earned her law degree, again the only woman in her class. Born in Watertown, Wisconsin and graduating from high school at the age of fifteen, while at the School of Law she was described as "modest, refined and accomplished."262 Miss Holste was unanimously elected president of her class in 1898.263 Unmarried, it was said that she planned to practice law in Dodge County, Wisconsin. Like many students studying law at the time, she took the bar examination months before graduating and was said to have received the highest score among a group of fifty who took it at that time.264 Very popular among her classmates, she was elected to give the official toast at the May 1900 graduation exercises. She ended her remarks with the following words:

[M]y classmates, as we go out into the world and enter the high and noble calling of which we have chosen for our life's work, let us live so that our Alma Mater need never feel ashamed of us, but let us, each one, act well his part and thus preserve the honor and glory of the Class of 1900.265

Subsequently, she married a classmate, Charles A. Kading, took the name Elizabeth Holste-Kading, and practiced together with her husband under the firm name of Kading and Kading in Watertown, Wisconsin.266

Another remarkable woman, Vada Harvey, graduated in the 1907 law class. Harvey was born in the Washington, D.C. area.267 "Keeping pace with the men, nay, surpassing, leading them, lending the refining
influence, toning down the rough edges in their lives, unconsciously calling forth the manhood in every one of them, came a girl from the boundless West, Miss Harvey."268 Her surviving son, a lawyer in Napoleon, Ohio, tells us that she played as a child with President McKinley's children while they were growing up. As a young woman, Miss Harvey decided to become a lawyer but discovered, just as Mussey and Gillette had found earlier, that law schools were not hospitable to women applicants. She learned about Valparaiso, applied, and was admitted. While attending the School of Law, she met another law student who had initially aspired to be a teacher, but then had switched to law. His name was George Meekison of the VUSL class of 1908. Vada and George married for life. She passed the Ohio bar examination in 1926 and practiced law with her husband, George, for more than forty years, retiring in 1969. Vada Harvey Meekison died at the age of ninety-seven.269 Today, her portrait hangs on the walls of the St. Louis Seminar Room of the new Wesemann Hall.270 She was the first VUSL alumni to be included in Who's Who of American Women.271

Other women law students mentioned in clippings around this time were Mrs. E.A. William of Minnesota, Sarah Rarey, Miss Grace L. Griffith, Miss Harriott Thornbo, Miss Myrtle Chaspelle, and Sarah McCurdy. When Colonel DeMotte died in 1908, a woman, Martha E. Lattimore, was attending classes. Miss Lattimore did not graduate, however, leaving the School of Law after her junior (first) year of law studies. Two other women who obtained Valparaiso University law degrees in 1908 were Mrs. H.G. Young, who was elected historian of her graduating law class, and Mrs. Edgar G. Hall, elected Vice-President of the same class.272 Mrs. Hall was very popular with her classmates and had a "brilliant record in her legal course."273 The same issue reports that Mrs. Hall and Mrs. Young, both described as "the talented and gifted young ladies on whom the degrees of Bachelor of Law will soon be conferred, gave a reception at the palatial residence of Mrs. Hall, in

---

268 Id. at 2.
269 The information in this paragraph is based on information obtained by Ms. Marilyn Otis, Director of Alumni, Valparaiso University School of Law, in conversations with the son of Ms. Harvey in early 2003, and in an email from Ms. Otis to the author, a copy of which is on file with the VU Archives.
270 VUSL "Hall of Fame" Returns After 87 Years, THE AMICUS (VUSL), Fall 1994, at 23.
272 Notes, VAL. U. HERALD, Apr. 11, 1908, at 3, 7-8.
273 Taylor Bennett, The Election, VAL. U. HERALD, Apr. 11, 1908.
honor of the faculty and graduating class." Upon request, she played a Mozart piece on her piano, "[h]er musical talent [being] well known throughout the city."

P. Student Activities

There were no fraternities, dances, or organized University-sponsored inter-collegiate athletics at the School of Law during its first twenty-five years. DeMotte's attitude about such activities reflected the hard-nose, down to earth philosophy of Brown and Kinsey. Law study was a somber business. Even social times were serious and educational in nature. In addition to the attending and preparing for classes, recitations, and moot courts, there was not much time for other activities with one notable exception. Each year as many as six "Public Exercises" were held at the School of Law. These were evening semi-formal banquet affairs where, after dinner, students would deliver orations on patriotic, historical, international, political, and, occasionally, legal topics. In a given year, the Public Exercises would typically include a "Jackson's Day" in January, a "Washington's Day" in February, Memorial Day at the end of May, a Graduation Day in June, and an "American Day" in November or December. In many years, one or more of these days would simply be referred to as "Hero's Day."

The law students competed to be included among the "orators" for these exercises. Typically, three students would be chosen from each class to present their speeches. The topics had to relate to the evening's theme, for example, to President Andrew Jackson's life or accomplishments in the Army or in Washington. The College Current reported on these orations in detail, often noting at the outset that "an

274 Reception, VAL. U. HERALD, Apr. 11, 1908.
275 Id.
276 An undated Announcement: Public Exercises of the Year, in the VU Archives, lists four such exercises for that particular academic year: "American Day" in December, "Jackson's Day" in January, "Washington's Day" in February, and "Memorial Day" in May.
277 Examples of reports detailing the orations of these "public exercises" may be found in numerous issues of The College Current from 1898 through 1907. See, e.g., Frank J. Wilkins, One of the Orators at the Washington's Birthday Exercises, COLLEGE CURRENT (Valparaiso, Ind.), Mar. 1902, at 12; Hero Day Exercises, COLLEGE CURRENT (Valparaiso, Ind.), Jan., 1902, at 4-6; Contest Among Law Students to Be Orators at Hero Day Exercises, COLLEGE CURRENT (Valparaiso, Ind.), Jan. 27, 1900; Washington Day Exercises, COLLEGE CURRENT (Valparaiso, Ind.), Mar. 4, 1899, at 7-8; Heroes' Day Exercises, COLLEGE CURRENT (Valparaiso, Ind.), Jan. 21, 1899, at 7-9; Washington the Hero, COLLEGE CURRENT (Valparaiso, Ind.), Feb. 26, 1898, at 4-5.
eager crowd anxiously [was] awaiting the words of patriotic praise to fall from the lips of the class orators." A member of the music faculty would play a march and the class orators, three from the junior class and three from the senior class, would march on to the stage in the auditorium. Summaries of the students' presentations were made by law faculty members and reprinted in The College Current along with a short biography of each speaker. It was considered a great honor to be selected to give one of these orations.

There were other social societies open to law students. The two largest in the University were the literary societies known as the Star and the Crescent. They typically would sponsor evening debates, the Star's taking place on Friday evenings and the Crescent's on Saturday evenings. Law students were active in these societies and often headed the debates. Two other groups—the Southern Society and the Catholic Society—are mentioned frequently in the literature of the period. The Southern Society consisted of University students, including those studying law, whose homes were in the south. And there were many. According to a January 27, 1900 issue of The College Current, the Southern Society began with twenty students several years earlier, but by 1900 there were about 1,500 members. Frank Cardwell was president of the society in 1899, and a law student, W.S. Turman of Waco, Texas, was another officer. In that same year, it was reported that members came from Alabama, Arkansas, Florida, Louisiana, Mississippi, Missouri, Texas, and West Virginia.

The Catholic Society grew to a large organization of Roman Catholic affiliated students. It held banquets and meetings where speakers, usually including priests, would give addresses to those assembled. These were frequently summarized in The College Current. The largest religious organizations on the campus during these decades were the YMCA and YWCA. The latter, according to Baepler, had the most elaborate facilities and programs, including a reading room, gymnasium, and showers. A smaller number of Jewish students joined the Menorah Club. The Club remained active through 1920.

Religion was a part of most students' lives. Baepler writes that "everyone attended church." Dean DeMotte, a life-long Methodist, was

278 See supra note 277.
279 The Southern Society, COLLEGE CURRENT (Valparaiso, Ind.), Jan. 27, 1960, at 8.
280 See, e.g., The Catholic Society, COLLEGE CURRENT (Valparaiso, Ind.), Apr. 15, 1899, at 4.
"an active Sunday school [teacher] and church worker," so declared an issue of *The College Current*. DeMotte was often a speaker at "The Normal Bible Class," conducted on Sunday evenings at Valparaiso's Methodist Evangelical Church. As noted earlier, President Brown regularly attended the Valparaiso Disciples of Christ Church. Meetings, conferences, oratories, debates, graduations, and all ceremonial functions began with the giving of an invocation. It appears that religion was an important concern to both students and faculty of the law school during its early decades. The University did encourage religion and officially sponsored chapel services.

One of Valparaiso's most popular religious leaders during this period was the minister of the First Presbyterian Church of Valparaiso, and his name, this is true, was the Reverend Martin Luther. The January 27, 1900 issue of *The College Current* notes that Reverend Martin Luther "Preached to Lawyers" recently and sets out much of the sermon Reverend Luther presented to the law students. *The College Current* reports that Reverend Martin Luther spoke to about 100 lawyers on the topic, "Bring Zenas the Lawyer."

Turning from pious religion to mischievous behavior, on June 5, 1907, four student groups—the "Lawyers," the "Commercials," the "Medics," and the "Pharmies"—challenged another group of students, the "Scientific Giants," by raising a flag which apparently was insulting to the "scientifistics." Presumably the flag was on or adjacent to the Law Building. To put the pending battle in perspective, each spring, groups of Normal School students customarily squared off against each other, either in roust-a-bouts—pushing and shoving contests, which sometimes involved trying to capture each other's school flag or even "goat"—or even in brawls. This non-lawyer-like activity started in the mid-1890s and became an annual end-of-the-year, letting-off-steam event. The June

281 *Col. Mark L. DeMotte, COLLEGE CURRENT* (Valparaiso, Ind.), Dec. 17, 1898, at 5.
282 See, for example, the program for a Sunday evening Normal Bible School Class, where the "Hon. M.L. DeMotte" was scheduled to give the address for the evening on "The Methodist Church." This printed announcement is on file with the VU Archives.
283 *Preached to Lawyers: The Rev. Martin Luther Addresses the Legal Fraternity of Valparaiso, Ind., COLLEGE CURRENT* (Valparaiso, Ind.), Jan. 1900, at 8.
5, 1907 student ruckus stands out because it was memorialized in an anonymous poem—"The Victory." The poem reads in part:

Early one morning on the fifth of June,
There stood a gas pipe in the twilight gloom.
At the top of this pipe waving on high,
Was a little flag which made the Scientifics sigh;
For on the flag in black letters so bold,
Was written a word which need not be told...
And when they had gotten all their giants together,
(All birds of a feather will flock together),
They came trembling, marching up the street,
And as soon as we saw them we saw their defeat....
From left to right we flung them aside;
And finally subdued them, which lessened their pride.
And now when we chance to meet them on the street,
They look kind 'o sneeken as tho they'd taken a back seat.
How we licked them boys, I tell you it was a sight;
For even the giants thot it a fright.
Several of these giants went shirtless home,
And I heard several say "I wish I had let that flag alone."
But we are sorry, Scientifics, very sorry indeed,
That you did not, and would not, and could not succeed.
But when you take up the great battle of life,
We hope you won't fail as you did in this little strife.

An earlier poem in the VU archives appears to have been authored by an anonymous pharmacy student. Dated 1900, the poem is titled "How It Happened" and concerns an alleged attack by the "lawyers" on the "pharmies" to obtain an old pharmacy department flag, which the pharmies got back in shreds. As difficult as this may be for the reader to appreciate, it doesn't come up to the level of the 1907 poem set out above.

284 The Victory was written by an unidentified student, who signed: "By one who helped subdue the wonderful giants." A copy of the single-page typed poem is on file with the VU Archives.
285 Now we know why the scribbler's a no-name; for when read and said, his poem's a shame.
286 See How It Happened, a two-page typed unsigned poem, on file with the VU Archives.
Another item, this one found in The College Current dated March 18, 1899, has a humorous twist. It said that a senior law student, Erwin L. Sweet, "committed a very serious offense last week and may be expelled from the class." What had he done? He had "committed matrimony without asking permission of the faculty or of the class. The bachelors of the class are very indignant, but Mr. Sweet advised them to go and do likewise and it is hoped they will bury the hatchet and accept his advice." Although apparently written with tongue in cheek, it was the custom to ask the dean for permission to get married.

By 1905, baseball in the spring had become very popular throughout the University. The School of Law annually would put together a team known as the "Lawyers" and have weekly games against other groups of students, including the YMCA, the "Scientifics," and the "Pharmies." At the end of the spring 1908 season, the Valparaiso University Herald reported the final standings. The Lawyers had earned last place, having won three games while losing six. The champion that year was the YMCA.

Q. Largest Law School in Indiana

The 1890s were rough years for the American economy. A deepening depression and the disastrous Pullman strike of 1893 had Americans on edge. The Pullman strike, which began in Chicago, at one point spread to twenty-seven states and twenty-three railroads. President Grover Cleveland felt compelled to send in federal troops to break the nation-wide work stoppage. Yet, for the Northern Indiana Normal School and its Northern Indiana Law School, the decade was one of spectacular growth. This growth phenomenon reflects a truism of sort: "bad times" for the economy generally, but not always, are "good times" for higher education, particularly professional education. During the first few years of the twenty-first century, America's law schools have experienced once again a rising tide of applications as the nation's general economy experiences a sluggishness, bordering on deflation. During the last severe period of deflation in the United States—the 1930s and the Great Depression—law schools suffered along with the rest of the economy.

287 Law Notes, COLLEGE CURRENT (Valparaiso, Ind.), Mar. 18, 1899, at 10.
289 Id.
290 See infra text accompanying notes 794-802.
Although Valparaiso's School of Law student population fluctuated during its first dozen years, the School of Law enjoyed a steady increase in enrollment during its second (the century's last) decade. This increase occurred despite extension of the law school year—an additional ten weeks—which not only increased the minimum total cost for tuition, room, and board from $85 to $108, but also cut drastically into the time available between academic years during which students might work to finance their education. As the School of Law catalogs of the period curtly put it: "No Vacations—No Holidays." And this was no idle statement. For many years, the only holiday observed at the School of Law was Christmas.

At the turn of the century, the School of Law enrollment hit 170 compared with Notre Dame's Law School enrollment of approximately seventy students. For the next few years, the School of Law had the largest enrollment of any law school in the State of Indiana.

One might speculate that the School of Law's large enrollment resulted from its reputation for having a quality program in comparison with its competitors at that time. But the more probable explanation is that VUSL's low cost of a legal education in comparison with nearly all other schools was its principal attraction. Graduates were too few in number and too dispersed to make much of an impact on its general reputation or on recruitment efforts in those early years. Rather, advertisements placed in Chicago newspapers emphasizing the comparatively small cost of studying law at VUSL appeared to have been successful in attracting many students of the time.

One could further speculate that the School of Law's expanded curriculum attracted students. It certainly was a step forward for the School of Law, but little is known about its perceived quality. Evidence suggests that Valparaiso's law program was quite respectable, yet how well it was known or received beyond the campus boundaries is difficult to assess. One source may supply a partial answer. An 1898 pamphlet describing the Normal School and its departments says its law graduates were admitted to practice in the state courts and then, upon recommendation from the School of Law, to the supreme courts of the

See, e.g., N. IND. L. SCH. ANNOUNCEMENT, 1904-1905 (Valparaiso, Ind.); see also The Northern Indiana Law School, Expenses Less Than at Any Other School, COLLEGE CURRENT (Valparaiso, Ind.), Feb. 1902, at 14 ("A year in this school consists of forty consecutive weeks without vacation or holiday.").
various states in which they were admitted to practice. The entry concludes: "Attention is called to this to show that those who are in authority are satisfied with the character of the work done." It was customary in those years for all the graduates to be admitted at graduation to both the Indiana bar and to the United States Circuit Court that sat in Chicago, later to be named the Seventh Circuit. On more than one occasion, Associate Justice L.J. Monks of the Indiana Supreme Court administered the oath for students' admittance to practice before the courts of Indiana.

In short, the law program at Valparaiso at the turn of the century probably was as good as most and better than some. One thing seems certain—the magnet was President Brown's reputation for providing an education at mass-production prices, a philosophy, which was no less applicable to the School of Law. In time there would be sufficient numbers of Normal School graduates, particularly in Indiana, Illinois, and other Midwestern states, to carry that story out into the country at large.

In the mid-1890s, 7,600 students were enrolled in seventy-five law schools across America, all but seven of which were affiliated with universities. A quarter of a century earlier, only 1,600 students had been enrolled in only thirty-one law schools, and almost half had programs of only one year or one year and a half. By 1895, most law schools had two-year programs, and some already were moving to three years as the ABA Committee had recommended they do fifteen years earlier. By 1900, the School of Law was notifying prospective and enrolled students in its annual announcements that certain states, although not Indiana, required three years of law study, and made arrangements for those who wished to take a third or "graduate" year.

One conclusion concerning legal education in 1890s is clear—during that decade more people went to law school than ever before in America's history. But, for two individuals, their desire to go to law school turned out disastrous.

293 Justice Monks is mentioned in the descriptions of law school graduations in at least two different years, in the June issues of The College Current.
294 Reed, Public Profession, supra note 114, at app. 442 et seq.
295 See, e.g., N. Ind. L. Sch. Announcement, 1903-1904 (Valparaiso, Ind.).
R. An Awful Mistake

Yes, a law school education was becoming so popular that some people would go to any length to acquire one. In September 1893, The Chicago Tribune reported that two gunmen attempted to rob the Normal School. After the robbery, several students from the Normal School joined hundreds running through the town in hot pursuit. A farmer nearby saw what was happening and used his gun, not knowing that he was ending an aspiring law school student’s life. In their attempted flight from the pursuing posse, one of the robbers was killed and the other was captured.

At the trial of the surviving would-be robber a few months later, defense counsel pointed out that the defendant and the decedent had a shared purpose in attempting the robbery—to garner sufficient funds to attend law school. “It seems to have been the principal ambition of their lives to become lawyers.” The lawyer acknowledged, “It was an awful mistake, but one made possible by the conditions of our people, our civilization, and our country.”

The Chicago Tribune commented that “their act was due to an overmastering thirst for learning and anxiety to break into the legal profession without loss of time.” Although the editorial went on to state its displeasure with the entire episode, the target of the editorial is somewhat obscure. The Chicago Tribune might have been castigating societal over-emphasis on higher education which supposedly incited these young men to commit the crime. Or it may have been unhappy with the sentence of an apparently sympathetic judge, a comparatively light sentence for the times—three years in jail.

S. All Persons “Of Good Moral Character”

Given the requirements for admission to the School of Law, the two bandits, had they succeeded in their robbery efforts, would not have been admitted to private law anyway. True, they might have had

http://scholar.valpo.edu/vulr/vol38/iss3/1
enough money to pay the costs, but there would have been this little problem about their character. The 1893 School of Law catalog described admission requirements as follows:

All persons of good moral character are entitled to enrollment in any class, at any time, on payment of tuition at the rate of $1.20 per week. Candidates for the degree of LL.B. will be admitted to the Senior Class during the first (September) term only. To be entitled to such admission the applicant must have attended this Law School at least three terms of the Junior year . . . or pass a satisfactory examination on the studies of the Junior year, or have taken the Junior year at another law school.\(^3^{01}\)

The requirements for the degree and admission to the senior class were essentially the same as they had been in 1880, but apparently the School of Law now was willing to let anyone into the junior class at any time whether the applicant intended to complete the course of instruction and pursue a legal career or simply wanted to take a course or two. The School of Law's stated policy to take all comers as long as they "were of good moral character" may account in part for an extremely high attrition rate during its first two decades. At times between the junior and senior year, the rate could be as high as fifty per cent.

Financial exigencies also had a marked effect on enrollment. Students often were listed as juniors in one catalog, but not listed in the next, then reappeared as seniors a year or two later. Apparently, they would drop out of school and work to earn sufficient funds to pay for the remainder of their education. This open admission policy, along with the comparatively low tuition cost, together may best explain why the School of Law was the largest in the state by the end of the century.

**T. Looking Ahead**

As a new century dawned, Americans were full of renewed hope. The last decade of the nineteenth century had been difficult for many given its economic and labor/management problems. The contentious and unsuccessful populist presidential campaign of Democrat and

\(^{301}\) N. IND. L. DEP'T ANNOUNCEMENT, 1893-1894 (Valparaiso, Ind.), at 3 (emphasis added).
fundamentalist William Jennings Bryan revealed a divided nation of seventy-five million citizens.

As the year 1901 began, William McKinley, a Republican, was President of the United States, but only until 2:15 a.m., on September 14th. At that moment, the McKinley presidency ended and Vice-President Theodore Roosevelt assumed the nation's highest office. McKinley had died of an assassin's bullet in Buffalo, New York. Although populist Bryan had lost the presidential election five years earlier, it would turn out for America that Republican Roosevelt would become "Everyman's" president himself. Westerners in particular would be surprised by a leader who would take on what were then called "the robber barons" and protect the Nation's natural resources. Although a few historians suggest that Theodore Roosevelt was perhaps more show than substance, historian Edmund Morris, in his monumental two volume biography, concludes that "Theodore Rex embodied all America's variety and the whole of its unity; that what he had made of his own life was possible to all." Young men and women who came to law school at Valparaiso represented America's variety and wanted to make something of their lives as well.

Focusing on the Northern Indiana Normal School, President Henry Baker Brown was looking ahead at the beginning of the new century. For one thing, the name of his institution had to be modernized. In 1903, he went to Indianapolis and had the school re-chartered Valparaiso College. Four years later, he again had the name changed, this time to Valparaiso University. Much had been accomplished since Brown and DeMotte had joined together. The School of Law had graduated several alumni who were becoming known for holding high office in national and state government, for being appointed to the judiciary, and for establishing reputations as respected members of the bar. The School of Law's early success and reputation had certainly benefitted the University as a whole. Renaming "Valparaiso College" to "Valparaiso University" in 1906 was done in part due to the presence of a successful School of Law, but also because of the University's professional schools in medicine and dentistry.

302 EDMUND MORRIS, THEODORE REX 3 (2001) [hereinafter MORRIS, THEODORE REX].
303 See MORRIS, THEODORE REX, supra note 302; EDMUND MORRIS, THE RISE OF THEODORE ROOSEVELT (1979).
304 MORRIS, THEODORE REX, supra note 302, at 554-55.

http://scholar.valpo.edu/vulr/vol38/iss3/1
Nonetheless, DeMotte had to be concerned about the future. In the past he had been a man of remarkable energy. In the early years, he maintained his private law practice, was active in politics, held public office, both as a Congressman and as an Indiana state senator, and, after appointment by President Benjamin Harrison, served until 1894 as Postmaster of Valparaiso. Yet with all of these interests and commitments, he still was cognizant of what was happening in legal education in general, and to the School of Law's faculty and curriculum in particular. By 1900, it was time for him to make some changes.

In addition to the major revision in the curriculum discussed earlier, DeMotte added and substituted courses from time to time, for example, Equity Pleading for juniors and Corporations and Personal Property for seniors. Instructors would change texts as new materials on particular subjects became available. The textbook method was still being used.

As discussed in detail subsequently, in 1897, the ABA adopted a resolution proposing a three-year law program as the standard for legal education, and urged states to make graduation from a three-year law school a requirement for admission to the bar. The ABA also recommended that to be eligible for admission to law school, applicants should have at least a high school education. An ABA Committee criticized law schools for emphasizing technical learning to the almost complete exclusion of liberal studies. A minority report, however, took the position that the recommended three-year program should not be weakened by substituting non-legal for legal subjects. Few law schools at the time responded to the ABA's recommendations.

DeMotte no doubt was aware of the trends in legal education and bar admission requirements, but he emphatically restated his policy that there be no requirements for admission to the junior class. He relied instead on what appeared to be reasonably high academic standards—"The student must earn his degree before he gets it"—to prevent incompetents from becoming members of the bar, at least in those states where a legal education was required for admission.

Being an educated person, DeMotte surely recognized the value of liberal studies. Although several decades would pass before the law

---

305 See History of Mark L. Demotte, supra note 2, at 1.
306 In comparison, the Notre Dame Law School had adopted the casebook method of instruction by 1899. See Stevens, supra note 90, at 70 n.78.
307 See infra text accompanying notes 626-47.
school adopted the ABA's recommendation that a high school education be prerequisite for admission, he made some minor concessions to the movement to liberalize legal education. The 1897 catalog states that juniors, in addition to their law courses, must also take mathematics and either elocution or history, and seniors, Latin and history. Elocution, according to a historian of the University, was quite popular during the early history of the law school and was considered one of the key subjects to a well-rounded education. In 1903, the school dropped the Latin and history requirement for seniors.

U. Minimal Admission Requirements

The first hint of admission requirements, other than "good moral character," does not appear until the catalog for the 1906-1907 academic year. Beginning in the early 1900s, large numbers of immigrants were coming to the Normal School, and then to the renamed Valparaiso University from 1907 onward. Many of these new arrivals needed to learn English. Thus, it is not surprising that the 1906 catalog says that an applicant for admission to the School of Law must have the fundamentals of a good English (meaning a grade school) education. If an applicant's English abilities were found lacking, he would be admitted as "a conditional student and may complete his deficiencies while taking law work." There is no indication of how or when the conditioned admission would be changed to a regular status or what implications it had for completing the law program and graduating. Presumably, a student admitted conditionally would not graduate unless his status was changed, and he probably had to demonstrate his eligibility for regular student standing by passing an examination or submitting other written work indicating that he had attained the "fundamentals." Much of the uncertainty disappears after 1908 when the law school catalog became more comprehensive.

There is an indication that the School of Law did not admit everyone who could tender the tuition of $1.20 per week. The 1908 catalog provided that the applicant must "show himself competent to do the work of the law courses." He was admitted as a conditional student and permitted to make up his deficiencies if he was "not too far in arrears." How "too far in arrears" was determined was left unsaid, but the faculty reserved the right to cancel the registration of a student.

308 VAL. COLL. L. CATALOG, 1906-1907 (Valparaiso, Ind.), at 3.
309 VAL. U. SCH. L. ANNOUNCEMENT, 1908-1909 (Valparaiso, Ind.), at 3.
admitted conditionally when it became convinced that it would be unwise for the student to continue.

Nonetheless, VUSL’s admission requirements were not significantly different from those of most other law schools of the era. An exception was Harvard, which had announced in 1894 that it would admit only applicants who held degrees from a list of selected colleges. Although a few other schools had admission requirements in excess of the ABA’s recommended high school education, most schools still admitted any applicant who had only an elementary education.

If admitted, the students knew what to expect. The School of Law’s 1897-1898 catalog states that the “mode of instruction is known among law schools as the “Dwight System,” named for its developer, Theodore W. Dwight, the sole professor of law at Columbia University from 1858 until 1873, and from then until his retirement in 1891, the head of the law faculty.\(^3\) The catalog described the system as follows: “A portion of the text is assigned for each day’s reading, and discussed at a daily meeting of the class, by student and teacher.”\(^3\)

A Normal School catalog dated January 1898 is the first to include under “course of study” a “Topical Scope,” a list of thirty-two different subjects comprising the law program. Some of these areas, such as public and private corporations, encompassed more than one subject and seemed to be in addition to the required textbooks listed in earlier catalogs.\(^3\) These announcements also mentioned lectures by prominent members of the bench and bar, but one may assume that these probably were \textit{ad hoc}, one-time appearances.

A change occurred in 1904 when the School of Law catalog announced six new “lecture courses” for the 1904-1905 academic year.\(^3\) The listed courses were: Municipal Corporations, Water Courses and Riparian Rights, Judgments and Judicial Sales, Extraordinary Remedies, Eminent Domain, Negligence, and Carriers. The teaching responsibilities for these subjects were divided among the city attorney of South Bend, a local county judge, and a member of the Valparaiso bar.

\(^3\) N. IND. L. SCH. ANNOUNCEMENT, 1897-1898 (Valparaiso, Ind.), at 3.
\(^3\) Id.
\(^3\) N. IND. NORMAL SCH. & BUS. INST. CATALOG (Valparaiso, Ind.), 1989, at 5.
\(^3\) N. IND. L. SCH. ANNOUNCEMENT, 1904-1905 (Valparaiso, Ind.), at 5.
Possibly the curriculum had been expanded to the limits of available staffing and time.\textsuperscript{314}

Regular class work still remained the responsibility of the full-time faculty. Yet, were they really full-time? Clearly not by today's standards, as they divided their efforts between the bench or bar on the one hand, and the law school on the other. Today, they would be considered adjunct, or part-time faculty members. The separate 1904-1905 law school catalog lists DeMotte, C.B. Tinkham, and Stuart MacKibben as the instructors responsible for the regular course work. The general catalog for 1904 has an expanded roster which includes T.M.C. Hembroff and E.W. Agar, and all but DeMotte have "Honorable" before their names. With the exception of DeMotte and, for many years, H.A. Gillett, there was considerable turnover of faculty personnel. Many names, almost all identified as "lecturer," appear only once in the catalogs, and a few, two or three times.\textsuperscript{315}

DeMotte presumably had his hands in all of these matters. Strietelmeier, in his authoritative \textit{Valparaiso's First Century}, implies that after DeMotte served his term in Congress, he devoted substantial time to the law school.\textsuperscript{316} Testimonials of former students found in the University archives speak of his presence in the classroom and very admiringly of his skill as a teacher. Nonetheless, there is no indication that he completely gave up his law practice.

\textbf{V. Advent of the Walking Canes}

On Thanksgiving Day in 1901, something new arose at the School of Law. Many of the seniors appeared strolling on the College Hill campus with walking canes. The class had earlier adopted the walking cane as their class emblem. Reported in the November 1901 issue of \textit{The College Current}, the cane is again mentioned in the December issue. One source reported: "Some of the boys have been taking short walks Sunday afternoon . . . . to get accustomed to walking with their new canes . . . . Strange as it may seem a number of [the canes] may be found standing in the corner of the rooms in East hall [a women's residence] every Sunday afternoon."

\textsuperscript{314} Id.
\textsuperscript{315} Id.
\textsuperscript{316} STRIETELMEIER, supra note 14, at 41.
During the first few years of the 1900s, law students continued in their pastimes of debates in the Crescent and Star societies, competing to be the "orators" for the public holidays and graduation observances. But given their "sporting canes," a more popular tradition had evolved. As Baepler describes it:

Each spring the entire VU student body, led by the lawyers, would march from College Hill through the downtown streets of Valparaiso in the "Straw Hat Parade." Many [of the lawyers] were dressed in outrageous costumes representing mythical or comical figures.317

Baepler adds that the parades at times got out of hand and were even on occasion described as riots. Years later the lawyers' parades would become so successful that on one occasion national news film crews came to Valparaiso and filmed the parade.318

W. DeMotte's Retirement and Death

In 1906, Dean DeMotte, seventy-three years old and in declining health, reached an agreement with President Brown to sell his interest in the School of Law to Brown and the University. DeMotte stayed on through the 1906-1907 academic year and then retired. In the winter of 1908, DeMotte sent what probably was his last communication to students at the School of Law. In retirement near Corpus Christi, Texas, he wrote the junior law students his greetings, extolling that whatever may be in store for them in the future, "you will measure up MEN." Six months later, on September 23, 1908, a bit over two months shy of what would have been his seventh-fifth birthday, Mark Lindsay DeMotte died in his Valparaiso home.319

A special edition of the Valparaiso University Herald was dedicated to DeMotte's memory. In the October 2, 1908 edition beneath his portrait on the front page the following tribute, not lacking for the occasion, appears:

The people mourn! Not simply the people of Valparaiso, the people of Porter County, the people of

\footnote{317 BAEPLER, supra note 4, at 72.} \footnote{318 \textit{Id.; see also infra text accompanying notes 421-37.}} \footnote{319 See Dean Mark Lindsay DeMotte, VAL. U. HERALD, Oct. 2, 1908, at 1-8 (special ed.).}
Indiana. From the everglades of Florida to the moaning pines of Maine; from the pearl of the Antilles to the land of the rising sun; from the orient, and from the occident, from the utter-most ends of the earth, a voice of mourning is heard. For there is hardly a nation of the globe but has some citizen who knew our Colonel DeMotte and to know him was to love him.\footnote{Id. at 1.}

Well, deaths do bring out hyperbola of all sorts, yet DeMotte's death truly did result in the mourning of three generations of former Valparaiso law students. Even as late as 1930, a special edition of the \textit{Valparaiso University Alumni Bulletin} was devoted in its entirety to his life and twenty-eight years as dean of the law school. Editorializing, the \textit{Bulletin} states:

Col. Mark L. DeMotte, founder and dean of the law department of Valparaiso University for almost thirty years, was an able and worthy associate of [President] Brown and [Vice-President] Kinsey. Under his efficient administration his department became one the strongest of the Normal School. He and his colleague, Judge Hiram Gillett, were great teachers, who not only taught, but also inspired their students and won their lasting esteem and admiration. Among these there are many who have become prominent in their profession; several occupy high judicial and political stations.\footnote{Id. at 1.}

The editorial continues:

The School of Law is now recognized as a standard law school and has been approved by the American Bar Association. It owes much of its present distinction and reputation to the tradition established many years ago by Col. DeMotte.\footnote{Mark L. Demotte, VAL. U. ALUMNI BULL., June 6, 1930, at 1.}

The editorial seems a fair assessment. DeMotte was considered a good teacher. He was admired, even loved by his students, as attested to by letters and testimonials in the University archives. He improved the curriculum, expanded the faculty, always welcomed women both to the

\footnote{Id.}
faculty and in the student body, and was faithful to his goal of making a legal education affordable for people regardless of their class, wealth, or prior lack of education. He was married twice, first to Elizabeth Christy, who died in 1890. They had two daughters. DeMotte later married Clara Stevens, who survived him.323

X. Historical Assessment of the DeMotte Era

When one considers the probabilities, it seems remarkable that in an out-of-the-way small northern Indiana town, situated on the Valparaiso Moraine (terminus of a great glacier of the last Ice Age), the lives of two young men, both off the farm, would so intertwine and take each of them so far from their roots. By 1910 Henry Baker Brown would develop one of the largest universities in the nation. Mark Lindsay Demotte would be responsible for the largest law school in the state. More remarkable was the eventual success of so many of its graduates. From the first twenty graduating law classes, there would be future United States senators, congressmen, governors, attorney generals, state legislators, and more than a dozen state supreme and appellate court justices.

Still, any balanced assessment of DeMotte's twenty-eight-year tenure as head of the School of Law must consider that he was often away from the School of Law in pursuit of his own private gain through law practice, which it is never clear that he gave up, as well as seeking and holding public office. Today, no responsible administrator could serve at the same time these multifarious functions and do them all well. So it is reasonable to speculate that the School of Law at times had to suffer from DeMotte's mixed agenda. Also, DeMotte made no innovative contributions to legal education pedagogy, but instead he imitated the recitation/lecture classroom pedagogy which he had observed as a law student at Asbury. He must have learned about the revolution that began at Harvard in 1870, the new casebook method of instruction, but he chose to stay with the older and less effective teaching methodology.

Also, although unquestionably a religious man himself, a member of the Christian Church of Valparaiso, it is not clear that he took active steps to expose or instill any specific religious doctrine to his hundreds of law students. Nonetheless, historian Baepler observes that just as America thought itself a Christian nation during this period, so did VU

323 Norton, supra note 2, at 1.
under Brown consider itself a Christian university. Chapel services were held every day, and several student religious organizations were active on campus. Baepler states that the University typified a "culture Christianity." Although no particular branch of Christianity was in control, a strong religiosity existed despite the fact that President Brown, himself a life-long Methodist, never affiliated the Normal School with any Christian denomination. On an institutional level, both the Normal School and the Northern Indiana Law School were non-denominational until 1925.

Certainly DeMotte and Brown started up the law school at an opportune time in America’s history and, more importantly, for an affordable price and under favorable conditions for admission. After the Civil War, many young people chose to enter into the commercial and professional mainstreams of America. In the Midwest, a populist philosophy influenced many of the farming, immigrant, and laboring young men and women to seek to make their own ways in more open complex society. Hundreds if not thousands of young men and women, sometimes as young as fourteen and fifteen, were leaving their rural and working class pasts behind to better themselves and their futures. Brown had left the farm to teach when he was sixteen, and DeMotte had left the farm to go to college, then to law school. Many sought to enter what DeTocqueville described as America’s “aristocracy,” the lawyering profession.

Among those seeking an education in law, many came to learn about a school having low tuition, no entrance requirements, and flexible schedules, allowing them to come and go as their finances permitted to a law school at a place called Valparaiso. They did come, and came to study. Although a proportion would dropout, those who saw it through in time earned their LL.B. degrees and went back out into the world. Valparaiso was especially accessible by railroad, and thousands of ambitious young people came to receive an education in a discipline of their choosing at the Indiana Normal School and its various departments and schools. Among them were aspiring lawyers who came, studied, and left. Many, but not all, returned to their home states, but they returned not as they had left. They had been changed by their

325 ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 252 (Harvey C. Mansfield & Delba Winthrop eds. & trans., 2000).
Valparaiso law school experience. They returned as lawyers, expecting to take leading places in their communities, and many did.

The transition from a land populated predominantly by farmers to a mixed agricultural, commercial, and industrial landscape was well on its way in America by 1908. The legacy of Colonel Mark Lindsay DeMotte is that he was among those academic entrepreneurs of the late nineteenth century who had the vision, knowledge, and education to make possible the country’s transformation by providing an education in a needed specialty, especially to those who could not afford or would not likely be admitted to the more established so-called “elite” law schools.

DeMotte, along with President Brown and Vice-President Kinsey, shared a populist view of education—open, affordable, and accessible for all who were willing to work hard to better themselves, regardless of gender, nationality, or economic or social class. They, too, were echoing the freedom of opportunity philosophy of the times. When they opened the doors of the law school at Valparaiso, Brown and DeMotte were somewhat ahead of their times. Today, of all the American law schools in continuous existence from their foundings, Valparaiso’s law school is the thirty-fifth in duration since it opened in 1879. To say it another way, of all the law schools in existence today in the United States—approximately 210 including the unaccredited as well as ABA-approved ones—only thirty-four law schools have been in existence longer than the 125 years of the Valparaiso University School of Law. A few well-known schools which had opened earlier ceased to exist for one reason or another. Perhaps the best example is the law program at Princeton University, which was closed after a few years.

By the time of Mark DeMotte’s death in 1908, the training of aspiring lawyers in America overwhelmingly had been taken over by academic institutions. The early graduates of one of those institutions—the Valparaiso University School of Law—contributed to America’s development and prosperity during the first several decades of the twentieth century. They also contributed to the orderly growth of the law in a society where law was becoming increasingly more important for structuring and regulating industrial and commercial affairs.

---

326 This figure is based on an analysis of tables of law schools including their years of founding, set out in REED, PUBLIC PROFESSION, supra note 114, at 441-60.
II. THE BOWMAN ERA: 1907-1928

A. The "New Education"

Undergraduate education majors have assembled at Valparaiso University to hear an address by the dean of its School of Law, Milo Jesse Bowman. The year is 1911. The thirty-seven-year-old dean exhorts the aspiring teachers that they adopt the pedagogy of what he calls the "New Education." Trained as a lawyer and an experienced educator, Bowman explains that pupils learn best when encouraged to explore through their own efforts the realities of the subject they are learning. Pointing out that infant babies naturally explore the world into which they are born, he argues that this natural and instinctive way of learning applies to all, regardless of age or area of study.

Bowman informs those assembled that the University's law students already are experiencing this real-world style of learning. Noting that law students engage in simulations reflective of actual law practice, he describes how they prepare and present oral arguments before tribunals, participate in mock trials, and hone their argumentative skills by frequently engaging in debates. And, he points out, they study the law by reading and analyzing actual reported decisions of the judges who have made the common law.

The speaker, Milo Bowman, was born on July 1, 1874, in Madison, Indiana, an antebellum "southern" town albeit on the north side of the Mason Dixon line and the Ohio River. His father was Milo Judson Bowman and his mother was Zora Owen. Raised in a Baptist home, by adulthood Bowman personified a mixture of traits—gentlemanly yet tenacious, loyal yet foremost a man of integrity, compassionate yet demanding, energetic yet patient, grandiose yet meticulous, and a man

---

327 The historical basis for this occasion is set out in M.J. Bowman, Jr., The New Education, THE RECORD, 1911, at 172-83 [hereinafter Bowman, New Education].
328 Regarding the origin of the phrase "The New Education," see infra notes 338-41 and accompanying text.
329 Bowman, New Education, supra note 327, at 173.
330 Id. at 180-81.
331 See Milo Jesse Bowman, Biographical Information (n.d.) [hereinafter Bowman, Biographical Information], a three-page form with hand-written entries apparently signed by Bowman but undated, a copy of which is on file with the VU Archives.
of Christian faith who, above all, possessed an outstanding scholarly mind.332

His scholarly abilities were apparent early. Completing a four-year high school curriculum in three years at Madison High, Bowman graduated in 1891 at the age of sixteen. That fall, he entered nearby Hanover College, a Presbyterian institution situated on high bluffs above the curving Ohio River below.333 At Hanover, he simultaneously took a full course in the arts (Latin and Greek) as well as in science (chemistry and physics). Such a program today would lead to a dual degree. Even though he successfully completed each of these programs (earning scholarship honors in both), he was awarded only a Bachelor of Arts degree.334 Following graduation, Bowman continued to take courses at Hanover and subsequently received a Master of Arts degree. In 1896, he took additional post-graduate courses at the University of Chicago.335

Yet, the equivalent of nearly seven years of undergraduate and graduate studies was still not enough for this ambitious student. In June of 1900, Bowman entered what was then known as the Indianapolis College of Law. Within two years, he earned a Bachelor of Laws, or LL.B. degree. Of special note, Bowman was valedictorian of his law school class, just as he had been of his Hanover College class.336

Bowman’s formidable academic skills had been apparent from his freshman year at Hanover. He earned first prize in oration in each of his four years in college. When a senior, not only did he achieve first place in the College’s annual debating competition, he then went on to take second honors at the Indiana State Oratorical Contest.337 Being a champion of persuasion, and given his academic success as a law student, Bowman had both the preparation and competencies to become a successful legal educator.

He also would need a vision of how to mold future lawyers. Always a voracious reader, Bowman kept informed of developments and new ideas in the spheres of education generally and legal education in

332 Id.
333 Id.
334 Id. Although he had also qualified for a Bachelor of Science degree, Hanover apparently did not grant him the two bachelorette degrees simultaneously.
335 Id.
336 Id.
337 Id.
particular. In becoming aware of the latest theories in teaching and learning methodologies as well as in educational psychology, he came to develop and share what was called the "new education." In 1869, after Charles W. Eliot wrote a two-part article titled "The New Education: Its Organization" in the *Atlantic Monthly* magazine, he was chosen to be the new president of Harvard University. Eliot was a "rationalist and a Darwinian, concerned with the formation of a social elite with a high sense of social responsibilities.... Under the influence of [Herbert] Spencer and his interpreter, Thomas Huxley, Eliot applied the evolutionary outlook to the whole field of knowledge [which] must proceed from the simple to the complex, ... and starts from facts to arrive at theory." From facts to theory is the essence of the case method in studying law. The phrase "New Education" was also one used by the American philosopher, educator, and social critic, John Dewey. Baepler notes that the University’s Psychology and Education departments were also "fully committed to these new ideas" of the pedagogy and psychology of teaching and learning.

339 Id. at 333 (quoting A. TOURAINE, *THE ACADEMIC SYSTEM IN AMERICAN SOCIETY* 46 (1974)). Eliot condemned the lecture method, noting that such instruction even led by "'great men' ... led only to the dilution of thought, the administration of theories in large doses before they could be 'assimilated or produce any effect but that of causing nausea,' and the creation of a listless and inept student body." Id. at 334 (quoting H. HAWKINS, *BETWEEN HARVARD AND AMERICA: THE EDUCATIONAL LEADERSHIP OF CHARLES W. ELIOT* (1972)).
340 See JOHN DEWEY, 2 *THE ENCYCLOPEDIA OF PHILOSOPHY* 380 (Paul Edwards ed., 1967). In 1894, Dewey was appointed chairman of the University of Chicago's Department of Philosophy, Psychology, and Education, where he remained until 1904 when he left for Columbia University. The key concept to Dewey's philosophy is the importance of experience. Education, he argues, should be a continuous reconstruction of experience whereby immature experience develops into a reconstructed experience fused with mature intelligence, giving rise to the theme that one learns by doing. Id. at 380-85. Dewey authored numerous books. The ones that may have influenced Bowman's thinking, if he read them, may have been MY PEDAGOGIC CREED (1897); *THE SCHOOL AND SOCIETY* (1902); and, most likely, *THE CHILD AND THE CURRICULUM* (1904). A decade later, Dewey authored what is considered his landmark work on his philosophy of education, *DEMOCRACY AND EDUCATION* (1916). In the latter publication he wrote: "Both practically and philosophically, the key to [education] lies in a gradual reconstruction of school materials and methods so as ... to bring out their intellectual and moral content. ... seeing to it that the technical subjects which are now socially necessary acquire humane direction." See ROBERT M. HUTCHINS, *THE LEARNING SOCIETY* 117 (1968); see also BAEPLER, supra note 4, at 65.
341 BAEPLER, supra note 4, at 65.

http://scholar.valpo.edu/vulr/vol38/iss3/1
Central to the new education thesis was the belief that a better way to learn exists than simply a student’s attending lectures, reading texts, and reciting memorized passages. When it came to learning law, Bowman surely had become aware of a new case method of instruction. He may have read Eliot’s thesis set out in the *Atlantic Monthly*. Regardless, the casebook method of instruction was in line with new pedagogical ideas espoused by Charles Eliot, John Dewey, and Stanley Hall.

In 1911, Bowman authored an article in the *Valparaiso University Record*, titled “The New Education,” based on his address to VU undergraduates majoring in teaching. In the article, Bowman set out his philosophy of education that he claimed was as applicable to children as it was to law students. He began his discourse by noting that by the start of the twentieth century, society required that its leaders have acquired “specialized knowledge.” In contrast, he pointed out that at the beginning of the nineteenth century, a person “could be a scholar in all departments of knowledge,” but if one attempted to do so in the new twentieth century, it would “mark him as a dabbler.” Bowman wrote:

> Human endeavor has become so complex and many-sided, industry has grown so vast and so highly specialized, scholarship has discovered and explored so many new fields and has explored them so far, and each new avenue has opened up unexpected vistas of thought and effort so illimitable, that the day of the universal master is forever past.

Noting that the scholar in any field of study must “know less extensively but more intensively” than ever before, Bowman raised appropriate questions: What should be the aim of teaching? What is the best teaching method? Is the primary purpose of education information, utility, character building, culture, preparation for service or profession, altruism, or some or all of these? If some or all, what was their lexical priority?

---

343 *Id.*
344 *Id.*
345 *Id.* at 172-73.
Most striking in Bowman’s thesis is the timeless, germane questions he raises, questions as relevant today as they were ninety years ago. To his credit, and in accordance with effective teaching pedagogy of raising questions to a higher level of importance than providing answers, Bowman did not offer pat, superficial solutions. By raising difficult questions, Bowman was able to perceive the many inherent conflicts in educational goals and methods. He was cognizant of the shortcomings of traditional teaching pedagogies, aware of the changes rapidly taking place in society, and in tune with the substantive demands for specialized knowledge being placed on the Nation’s educational institutions.

Although he understood that American society increasingly needed intensively trained specialists, Bowman insightfully saw a danger: the prospect that schools could end up producing narrowly educated specialists ignorant of the splendors and diversity of human culture. Like other perceptive observers of the time, Bowman considered it imperative that the specialist or professional in any field be provided with what today would be called a well-rounded education. He argued that a student’s formal educational experience should prepare him or her not only for a trade or profession, but also be one that enriches the person’s entire life. The enrichment of one’s entire life could only result through opportunities within one’s formal education—to be exposed to the broader culture in which we all live, its history, art, music, poetry, drama, literature, philosophy, world languages, fine arts, and social and physical sciences. Thus, Bowman was among those legal educators who early on understood the need to combine an initial broad liberal education with a subsequent intensive but narrowly focused specialized one.

As early as 1879, the newly formed ABA Committee on Legal Education criticized academic law schools for “an insufficient emphasis . . . upon an adequate liberal education as a preliminary to law study.” In time, the wisdom of the necessity of a broad-based liberal education would become actualized into professional school admission standards by requiring an undergraduate education as a prerequisite for professional training in law, medicine, college level teaching, and other graduate areas of study.

346 Id. at 182-83.
347 Sullivan, supra note 135.
The "New Education" also required consideration and adoption of innovative teaching methods in accordance with a better understanding of the psychology of learning. As to the latter, Bowman argued that each student must take a good measure of responsibility for one's own training and become actively involved in the learning process. Passive learning—such as listening to a lecture—for the most part is soon forgotten. Active learning, on the other hand, sticks. A youngster does not learn to ride a bicycle by reading how to ride, but by getting up and repeatedly making the effort to do so. To quote Bowman, "[E]very pupil must learn through his own activity; and, . . . in order to do this he must come into direct contact with realities." He might have added that when learning to ride a bike, a "reality" encountered is the hardness of the ground.

And just as the dean had explained to the assembled VU education majors in 1911, Bowman in his article reminded his readers how babies learn—by forging into the real world and experiencing its textures, tastes, colors, sounds, and realities. So too must school children be encouraged to forge into the world and encounter its realities as a vital component of their learning experience. So too must learners of all ages come into "immediate, first-hand contact with realities." To read a text book or to listen to a lecture may be a beginning, but only a beginning, to understanding. Education requires a student to have actual encounters with the realities of the subject—a geology student, the rocks and fossils; a chemistry student, the laboratory and chemicals; a student of poetry, actual poems; and a student of law, well, Bowman wrote, law students read "the actual decisions of the courts instead of text-books about them, as formerly."

Law students at Valparaiso's School of Law began reading cases in the fall of 1908, the year after Bowman became dean. Previously, during DeMotte's era, the combination textbook and recitation method had been the exclusive pedagogy used. As discussed below, the casebook method not only came to VUSL, in time it would sweep over the American legal education landscape. Law schools that failed to adopt the changing pedagogy might not survive. Thus, law students who studied during and subsequent to Bowman's deanship benefitted by his implementing the "new education" pedagogy.

---

348 Bowman, New Education, supra note 327, at 173 (emphasis omitted).
349 Id. at 180.
B. Bowman Succeeds DeMotte as Dean

On August 16, 1906, President Henry Baker Brown received from Indiana Secretary of State Edward Jackson a new charter renaming Valparaiso College "Valparaiso University," with "literary, scientific, law, medical, normal, and pharmaceutical departments." Both Brown and Vice-President Oliver P. Kinsey's signatures appear on this 1906 document, which was notarized by Valparaiso attorney and VUSL lecturer, Grant Crumpacker. The same year, Dean DeMotte informed President Brown that he wished to retire as dean of the School of Law. It was agreed that the 1906-1907 academic year would be DeMotte's final year as dean. The Colonel's health had been deteriorating.

DeMotte's last appearance at the law school prior to his death was on the evening of November 6, 1907. Bowman had taken over the deanship one month earlier. Perhaps sensing that DeMotte's death was approaching, students gave several toasts in honor of their recently retired dean, one proclaiming: "His good sword and musket hang on the wall [of the law school] .... A halo of glory encircles his brow and his name will go in history as Colonel, Lawyer, Statesman, Man." A copy of the Charter is on file with the VU Archives. VAL. U. HERALD, Nov. 23, 1907.

The previous summer, President Brown appointed as DeMotte's successor then Indianapolis College of Law professor, Milo Jesse Bowman. DeMotte reportedly first interviewed and then brought Bowman to Valparaiso from Indianapolis, introducing the perspective new dean to Brown. It was agreed that Bowman would replace DeMotte. His selection would prove to be instrumental to the development and improvement of the School of Law for many years, but especially the entire two decades Bowman would remain as dean.

What were Bowman's credentials besides his strong academic record? After graduating from Indianapolis College of Law in 1902, the new lawyer accepted an appointment as a law clerk to the Indiana Supreme Court, a position he held through 1904. During this time, he was also serving as an assistant professor of law at the Indianapolis College of Law and as Assistant Law Librarian for the Indiana Supreme

350 A copy of the Charter is on file with the VU Archives.  
351 VAL. U. HERALD, Nov. 23, 1907.  
352 School of Law Marks 70th Anniversary; First Classes Met in a Store Building, VAL. U. L.J., Dec. 21, 1949, at 1.  
353 See Bowman, Biographical Information, supra note 331.
Court. In 1904, Bowman was promoted to the rank of professor of law. He stayed in this position until 1907, when he accepted President Brown's offer to become law dean at Valparaiso. Dean Bowman would be the head of the School of Law for twenty-one years. When he arrived in Valparaiso, law students went to his home and helped install "all his household equipment ... including his large law library." From the beginning, the students admired Bowman, and he in turn respected and cared for his students.

When he left VU in 1928, he took a teaching position at the Indiana University Law School in Bloomington, returning to Valparaiso years later to briefly teach one final term at the School of Law. Throughout his career, Bowman was married to Martha Edwards, also of Madison, Indiana. Exchanging vows on June 23, 1897, they celebrated their golden wedding anniversary in Valparaiso on June 23, 1947, three months before Mrs. Bowman's death. He died four months later, in January 1948. In the local newspaper description of his career, it was said:

Perhaps no other instructor at Valparaiso [U]niversity was more beloved by his students than Dean Bowman. He was vitally interested in the careers of all students during his association here. Since 1935 when the law alumni of [VUSL have] been holding annual meeting[s] he never failed to attend one.

During his years at VU, Bowman would be a scholar as well as a teacher and dean. He would author four law books during his legal education career: Code Pleading and Practice (1912); Questions and Exercises to Accompany Robinson's Elementary Law (1909); Questions, Exercises and Notes on Robinson's Elementary Law (1912); and his most successful book, Handbook of Elementary Law (1929).

---

In 1907, the then thirty-three-year-old Milo Jesse Bowman had a new job ahead of him—the deanship of the Valparaiso University School of Law; what a job it would be. He could not have imagined in the fall of 1907 that his decanal responsibilities would last beyond two decades; that he would serve as acting president of VU; that he would be asked to negotiate its sale to the Ku Klux Klan; that the University, which was thriving when he came, would nearly collapse—not due to his fault—within fifteen years; or, finally, that a group of Lutherans would come to the University’s (and law school’s) rescue in the nick of time, eighteen years down the road.

C. An “Original Creation of the American Mind”

In 1914, a report to the Carnegie Foundation for the Advancement of Teaching was authored by Professor Josef Redlich of the University of Vienna, in response to a request of the Foundation’s President, Henry S. Pritchett. Redlich visited ten American law schools and witnessed what was described as the “case-book method of instruction.” Impressed with what he considered to be a successful innovative approach to teaching law, Redlich concluded that the casebook instructional method was “an entirely original creation of the American mind.”

This new creation, Redlich noted, sprang from the thought and characteristics of one man—Christopher Columbus Langdell—who had originated the method at the Harvard Law School in the fall of 1870. In fact, this common attribution may not be correct. Anthony Chase, in his brilliant article, “The Birth of the Modern Law School,” presents evidence that the first law instructor to emphasize cases in teaching was Professor John Norton Pomeroy, who used the case analysis method at the University of New York City (later New York University) several years before Langdell at Harvard. Regardless of who the originator was, the new teaching pedagogy spread, slowly at first, then cascaded across the country, eventually reaching a point where it would be

359 STEVENS, supra note 90, at 112.
360 Josef Redlich, The Common Law and the Case Method in American University Law Schools, BULL. No. 8, 1, 9 (1914) (a report to the Carnegie Foundation for the Advancement of Teaching).
361 Id.
362 Chase, supra note 338, at 333 n.16.
adopted at virtually all American law schools. The casebook method remains in wide use today, especially in the first-year curriculum.

After becoming the new law dean at Valparaiso, Bowman proposed to the faculty—then consisting of seven members—that the casebook method be adopted. Historian Baepler notes that the faculty approved the change, "though hemming it in with some cautionary and compromising language." The first law school announcement listing Bowman as dean, the 1908-1909 edition, has an entirely new "System of Instruction" section. There, the cautionary and compromising language Baepler speaks of is found:

The conviction of the Faculty of Law is that students gain the most thorough training in the law and the most definite knowledge of the law from the careful analysis of leading cases, together with the study of standard text books, followed by quizzes, explanations and the informal interchange of ideas in the class room. Therefore the system of instruction pursued in this school is that of recitations, based upon the previous study by the class of cases or textbooks, or both.

Bowman had not been able to convince the entire faculty to abandon the textbook/recitation method, but he had persuaded them to add the study of cases and casebooks to their available instructional options. Many chose to use both case and textbooks concurrently. The combination of using both textbooks and casebooks while still relying heavily upon student recitations of memorized principles of law continued at the School of Law for several years. In fact, it would take more than a decade for casebooks to fully displace textbooks at the law school.

As a corollary to the casebook method, a new classroom teaching technique would in time replace students' recitations of the law—the regurgitations of memorized black letter rules. It was called the Socratic

---

363 REED, PUBLIC PROFESSION, supra note 114, at 410.
364 BAEPBLER, supra note 4, at 68.
method, referring, of course, to the Greek philosopher Socrates' method of intellectual inquiry.\textsuperscript{366}

Under this method of case teaching in law school, the teacher might change the circumstances of the case under study, add a new fact, or set out a similar yet distinctive hypothetical, followed by asking a student to analyze whether the changed fact or altered hypothetical would have made any difference in the court's decision. For example, after a student has analyzed a given case, the teacher might inquire: "What would be your analysis if 'Jones' had died before the builder had finished the house, rather than after, as actually happened in the case?" Then, the instructor might ask the student an additional question, after adding or changing some other fact such as: "What if Jones had assigned his contract over to 'Smith' before his death?" The instructor might then ask the student to compare the case under study with an earlier one, to analyze whether they differ, and if so, how, and, in some instances, to propose why the two courts decided what appear to be similar cases differently. This Socratic style of teaching law was especially useful in comparing and contrasting different cases for the benefit of first-year students who had to learn that law involves a reasoning process, not just a simple regurgitation of legal principles.

Redlich's report pointed out that Langdell believed the best learning occurred when the student is made to focus on a series of related cases by the "analytical decomposition" and analysis of each case, and the "distillation of the legal principles contained" therein.\textsuperscript{367} Under the case method, everything is considered in flux, every single case is a new opportunity to define and refine what has gone before. Students learn not only by reading the cases prior to class, but also from the series of questions which can be so arranged as to "lay bare the entire law" that may be found in that case. The process, Redlich added, stimulated questions, doubts, and objections on the part of the students. Learning then becomes a joint enterprise between teacher and student and among all the students collectively in the "give and take" atmosphere of a dynamic classroom exploration and discussion.

\textsuperscript{366} Redlich, supra note 360, at 12. The "Socratic method" was an "expression which was indeed early employed by Langdell and his pupils." \textit{Id}. For an excellent discussion of case method, pros and cons, see Stevens, supra note 113.

\textsuperscript{367} Redlich, supra note 360, at 13.
Legal historian James Willard Hurst writes that Langdell's classroom teaching method "demanded of the learner a maximum of self-reliant study." In effect, the combination of the student's study of assigned cases followed by a Socratic dialogue with the teacher allowed students in time to develop the ability to teach themselves the law.

In the introduction to Langdell's 1871 casebook on contracts, he notes that it is critical that the "efforts of the students should go hand in hand with mine." At Harvard Law School, Professors Ames, Thayer, and Keener quickly became disciples of Langdell's casebook/Socratic teaching methodologies, each in time authoring casebooks of their own. Professor Keener, in a report for the ABA in 1894, wrote that it is by "the study of cases that one is to acquire the power of legal reasoning, discrimination and judgment, qualities indispensable to the practicing lawyer; . . . the study of cases best develops the power to analyze and to state clearly and concisely a complicated state of facts." Even at Harvard, the faculty took ten years to fully adopt the combination casebook and Socratic methodologies. By 1880, Harvard's law school had become the first in the nation to adopt Langdell's innovative pedagogies. Other schools soon followed Harvard's lead.

The School of Law's announcement for the academic year 1908-1909, under the heading "Course of Instruction," lists the required books. For the first time a number of casebooks are included: Huffcutt and


369 The success of the Socratic method for many law students during their first year of law study in large part explains why some become bored with law school during their third year of study, especially if traditional instructional methods are used. For many students, at some point the casebook method becomes disadvantageous, as the Socratic teaching style requires a slow, methodical, and thoroughly contextual treatment of legal doctrine. Once you have acquired a general understanding about, and sophistication in, the Socratic style, it can be tedious and an overly redundant style, especially for the generally analytically capable law students of the modern age. It has other shortcomings as well, yet it was and remains especially useful for teaching students in their first year of law study to see for themselves legal issues and how judges apply legal sources to specific kinds of factual situations. To use an over-used cliche, it teaches students how to "think like a lawyer" as well as how to learn and understand the law through their own efforts.

370 CHRISTOPHER COLUMBUS LANGDELL, A SELECTION OF CASES ON THE LAW OF CONTRACTS, at ii-vii (1871).


373 Id.

Woodruff, American Cases on the Law of Contracts; Fisher, Cases on Criminal Law; Wamburgh, The Study of Cases; Ames, Cases on Pleadings; Huffcutt, Cases on Agency; Goddard, Cases on Bailments and Carriers; Hutchins and Bunker, Cases on Equity Jurisprudence; and Stearns, Cases on Suretyship. Yet, the announcement discloses that many of the courses which required casebooks continued to require textbooks, for example, Anson's Law of Contracts; Clark, Criminal Law; Perry, Common-Law Pleading; and Clark, Criminal Procedure. A few courses list only textbooks: Cooley, Elements of Torts; Kennedy, Trial Evidence; Woodruff, Introduction to the Study of Law; and Kent's Commentaries (for a course titled Elementary Law).

Jumping ahead eight years to the School of Law's 1914-1915, announcement, this time under the heading "Instruction," the following appears: "The value of the case study in legal education is now beyond dispute. Cases are the official and authoritative repositories of the law. . . . Case study is . . . analogous to the laboratory method of science and the source method of history." This description surely was written by Bowman. He uses many of the phrases and analogies he used in his 1911 address to VU students in the education department referred to above. What is fascinating is that the passage setting out the benefits of the casebook method is written in an argumentative style of a legal brief. Bowman, it appears, was using the School of Law's latest announcement as part of his attempt to persuade certain members of the faculty to adopt the casebook over the textbook/recitation method of instruction. His description of the advantage of the casebook method exceeds 600 words in length, beginning: "The method of instruction is a combination of the case system and the text-book system, the chief emphasis being placed on the former."

The list of the required course books for the 1914-1915 year still includes a few courses where only textbooks are listed. As to the first-year courses, however, each requires a casebook, including for the first time, torts, specifically, Burdick, Cases on Torts (3d ed). Nevertheless,
fifteen years would pass for the change over to casebooks to fully come about.\textsuperscript{380}

\textbf{D. Faculty Expansion and the Yale Connection}

When Bowman became dean in the fall of 1907, many of DeMotte's faculty appointees were still on hand, including professors Judge E.D. Crumpacker and Judge John H. Gillett; attorney William Daly; and lecturers Grant Crumpacker, C.B. Tinkham, Wm. H. Dowdell, M. Roy Metzger, and Archibald F. Reddie. Bowman was listed as Dean and Professor, and DeMotte was listed as Dean Emeritus. The only person who had taught law prior to joining the faculty was Bowman himself.\textsuperscript{381} The one woman who had been listed as a member of the faculty since 1898, Florence Higgins-Butler, was no longer on the list; her position was taken over by Archibald Reddie of the Elocution Department. Professor Higgins-Butler had followed her husband to Syracuse University where he had been appointed Dean of Music.\textsuperscript{382} By 1909, Judge Gillett and C.B. Tinkham had been made professors of law, bringing the number of full professorships to five.

In 1910, John Boman (no relation to Dean Bowman—note the different spelling) and H.D. Lempke were added, each with the intriguing title of "Quizmaster." Boman is listed in the VUSL catalog the following year with the title of "Assistant in Law," which is assumed to be a promotion from quizmaster. In 1912, Professor William Cullen Burns joined the faculty. Professor Burns commuted by train between Chicago and Valparaiso.

Soon thereafter, Dean Bowman made his second major contribution to the School of Law, following a pattern which had been developed at the "better law schools" in America. Bowman decided to offer teaching positions to two "academics" rather than to practitioners or retired judges as had always been done before. Bowman was fine tuning

\textsuperscript{380} A lengthy struggle to change from the textbook method to casebooks similarly had taken place a decade earlier at the Notre Dame Law School. In Philip S. Moore's, \textit{A Century of Law at Notre Dame} (1970), the author reports that the casebook method was introduced in 1895, but, was in addition to, rather than in substitution of, textbooks. \textit{MOORE, NOTRE DAME, supra} note 9, at 25. Moore notes that the case method by 1905 had finally "won the day" at Notre Dame. \textit{Id.} at 27.

\textsuperscript{381} See \textit{ANNOUNCEMENT OF THE DEP'T OF L., VAL. U., 1908-09.}

\textsuperscript{382} Memorandum from Richard Baepler, \textit{supra} note 324.
Valparaiso's law school to be more in line with Langdell's and Elliot's "New Education" ideas once again.

Historian Willard Hurst, quoting Langdell, writes:

I wish to emphasize the fact that a teacher of law should be a person who accompanies his pupils on a road which is new to them.... What qualifies a person, therefore, to teach law is not experience in the work of a lawyer's office, not experience in dealing with men, not experience in the trial or argument of causes—not experience, in short, in using law, but experience in learning law . . . .383

To that end, Dean Bowman in 1914 hired two men experienced in learning the law as VUSL professors: Lenn J. Oare, B.A., LL.B. LL.M., and Walter L. Summers, A.B., LL.B., Jur. Dr. Oare had earned his B.A. degree from Valparaiso College in 1905 and his LL.B. degree from the School of Law in 1908, followed by a masters in law degree in 1911 from Yale Law School. Summers had earned both his A.B. and LL.B. degrees from Indiana University and then went on to earn a doctor of laws degree from Yale Law School. Oare was hired to teach trusts, mortgages, and criminal law; Summers to teach general jurisprudence and domestic relations.384 Incidentally, twenty-one years later, Lenn Oare would become one of the original members of the Indiana State Board of Law Examiners.385

Oare and Summers were the first of what would be many Ivy League law-degree holders to be hired by the School of Law over the next ninety-years. Professor Oare obtained an advanced law degree, LL.M., from Yale Law School. As such, Oare was the first in what would turn out to be many VUSL grads obtaining graduate degrees in law from Yale. Most of these Valparaiso/Yale dual law graduates either were already law teachers or would join law faculties, some for only a short time.

Besides Professor Lenn Oare, the following VUSL graduates received their LL.M. degrees from Yale: Richard Dussenberg, Louis F. Bartelt, Jr.,

383 HURST, supra note 368, at 263.
384 New Members of Faculty, THE TORCH (VU), Nov. 21, 1914, at 10.
385 Valparaiso Law Institute Will Be Held June 2 and 3, VAL. U. BULL., Apr. 1950.

E. Immigration from Around the World

During Bowman’s first decade as dean (1907-1917), Valparaiso University enrolled large numbers of foreign students who had recently immigrated into the United States. Historian Baepler describes the period as “A New Pentecost,” noting that a student during this period was amazed by the number of foreign languages spoken on campus. A May 1912 Indianapolis Journal-Educator article, Baepler notes, reported that nearly 700 foreign students were enrolled at VU that year, “including 100 from Russia and more than 40 each from Poland, Germany, Norway, Cuba, and Central America.”

Immigrants by the hundreds of thousands were entering America. Thousands located in the Chicago and Northwest Indiana area. Many desired a college education. Valparaiso University, they learned, was one place “to pursue the dream.” The immigrants had learned about the University, in many cases, from advertisements in Chicago newspapers. They also learned that direct train service between Valparaiso and Chicago—via the Nickle Plate, Grand Trunk, and Pennsylvania railroads—was available, making it easy to access the campus. A large number of the foreign nationals who came to VU were among the wave of immigrants to the United States from central and southern Europe. Others came from Asia, Central America, and northern and western Europe.

The number of foreign nationals in the School of Law during this period mirrored the larger University’s experience. This is significant because in 1909 the ABA’s Section on Legal Education had declared that only American citizens could be lawyers. Leaders of the national bar tended to be elitists and “shared the then current assumptions about the ethnic superiority of native white Americans.” Legal education historian Robert Stevens points out that when it came to blocking

386 BAEPLER, supra note 4, at 77-78.
387 Id. at 78.
388 Id. at 77.
389 STEVENS, supra note 90, at 100.
390 Id.
immigrants from entering law schools and the bar, certain bar leaders were on a "crusade." 391

So why did so many foreign nationals enroll in the School of Law from 1900 through 1915? The relatively low cost may be part of the answer, as also may be the ease of accessibility to the campus from Chicago. Another explanation could be because the immigrants had learned that many better-known law schools, such as Northwestern and Chicago, were not willing to accept them. For whatever reasons and despite the national bar's attempts to block foreign nationals from entering American law schools, many immigrants enrolled in the School of Law.

In certain years, up to ten percent of VUSL students listed foreign countries as their legal residences. The School of Law's total enrollment in 1910-1911 was 159 students, of whom eight were foreign nationals; in 1911-1912, there were fifteen foreign nationals out of 149 total law students; the 1915-1916 enrollment consisted of 198 students (the largest in its history at the time), of whom, again, fifteen were foreign nationals; and, finally, the 1916-1917 law class had 171 total students, of whom eleven were foreign nationals. 392

Incidentally, in two of these years, a comparatively large number of women were enrolled: seven during the 1915-1916 academic year and six the following year. The 1917 graduating law class included three women: Nellie Briggs of Ashland, Oregon; Hanna Reed Colliers of West Virginia (class vice-president); and Helen White of Muncie, Indiana. 393 Also worth noting, the history of the class of 1917 begins: "On the 19th day of September, A. D. 1916, we et sequieter arrived. From Maine to Nicaragua and from China to California, we came." 394

A comparison of the number of foreign nationals who enrolled at the School of Law during the decade 1907 through 1917 with those who graduated reveals that a majority did not complete their law studies.

391 Id.
392 The number and percentage figures of foreign nations come from VU catalogs for the years cited in the text.
393 It's Always Been About People, Early Images from the School of Law Archives, THE AMICUS (VUSL), Fall 1997, at 10, 11.
394 Chronicle of the Law Class of '17, THE RECORD (VUSL), 1917, at 45. In 1916, the year that Valparaiso's law school enrolled 198 students, Notre Dame's Law School had an enrollment of "about 200 students." Moore, NOTRE DAME, supra note 9, at 40.
Specifically, of sixty-seven enrolled foreign nationals, only twenty-four obtained LL.B. degrees. The principal reason for the attrition may have been an inadequate proficiency in English. In any event, the decade may properly be described as one of national, gender, and religious diversity including Protestants, Catholics, and Jews. Many of the foreign nationals were Hispanic, but not a single African American enrolled in the law program during this period. None were invited.

**F. Why They Came to the Law School at Valparaiso**

What drew students during the first two decades of the twentieth century to the law school at Valparaiso? According to their recollections found in the archives, the comparatively inexpensive cost of tuition along with room and board appears to have been the most important consideration. But there were others as well: the general flexibility of admission requirements; the fact that foreign nationals and women were welcome; the proximity to Chicago and the ease of access via public highway and direct railroad service; and word of mouth. Also, many of the law students had, prior to enrolling, spent one or two years in other departments of the University.

In the spring of 1911 when VU was near its peak enrollment of 5,650 students, the University consisted of twenty-five departments, 191 instructors, and fifteen buildings, according to a record in the archives titled "Valparaiso University, One of the Largest Institutions of Learning in the United States."\(^{395}\) Below this banner appears the statement: "The aim of the Institution is to give all, whether rich or poor, an opportunity to secure an education at an expense that anyone can afford."\(^{396}\) The list of departments consisted of: Kindergarten, Preparatory (in essence a primary school), High School, Teachers, Scientific, Liberal Arts, Modern Languages, Professional, Pharmacy, Medicine, Dental, Commerce, Commercial, Shorthand and Typewriting, Manual Training, Agriculture, Summer School, Domestic Economy, and Law.\(^{397}\)

The Department of Medicine was located in Chicago across from Cook County Hospital in buildings owned by VU. The location was described as "one of the greatest Medical Centers in the world."\(^{398}\)
Students could obtain a doctor of medicine degree (M.D.) upon completing a four-year course, two of which could be completed in Valparaiso.\textsuperscript{399}

G. A Favorable and Quotable Accreditation Report

An additional incentive for students to attend the University was its receiving full accreditation on June 20, 1916, by the Indiana State Department of Public Instruction.\textsuperscript{400} The inspection report indicates that enrollment in the current year had reached 5,500 students and noted that approximately 150,000 students had attended VU since its opening.\textsuperscript{401} The report added that the faculty consisted of 223 members and the instruction was of the best quality, noting that VU had multiple academic and professional “lines of work” as well as “strong courses” in medicine and dentistry.\textsuperscript{402} In conclusion, the report stated that the “future prospects of the school are unusually encouraging” and added:

This Institution has done and is doing a great work. Thousands of young men and women have obtained a liberal education in this school at a very nominal expense.

In view of the excellent record of the school and its present status, we recommend that its accreditments [archaic] for Class A, B, and C work be continued, and that the school be classified as a Standard College.\textsuperscript{403}

Although years earlier the State of Indiana had granted the University official certification, this particular report of the State Department of Public Instruction contained explicit positive endorsements. The words of the endorsements were subsequently quoted in advertising and promotional material to attract prospective students.

\textsuperscript{399} Id.
\textsuperscript{400} See Letter from Charles A. Greathouse, Superintendent, State Dep’t of Pub. Instruction, to President Brown (June 12, 1916), and accompanying report of the Inspection Comm., State Dep’t of Pub. Educ. (June 20, 1916).
\textsuperscript{401} Report of the Inspection Comm., supra note 400, at 1.
\textsuperscript{402} Id. at 2.
\textsuperscript{403} Id. at 2.
H. Advertising Draws Students

After the State of Indiana certified the University, that same year VU placed an advertisement in Chicago newspapers, stating that VU had twenty-one departments, 220 instructors, and "an annual enrollment of more than 5,000 different students." This five-by-nine inch advertisement included a picture of the campus along with a proclamation that VU is "One of the Largest Institutions of Learning in the United States Through Instruction at Lowest Expense." The advertisement added that "the total expense for board, tuition and furnished room for the regular school (thirty-six weeks) need not exceed $142; for forty-eight weeks, $181." Students came to the University and the School of Law partly in response to the effective advertising campaign of President Brown and Vice-President Oliver Kinsey, and especially, it seems, in response to the "Instruction at Lowest Expense" claim.

Even though the University's advertising campaign was centered in the Midwest, the School of Law drew students from across the country. The graduating class of 1909 consisted of twenty-one males. One, Thomas Yuon, was a native of Switzerland, another, Carlos Algarin Travacier, was from Puerto Rico, and a third, Harutaka Uranaka, was from Japan. The eighteen others came from Nebraska (one); Pennsylvania (one); Nevada (one); Tennessee (one); Michigan (one); Illinois (four); Kentucky (four); and Indiana (five).\footnote{VAL. U. L. DEPT COMMENCEMENT CATALOG, 1909, at 2.} The 1911 graduating class consisted of sixty students, including three from Puerto Rico, one student, Dimitre Economoff, from Bulgaria, and the rest from the eighteen states of Arkansas, California, Colorado, Georgia, Illinois, Indiana, Louisiana, Maine, Michigan, Minnesota, New York, North Dakota, New Hampshire, Ohio, Pennsylvania, South Dakota, Texas, and Wisconsin.\footnote{VAL. U. BULL., 1912-1913, June 1912, at 32-33.}

Another example of student diversity is the class of 1913. Shizuka Hasebe was a native of Wakamatsu, Japan, and had studied law at New York University before finishing up his law studies at Valparaiso.\footnote{All the information in this paragraph is contained in the University Archives in a Record of the Law Class of 1913, pages 162-94.} Another foreign national, Theodore Svetcov, was from Radovo, Bulgaria, which he described as "The Land of Roses." Svetcov had graduated
from Prague University and had attended Battle Creek College of Michigan before studying law at Valparaiso. Twin brothers Joseph and Thomas Jeffries came from the small town of Monessen, Pennsylvania. Fred Warber had come off a farm near St. Charles, Minnesota, and had studied one year at Minnesota State University before entering the School of Law. Olin Moyle had taught high school in his home town of Waterford, Wisconsin before beginning his law studies. Wise Alderman of Hillsville, Virginia, had gone to the Fairview Academy before "coming to [VU] Law School for his finishing touches." James A. McGuffin, from Sacramento, California, served four years in the Bureau of Education of the Philippine Civil Service before law school. W.R. Smith hailing from Brushton, New York, was described as being a teacher and business accountant, presumably before coming to law school.

Finally, it was said of James L. Hyer of Waterloo, Wisconsin, that he went to bed each night "cursing Teddy Roosevelt and praying to Bob LaFollett." Interestingly, Albert L. Stone of Prestonburg, Kentucky, had attended the University of Kentucky in Lexington, had studied law at Bowling Green, and, in fact, had been admitted to the Kentucky Bar in 1911, the year he began law classes at Valparaiso. Orville James Dean, from Ironton, Ohio, authored the published "Class History" of the VU law class of 1913.

I. Student Life and Activities

In the fall of 1908, when Bowman became the School of Law's Dean, 162 new "junior" students enrolled, including one woman, Elizabeth Lattimore. For reasons unknown, she did not return for her senior year. The new entrants quickly learned that the study of law at Valparaiso was demanding. Only seventy-nine of the original 162 members came back the following fall to complete their law studies. And those who did found that their final year at the School of Law had its own challenges.

Bowman was a taskmaster. Although the course "Constitutional History of England" was listed as an elective, he told the students the course was "semi-obligatory," meaning in essence all senior students were expected to sign up. The problem was that it met at 6:30 a.m., meaning that during winter, students were expected to be in class well

407 Id. at 168.
408 Id.
before dawn. Some did and some did not. As Leonard F. Pierson, historian and member of the class of 1910, put it: "Though the enrollment was large, the attendance was small as a great deal of sickness was reported each morning, probably due to the outrageous hour of 6:30 a.m. when professor Calvin S. Hoover expected them to recite on the next point." The following year's graduating law class of 1911 had a graduate of note Edward A. Anderson. Anderson, years after earning his LL.B. degree, wrote the words and music for the "Valparaiso Fight Song," still in use today.

Orville Dean's 1913 Class History contains tidbits of what life was like for the VU law students during their time on campus. He recalled the long and bitter winter of 1912. To relieve their boredom, the law students hired a banquet hall in February and invited members of the "dressmakers' constituency"—as they referenced the female undergraduates of the time—to come to dinner. Presumably, the winter was forgotten, for a few hours.

Commenting on the school's physical facilities, Dean noted, "The Old Law Building [was] a structure which must have been planned and constructed by some one other than a carpenter, probably a musician." The author added that the building "being far removed from the University invited a spirit of independence." Although new students were not impressed with the facilities, they were with the dean. Recalling the opening of school on a beautiful September morning in 1911, the class historian tells how Dean Bowman's remarks "endured even the most home-sick one with a feeling that springs only from the strong and courageous heart." Bowman, he added, gave an unexpected definition of law on that first day: "Law is the result of conflicting forces less the conservatism of courts of justice."

During the first decades of the new century, many of the previously-organized student clubs and groups continued, including the Catholic Society, the Menorah Club, the Southern Society, the YMCA, various

410 Orville Dean, Class History of the Law Class of 1913, VAL. U. HERALD, June 1913, at 187-89.
411 Id. at 189-90.
412 Id.
413 Id.
414 Id.
debating and literary societies, and sports organizations, notably the baseball clubs. One new organization, calling itself the "Valparaiso Chapter of the International Socialist Society," was started on the VU campus in 1915. Organized nationally in 1905 "for the purpose of promoting an intelligent interest in socialism among college men and women," the VU chapter was open to both graduate and undergraduate students. Nonetheless, nothing in the archives has been found indicating that law students were leaders of the Society. Still, given the times, a few law students likely would have been attracted to the group. After the Robber-Barron era in American history and the financial panics of 1895 and 1907, students' debates over the pros and cons of socialism had become widespread on American college campuses, even more so following the Bolshevik revolution in Russia.

During this period, one positive tradition from the DeMotte era continued in full force—the banquet season. Besides a full sit-down dinner, each banquet featured selected law students who gave discursive orations on specific topics, usually political or historical in content, followed by toasts given by a toastmaster or toast mistress. As an example, former School of Law faculty member Florence Higgins-Butler was the featured "Toast Mistress" at a 1910 Commencement Banquet. In addition to the annual graduation banquet, each year banquets for the Junior Law, the Senior Law, the Irish, Hero's Day, President's Day, the Catholic Society, the YMCA, and other special occasions took place.

Recall that it was the philosophy of President Brown and Vice-President Kinsey to have no dancing, no fraternities or sororities (although certain "secret" fraternal groups did exist), and no University-sponsored sports teams. Banquets and attendant speeches thus were the backbone of the students' social and extracurricular life.

A student "director" oversaw each banquet's preparations and program. The director was responsible for assembling "a group of orators and humorists" for the evening's affair. Senior law student Edgar Baker of the class of 1916, for example, was director of the Junior Law Banquet scheduled for April 24, 1915. He arranged for the banquet to be held in Altruria Hall with the dinner details to be under the

---

415 Information in this paragraph comes from various issues of The College Current and The Torch during the years 1901 through 1915.
416 1910 Commencement Banquet Program, located in the "Old School" files of the VU Archives.
417 THE TORCH (VU), May 1915, at 22.
supervision of Vice-President Kinsey, “whose experience in feeding the hungry students has enabled him to know just what to serve to satisfy the appetite.”\textsuperscript{418} Nonetheless, the Junior Law Class had suggested their own menu for the occasion, one they called a “Bill of Affairs.” Starting with Assault and Battery Soup, the students would then be served Chicken De Bonis Asportatis, Mayhem Salad with Assumpsit Dressing, followed by Felonious Sandwiches, Bilateral Pie, Wine-Caveat Emptor, and ending with Judicial Ice Cream and Quasi Wafers.\textsuperscript{419} More than 100 couples were expected to attend.\textsuperscript{420}

J. “The Lawyers’ Annual Straw Hat Parade”

Recall that back in 1901, VU law students, or “lawyers” as they called themselves, began a tradition of walking with wooden canes. In the fall of 1916, the law students added something to this tradition—straw hats. This became known as “The Lawyers’ Annual Straw Hat Parade.”\textsuperscript{421}

On one occasion, the lawyers carried a goat in the parade with a placard bating the “Pharmies,” as they called the pharmacy students, to get it if they could. The Pharmies did get the lawyers’ goat that year. Thinking that parades relieved the tediousness of law study, the lawyers started a second new parade which they hoped would also become a tradition, one called “The Pajama Parade.” The idea for a lightly-attired-law-student parade was “conceived in the fertile brains of some of our enterprising members.”\textsuperscript{422} The parade commenced at dusk and proceeded through “the principal streets of our little city,” then through “all the dormitories for the benefit of the [overwhelmingly female] school teachers.”\textsuperscript{423}

The Lawyers’ Annual Straw Hat Parade was moved to the Spring semester in 1917. This time there were “numerous features of legal initiative,” including a cavalry brigade and a “squad of legal convicts and a hand organ played by . . . Mr. Terwilliger.”\textsuperscript{424} The following year, \textit{The Torch} commented that the annual straw hat parade “knows no
failure," noting that in addition to the lawyers, commercial students also participated as did many women dressed in “Red Cross Nurse” costumes carrying patriotic banners.\(^{425}\)

An amusing controversy arose during the 1918-1919 year involving the lawyers’ claim that only lawyers were allowed to stroll on campus with a cane on their arms. Apparently, a popular student (not from the law school) entered a local drug store with a young lady at his side and a cane dangling from his free arm. A senior lawyer, witnessing the event, publicly berated the “gentleman” for infringing on what the law student considered to be the exclusive prerogative of law students to appear on the VU campus with canes.\(^{426}\) If the public humiliation wasn’t enough, a “senior law student” in the next week’s issue of The Torch, with seething sarcasm ridiculed the effrontery by calling the male student a “she” and declaring, “It’s an open insult to every respectable senior lawyer, whether he wears a cane or not, to have such ignorant mollycoddle as “HER” to wear a cane.”\(^ {427}\)

The Lawyers’ Annual Straw Hat Parade appears to have continued each year from 1916 onward, through and beyond World War I, even through the crisis years of 1919-1924.\(^{428}\) For several years, students from the Commerce Department joined with the lawyers as they had in 1918. Patriotism was the overriding theme during the war years. In the 1920 parade, the national colors with “Old Glory” led the way along with the VU band. The colors were hoisted by members of the Rehabilitation Club, veterans who had come to VU under government programs for physical rehabilitation.\(^ {429}\) The parade stretched for two blocks. An enterprising student named Mike Schroeder reportedly dressed as a “female vamp” and stood near the courthouse where, it is claimed, he (she) made twenty-one dates in little time.\(^ {430}\) The parade ended at the Memorial Opera House where a vaudeville show was put on by law students and local residents. The Opera House was reported to be packed to the utmost capacity.\(^ {431}\)

\(^{425}\) Annual Straw Hat Parade: Ice Cream Trousers and a Hula Outfit Are the Features, THE TORCH (VU), Mar. 29, 1918, at 1, 4.


\(^{427}\) “She” and “Her” Cane, THE TORCH (VU), Apr. 12, 1918, at 2.

\(^{428}\) See infra notes 450-55 and accompanying text.


\(^{430}\) Id. at 2.

\(^{431}\) Lawyers Plan Annual Straw Hat Parade, THE TORCH (VU), Mar. 4, 1921, at 1.
The 1921 version was supposed to be very special. The lawyers' parade was to be filmed by the Pathe Weekly News Service, allowing students to watch themselves in newsreels later at the local Valparaiso theater, but the film company never showed up. Nonetheless, reporting the parade a great success, The Torch noted that the parade day was the law students' annual holiday, indeed, their "foolish day." That changed the following year, 1922, when representatives of Pathe Weekly News Service, Fox Films, and International Film Co. all came to Valparaiso to film the lawyers' shenanigans. As later reported in the 1923 Record:

They were freakish looking creatures, dignified looking barristers, and a jubilant body... The day belonged wholly to [the lawyers]. They came crashing down from their pedestal [sic] of dignity. On that fool day they were all fools, to the great entertainment of the University and city. From far and wide came the photographers of three movie weeklies, that they might spread on the silver screen throughout the wide, wide world the hilarious and foolish fools of all-fools' day.

Within ten days of the filmed "fools'" parade, newsreels were shown at the local theater as well as across the country. Several students reported having seen the newsreels in Chicago theaters. Despite the happy and joyous portrayal on film of the 1922 "Lawyers' Annual Straw Hat Parade," the financial situation of the University continued to fall in a tailspin during this period, the extent of which most students were unaware. Before discussion of the University's financial crisis, we turn briefly to a description of the teaching and learning climate at the School of Law.

432 BAEPLER, supra note 4, at 72.
435 Lawyer's Annual Parade, THE RECORD (VUSL), 1923, at 163.
437 Id.
K. Faculty and Students Interact

Of all the members on the School of Law faculty during Bowman's first decade as dean, the students' favorite was the Honorable John J. Gillett, the son of one of the School of Law's initial three faculty members in 1879, Hiram A. Gillett. Judge John Gillett joined the faculty after his father died in 1904. The son had been a justice of the Indiana Supreme Court, and before coming to the School of Law, had authored two academic law works: *Gillett on Indirect and Collateral Evidence* and *Gillett on Criminal Law*. During his sixteen years on the law school faculty, he taught courses including criminal law, evidence, code procedure, real property, code remedies, and elementary law. Of interest, John's father, Hiram, was the favorite teacher of Senator George W. Norris.438

The history of the VU law class of 1910 notes that "from the first our esteem for Judge Gillett has increased with each succeeding term. He has opened up to us new fields of thought . . ., showing the ups and downs alike, throwing light on the many dark places and starting us right."439 The enthusiastic students added that "Ex-Chief Justice [Gillett] of the Indiana Supreme Court[ ]gave us an opportunity to actually practice[ ]during our school career."440 But it didn't stop there: "What profound respect our Senior Class has for this gentlemen may well be discerned from the way they listen to the lectures he delivers to us each evening from 4:30 to 6:00. This space of time . . . seems no more than fifteen minutes."441 In the 1917 Record it was noted that Judge Gillett, in teaching real property, "quoted volume after volume of the Indiana reports" and when he would call on students in the class, [they] showed their profound knowledge of criminal law by pleading "not guilty."442 Judge Gillett continued to earn rave reviews from students right up to his tragic death. Sadly, *The Torch* reported on March 19, 1920, Judge Gillette had taken his own life at his home in Hammond, Indiana, a few days earlier.443 Reportedly, the Judge was despondent over the death of his wife a year earlier, as well as over his own deteriorating health.444

438 Norris at Valparaiso, supra note 236, at 18.
440 Pierson, supra note 409, at 8.
441 Id. at 3.
442 *Chronicle of the Law Class of '17*, supra note 394, at 48.
444 Id.
On a lighter note, it was reported that VUSL part-time instructor Judge William Cullen Burns was "quite late" in coming to class one morning. The judge explained that he could get to VU from Chicago only on an early morning milk train, and that on the day in question, farmers were late in milking their cows, making the train late and, thereby, making the Judge late for his class. Judge Burns "avers he strained every drop of milk in an effort to reach here on time, and even threatened to 'can' the conductor." Another prominent faculty member who remained during most of Bowman's era was former Congressman and judge, the Honorable E.D. Crumpacker. Students claimed Judge Crumpacker made the course in real property "one of the most interesting and instructive." Worth noting also was a popular young member of the faculty, John Boman, mentioned earlier. He graduated in the VU law class of 1910. As class president, he gave one of the principal addresses at graduation, declaring that "[t]he Universe is governed by law, and we want a voice in the government." Within a short time Dean Bowman hired graduate Boman to join the School of Law's faculty. To distinguish his sound-a-like name from the dean's, students called the young professor "John." One comment in The Torch stated that Professor Boman had a wonderful memory and a "100-proof wit which we often wish he would consent to uncork with greater frequency."

Other faculty of the era included William H. Dowdell, H.H. Loring, William C. Daly, C.A. Miller, H.D. Lempke, A.H. Reading, Walter L. Summers, Lenn J. Oare, Thorley von Holst, and Earnest David MacDougall. In later years, Bowman would hire two of the leading faculty for the next two decades, Virgil Edwin Berry and John Wallace Morland. Before getting to these professorial additions, however, the story of the University's near collapse must be told.

L. World War I: The Spiral of Decline Begins

As historian John Strietelmeier concludes in his published history of Valparaiso University, the institution President Brown and Vice-President Kinsey had fashioned over four decades "was, perhaps, too

446 Id.
447 Brooks, supra note 439, at 4.
448 John Bowman, President's Address, VAL. U. HERALD, June 17, 1910, at 6.
449 John Bowman, LL.B., Professor of Law, THE TORCH (VU), Apr. 1915, at 25.
perfectly adapted to the needs of a particular age to survive the passing of that age."\textsuperscript{450} The downward spiral of the University would result not only from overexpansion and failure to adapt, it also would result from a loss of direction and faith in the future following President Brown’s death; the leaving of Vice-President Kinsey, who had extraordinary business acumen; the effects of World War I, especially the huge decline in enrollment; the lack of an endowment to fall back on; increased competition from other low-price new entrants into the higher education marketplace, notably public universities; and the inept leadership of the University from 1919 until 1925.

Unquestionably, overexpansion occurred during the Brown/Kinsey years. To begin with a preparatory school and four departments in 1873—music, science, teacher instruction, and business—then to grow to thirty units by 1915 including five different professional schools—law, medicine, dentistry, pharmacy, business, and engineering—as well as to maintain a kindergarten, primary, and secondary schools, along with an undergraduate college offering twenty-five areas of study, well, the quality of the programs and instruction had to suffer.\textsuperscript{451} True, the 1916 State of Indiana Department of Public Instruction had given VU a laudable accreditation endorsement, but it was to be the last for some time. VU would be denied accreditation by the North Central Association in 1920, and it would not be restored until 1929.

Still, becoming one of the largest universities in America within thirty-five years of its origin was a singular achievement. On the other hand, no endowment had been raised; no board of trustees had been

\textsuperscript{450} STRIETELMEIER, supra note 14, at 62. The point was made more bluntly in a highly critical assessment of the University made by a consultant during 1928, when he wrote: “However, the chief difficulty of the old school seems to have been caused by the fact that it did not read the signs of the times. Trusting its size and apparent greatness, it thought it could withstand the general education trend toward higher standards.” Floyd W. Reeves et al., Bureau of School Service, Report of a Survey of Valparaiso University 6-7 (Jan. 1929).

\textsuperscript{451} VAL. U. BULL., 1916-1917, Aug. 1916, at 8-9; VAL. U. BULL., 1913-1914, May 1, 1913, at 3. Consider what the Brown and Kinsey team ultimately offered besides teacher training and the professional subjects listed above: music dance, drama, drawing, painting, penmanship, elocution, speech, oratory, typing, telegraphy, bookkeeping, shorthand, court reporting, parliamentary procedures, psychology, sociology, history, political science, mathematics, surveying, English, Latin, Greek, German, French, Spanish, Italian, chemistry, physics, biology, botany, zoology, geology, Bible studies, agriculture, architecture, and manual training. Close to 300 full- and part-time instructors served on the faculty while nearly 6,000 students were on the Valparaiso and Chicago campuses. University leaders could not possibly have assembled and attracted first-rate faculty and practitioners in a smorgasbord of specialized and professional areas.
established; the national trend for higher standards in education was, to a significant degree, ignored; no long-range planning had taken place; and, moreover, Brown and Kinsey had not provided for what would happen if one or both of them became disabled or died.

In the fall of 1912, President Brown suffered a paralytic stroke, making it impossible for him to continue his leadership of the University.\textsuperscript{452} Kinsey carried on as acting president and by all accounts did a competent job. After President Emeritus Brown subsequently died in the fall of 1917, Kinsey became president in November 1917. Coming from a brokerage position in California to assist Kinsey in managing the University was Brown's son, Henry Kinsey Brown. The young Brown was only twenty-seven years old and had no experience in teaching, business management, or education.

The leadership vacuum had occurred simultaneously with the onset of very difficult times for the world and the University. More than two thousand students had departed VU because of World War I. The first wave left in 1915-1916, consisting of hundreds of immigrants who returned to their native countries in Europe to fight. The second wave followed in 1917-1918, over 1,700 additional students departing to enter military service following America's entry into the war. A history of the VUSL class of 1917 ends with this poignant comment:

As the end of our course drew near, the members of the class realized that they were not getting as much out of [law school] on account of the war, and it was practically impossible to do any effective work while the thought of the welfare of their country was uppermost in their minds. A petition to be graduated May 22nd was signed by each one and presented to the Dean [Bowman], [and] it was decided to hold our commencement exercises one month earlier than usual.

And so we close our work here with many of our number in the service of their country, and all pledged to its support. And so we go forth, not to pursue our profession, but to labor for a higher cause.\textsuperscript{453}

\textsuperscript{452} MOORE, CALUMET REGION, supra note 14, at 466.
\textsuperscript{453} Chronicle of the Law Class of '17, supra note 394, at 49.
Kinsey and the young Brown could not agree on how to meet the challenge brought on by the war and the consequential decline in student enrollment. To make matters worse for Kinsey, Mrs. Henry Baker Brown, the founder’s widow, sided with her son and thereby lessened President Kinsey’s authority. After eighteen months as president, Kinsey resigned in May 1919 and retired to Florida, announcing that the “firm of Brown and Kinsey has been dissolved.” Now, the University’s ownership was entirely in the Brown family, mother and son. In 1919, the inexperienced son of the founder became the third president of Valparaiso University. He was the first of five presidents who would serve in the ensuing four-year period of chaos and crisis.

M. Parade of Presidents

The young President Brown immediately appointed a board of trustees, something his father had planned but never did. The board consisted primarily of leading citizens of Northwest Indiana. With a hand-picked board to rubber-stamp his decisions, Brown attempted to “modernize” the University. He believed that his father’s ideas could no longer attract the kind and number of students which, the son believed, the University desperately needed. Previously-banned fraternities and sororities were welcomed. A director of athletics was hired to hurriedly begin an extensive, multi-sport, inter-collegiate program. Dances and purely social events on campus were encouraged. An expensive campus renovation program was undertaken. The old debating and literary societies were disbanded. To quote historian John Strietelmeier, “The University was rapidly losing prestige and was in danger of losing all recognition in the academic world.” Faculty and students were becoming demoralized. Alumni generally were displeased with the young president’s repudiation of his father’s policies by promoting fraternal societies and organized sports, groups and activities which the father had not allowed. Given a mounting discord with faculty and alumni, Brown resigned the presidency in July 1920. He had held office for only fourteen months.

454 MOORE, CALUMET REGION, supra note 14, at 466.
455 BAEPLER, supra note 4, at 94.
457 Id. at 65.
Before resigning, Brown recruited whom he thought would be the man of the hour, Daniel Russell Hodgdon. Not so, Hodgdon would serve as VU president for only nine months. Soon after Hodgdon assumed the presidency, every imaginable problem arose. It seems he had serious disagreements with nearly everybody on just about everything. His disagreements were with alumni, faculty, students, and with even his predecessor who had appointed him, young Mr. Brown.

One problem was that Brown could not keep his hands off trying to run the University, despite having resigned the presidency. By now, the University was deeply in debt, and efforts were underway on one hand to raise money from alumni, which failed, or, on the other, to sell the University to any willing buyer, which also failed. During these efforts, the North Central Association in 1920 refused to accredit the University, noting that "despite its great work in the past, the University violated key association standards."438

Soon thereafter, students discovered that Hodgdon's impressive list of degrees—B.A., M.S., Sc.D., Ph.D. LL.D.—were, with the exception of his B.A. from Bates College, in essence bogus.439 At a mass meeting of students and alumni, one hundred World War I veterans accused Hodgdon of trying to make "the poor man's Harvard [into] a regular Harvard."440 Under other circumstances, the charge would have been a great compliment. Hodgdon's falsified and misleading degree fiasco was the last straw; the Board fired him. Hodgdon claimed that the Board did not have the power, then subsequently "resigned," followed by his sending a seething letter to the media claiming that VU was full of "bolsheviks, communists, and other anti-American cults," which the media then published around the country.441

Described as the "most respected member of the [VU] faculty," Dr. John Edward Roessler became the third in the parade of presidents during the crisis period of 1920-1924, reluctantly assuming the office, as it turned out, for thirteen months from April 1921 through May 1922.462 A professor of German who was looking forward to retirement, Roessler,

---

456 BAEPLER, supra note 4, at 98.
459 Id. at 98-99.
460 MOORE, CALUMET REGION, supra note 14, at 468.
461 For overall discussions of these years at VU, see BAEPLER, supra note 4, at 96-100; MOORE, CALUMET REGION, supra note 14, at 467-69; STIMPSON, supra note 14, at 126-67; STRIETELMEIER, supra note 14, at 66-70.
462 STRIETELMEIER, supra note 14, at 70-71.
like his three immediate predecessors, had no success in raising funds or finding a buyer, although he did apparently lessen faculty anxiety during the year of his presidency.\textsuperscript{463}

The fourth in the line of crisis-era VU presidents was the dean of the School of Law, Milo Jesse Bowman, who while retaining his deanship was appointed "interim president" for seven months, from May 25, 1922 until January 1, 1923. Historian Strietelmeier notes that Bowman, during his brief tenure as VU president and subsequent three-year term as vice-president, "played a major role in the struggle, at times apparently hopeless, to keep the University intact until a purchaser could be found."\textsuperscript{464} It turns out that Bowman played a major role in trying to sell the University to the Ku Klux Klan during the time he served as Vice-President in 1923, the darkest year in VU's 130-year history.\textsuperscript{465}

Following Bowman's brief stint as VU president, Horace Martin Evans, a former member of the Normal School faculty in the 1890s, who had earned a doctor of medicine degree from Northwestern University, was appointed VU president on January 1, 1923, the fifth president in four years. He would serve in that office for a three-year period, during which both the worst and best developments in the University's history would occur.

Evans was a businessman who had served several years in the United States Public Health Service. Supported by influential citizens of Northwest Indiana, he was determined to "save the [University] at all costs."\textsuperscript{466} Given the University's colossal debt, and with no prospects for any kind of financial bail out, Evans knew that selling the institution was "the only option."\textsuperscript{467}

One might assume that conditions could not get worse, but they did. In 1923, the Old Main College building burned down. Arson was suspected. Built as the central structure of the original Valparaiso Male and Female College in 1862, the destruction, Baepler observes, "was a fitting symbol for the collapse of the University itself."\textsuperscript{468} Yet even a greater threat would confront the University just ahead, one

\textsuperscript{463} BAEPLER, supra note 4, at 100.
\textsuperscript{464} STRIETELMEIER, supra note 14, at 72.
\textsuperscript{465} See infra notes 514-21 and accompanying text.
\textsuperscript{466} BAEPLER, supra note 4, at 102.
\textsuperscript{467} Id.
\textsuperscript{468} Id. at 101.
paradoxically that may have saved the VU building, but, had it happened, would have destroyed the University's and School of Law's reputations for all time. But before turning to this near-death experience, a "legal problem" needs to be mentioned.

Taking everyone at VU by surprise, a purported lease of the University, including all its land and buildings, to Cook Laboratories of Illinois was filed in the Porter County Courthouse in a dramatic move by the former University President, Henry Kinsey Brown, son of the VU founder. The Brown family was the University's major creditor through a company known as Valparaiso Realty Company, which Brown controlled. He had attempted to lease the University to Cook Labs, in essence to foreclose the indebtedness VU owed the Brown family, believing that the University was near bankruptcy. University officials, led by Vice-President and School of Law Dean Milo Bowman, argued that Brown could not succeed. Bowman told the VU trustees: "I fail to see where this new lease can become effective .... We have met with every obligation with which we were charged[, although] [w]e were a little behind in our payments ...." Bowman argued that insurance proceeds, when paid for the loss of the Old Main building, would bring the repayment of the Brown family lien back on schedule.

N. The Indiana Realm of the Invisible Empire

May 19, 1923 was a warm sunny day with temperatures in the eighties in Valparaiso, Indiana. Despite the sun and warmth in the air, there was a darkness and coldness on the grounds of the Porter County Fairgrounds that day. Reportedly, 20,000 members of the Realm of Indiana of the Invisible Empire of the Ku Klux Klan, many hooded and carrying torches, gathered at the Porter County Fairgrounds just north of downtown Valparaiso. Those assembled were several times the population of the town. The rally drew Klansmen from all over the Midwest, many coming from nearby Chicago, and others from

---

469 See University Is to Run at All Hazards, Trustees Say, EVENING MESSENGER, July 24, 1923, at 1.
470 Id.
471 Id.; see also BAEPLER, supra note 4, at 102.
473 Lance Trusty, All Talk and No "Kash": Valparaiso University and the Ku Klux Klan, IND. MAG. HIST., March 1986, at 1; Richard Turcotte, VU and the KKK: How the Klan Came Within a Hooded Eyelash of Buying Valparaiso University in 1923, POST TRIB. (Ind.), Sept. 7, 1972, at PCC-2.
Northwest Indiana. Records of the Indiana Historical Museum disclose that Porter County had 1,160 KKK members in 1925. Their meetings took place on Friday evenings at the Odd Fellows hall.

Among those present was a VU student, whose name has been lost to history, a Klan member, who was chairman of the town’s local Klavern. Earlier, this student had been contacted by the editor of an Illinois Klan publication, The Dawn, seeking information about the town in reference to the large upcoming Klan rally. The VU student, historian Lance Trusty writes in his comprehensive study of the Klan’s attempt to purchase VU, ‘responded [to the request] with enthusiasm, and ‘conceived the idea of linking the two institutions [VU and the KKK] together.’” The student had an imagination even if it was warped.

Learning of this idea and that VU was for sale, the editor of The Dawn began a series of articles which gloated over the prospect of a “Hoosier Klan University: [where] every student, of course, would be a white Protestant and every professor a Klansman.” The VU trustees were ready to sell, The Dawn reported. Local newspapers, including the Gary Post-Tribune and the Valparaiso Daily Vidette, reported The Dawn’s stories throughout northern Indiana, later also to be picked up by the South Bend Tribune and the Valparaiso Messenger. One article, historian Trusty notes, described a VU campus visit by “Romanists”

---

474 LUTHOLTZ, supra note 472, at 75. See also Robert L. Duffus, Salesmen of Hate: The Ku Klux Klan, 46 WORLD’S WORK MAG. 31, 31-38 (1923), in which the author describes his first-hand reactions to the people and events of the Valparaiso Klan rally.

475 KKK files SC 2419 Local Officers in Indiana, 1925, Indiana Historical Museum, Indianapolis, Indiana. In 1925 in Porter County, the following “officers” were listed besides R.D. Raymond, as head:

- Kigrapp - A.L. Bailey;
- Klaiff - Wro. W. Venn;
- Klokard - J.W. Whitaker;
- Kludd - A.B. White;
- Klabee - H.C. Schneider;
- Kludd - Harvey Hodsen;
- Night Hawk - R.W. Farrington;
- Klokann Chief - J.M. Tennery;
- Klokann - E.A. Ball; and
- Klokann - Harmen Ealing.

476 Trusty, supra note 473, at 16.
477 Id.
478 Id. at 17.
479 Id. (citing the May 9, 1923 and May 12, 1923 issues of The Dawn).
480 Id.
from Notre Dame and the Valparaiso Knights of Columbus, to which The Dawn commented: "[Only] quick action, sound Klan ideas, and . . . [money] could save the school [VU] for the Invisible Empire."  481

Who were these Midwest Klansman, and why would the KKK be interested in purchasing a university? The old KKK of the south during the Reconstruction era was reorganized and came back to life in 1915. The organizer was a Baptist minister from Atlanta, William J. Simmons, 482 who named himself the Grand Wizard. 483 Simmons wanted the Klan "to save" the United States from foreigners, Catholics, Jews, labor organizers, and African-Americans to preserve the American way of life. "His grandiose plans included creating Klan universities, publishing houses, banks, hospitals, and so on." 484 The theme of "Americanism" was emphasized at all the Klan rallies. 485

Within five years, reportedly hundreds of thousands of white Protestants answered Simmons call and joined the KKK, including thousands of "respectable" business and professional people who were fearful of the cultural, racial, and ethnic changes sweeping across America. In Indiana, which was predominantly white and Protestant during the early 1920s, "[t]he Klan was at the height of its power and the university was at the bottom of its finances." 486 A quarter million Hoosiers flocked to the Indiana Grand Dragon David C. Stephenson's verbal onslaught attacking "aliens, bolsheviks, Catholics, and blacks." 487 Newspapers reported that by 1924 nearly 250,000 men—thirty percent of the white male population of the State—had become members of the Klan. 488 "A talented rabble-rouser" and "megalomaniac," Stephenson...
heaped hatred on any person or group he considered un-American. In addition, he was a womanizer, boozier, and a deceitful person who, in 1925, only two years after the Klan’s near purchase of VU, was convicted for the abduction, rape, and murder of his secretary, Marge Olberholzer, (by causing her to poison herself). He was sent to prison for life. Controversy followed his sentencing for years, some contending that he had been framed. Over a span of thirty-one years, Stephenson filed forty petitions seeking rehearings of his case based on alleged new evidence.

Prior to his take down and lock up, during the first four years of the 1920s Stephenson was actively disseminating messages of hate and exclusion throughout Indiana. He was the principal organizer of Klan rallies throughout Indiana, including the massive one held on the Valparaiso Fairgrounds in May 1923. Historian Trusty notes that hundreds of white-robed KKK parades were held in cities and towns of all sizes over a three-year period.

Virtually one year after the Valparaiso Klan assembly, another rally was scheduled to be held in South Bend, Indiana, on May 17, 1924. This time things did not go as the Klan had planned. Rather, the day was taken over by what the local media described as a riot between the predominantly Catholic students at Notre Dame University, along with some Catholic Polish and Hungarian local citizens, and the members of the Klan, both locally grown and those who came to South Bend for the rally.

"The N.D. students, showing Fighting Irish spirit, decided to oppose the Klan with guerrilla warfare. . . . [and] ambushed arriving Klansmen
at the train station and on town sidewalks, grabbing their robes and hoods and tearing them apart." The confrontations went on for many hours and included fights in and around the city, but never on the University's campus. After rumors had swept the dormitories about a Notre Dame student being killed (untrue), Father Walsh, President of Notre Dame, ordered the students to return to campus and ignore the Klansmen. Before the incident was over, however, several Klansmen and Notre Dame students were hurt in the fracas.

Prior to the Indiana Klan's Waterloo at South Bend, its influence in northern Indiana had grown significantly. It was reported that during the early months of 1923 the Klan "was building mightily" in the Michigan City community, where reportedly 1,000 robed Klansmen paraded up and down the city's streets. The huge May rally at the Porter County Fairgrounds certainly attested to its success of attracting members from Valparaiso and Porter County. In June 1923, additional Klan parades were held in the nearby communities of Hobart and Kouts, although one planned for Gary was cancelled.

O. Bowman's Role in the KKK Negotiations

Secret meetings between officials of the University and representatives of the Indiana KKK began in June 1923. Not a single VU record has been located that documents or even mentions these negotiations. The VU officials most involved apparently left no personal diaries or records, at least none have been located. Perhaps this was intentional given the potential embarrassment to the University and its top officials. Consequently, the only material on which a historical assessment of what took place as regards negotiations and sale terms consists almost entirely of newspaper accounts of the period. Area newspapers, which carried running stories of developments, included Valparaiso's two papers, the Daily Vidette and the Evening Messenger, the Gary Post-Tribune, and to a lesser extent, the South Bend Tribune.

According to these newspaper accounts as discussed and cited in historian Trusty's reconstruction of the events, the VU official most

497 Id.
498 Id.
499 Turcotte, supra note 473, at PCC-2.
500 Id.
involved in negotiating the sale of VU to the Klan, besides President Horace Evans, was School of Law Dean and University Vice-President, Milo Jesse Bowman. Trusty reports that in late June or early July, Klan representatives met with Bowman and "tentatively agreed upon a transfer price of $340,000."\(^{501}\) Grand Dragon Stephenson may have made several trips to Valparaiso to talk with University officials, presumably including Bowman.\(^{502}\) Also involved in the talks were VU trustees Charles Jeffrey and Leonard Maxwell.\(^{503}\) These three men, along with President Evans, appear to have been the only VU officials directly involved in the negotiations. For the most part, a total silence regarding the possible sale was maintained on campus during the critical months.

The Klan's chief spokesperson and biggest booster of the sale during this period was Milton Elrod, who earlier had been appointed by Grand Dragon Stephenson as editor of the Indiana Klan newspaper known as the Fiery Cross, a periodical having a circulation of 100,000 in 1923.\(^{504}\) Also representing the Klan were two local townsmen, Klansman Dr. E.H. Miller, a physician, and Klansman R.D. Raymond, chairman of the Klan's Educational Committee.\(^{505}\) By 1925, Raymond had become head of the Porter County Klan Chapter.\(^{506}\)

Another representative of the Klan, Judge Robert L. Marsh of Indianapolis, may have ultimately been responsible for the failure of the deal to go through. According to Richard Turcotte's account of the negotiations published in the Gary Post-Tribune in 1972,\(^{507}\) Judge Marsh nixed the deal because it required the Klan to sell "founders fees" to Klan members to pay off VU's existing debt; Judge Marsh reportedly declared the scheme in his opinion was "illegal and impossible."\(^{508}\) On the other hand, it was reported that "at the last moment the national headquarters in Atlanta refused to provide the money."\(^{509}\)

Whatever did happen between the time the Klan announced on August 16th that the deal was complete and then later that the sale was

\(^{501}\) Trusty, supra note 473, at 18.
\(^{502}\) BAEPLER, supra note 4, at 105; Trusty, supra note 473, at 18 n.25.
\(^{503}\) See supra note 502.
\(^{504}\) Trusty, supra note 473, at 18 n.26.
\(^{505}\) Id. at 18.
\(^{506}\) See supra note 481.
\(^{507}\) Turcotte, supra note 473, at 1.
\(^{508}\) Id.
off on September 6th, the significant fact is that the sale to the Klan was averted. In early September, Klansman Elrod announced that due to "a mess of legal technicalities" the Klan would not be purchasing VU.\footnote{510} Not so, countered VU Vice-President Bowman. In response to Elrod's protestation of legal problems, Bowman declared that "the trustees would willingly and immediately make whatever [legal] adjustments the Klan desired."\footnote{511} One account has suggested that the "legal mess" argument was orchestrated after the national leader of the Klan at the time, Imperial Wizard Hiram Evans—no relation of VU President Horace Evans—failed to provide promised money to the Indiana Klan for the University's purchase.\footnote{512}

\section*{P. Why?}

The details of the VU—KKK fiasco do not reveal why officials of the University—even given the institution's desperate financial situation—would even consider selling it to a hate-dispensing group like the Klan. Then to negotiate and agree to sell VU to a group whose beliefs were diametrical to the basic democratic, open-to-all philosophy of the University, why? Why did President Evans go along with and encourage the sale? Why did Dean Bowman, the same person who brought the sound "New Education" ideas to the School of Law, willingly pursue the sale? How could the trustees sign on? Why didn't the faculty revolt? Why did the townspeople so support—and they did—the Klan's purchase of VU? Answers to these disturbing questions may never be fully known, but a few circumstances help us understand if not condone what these officials may have been thinking.

As regards President Evans, remember he had been a business man, not an educator, for most of his adult life. True, he had decades earlier taught at the Northern Indiana Normal School, and he had practiced medicine for some time, but Evans was at heart a bottom-line businessman, and the University was a business that had no bottom line. Probably better than anyone, Evans understood just how desperate the University financial situation really was. Moreover, local business people were surely pressuring him to keep the University going. The faculty, of course, wanted it to continue as did the students. As regards those local business owners, for decades the VU students outnumbered

\footnote{510} Trusty, supra note 473, at 27.
\footnote{511} Id. at 29 (citing EDGAR A. BOOTH, THE MAD MULLAH OF AMERICA 71 (1927)).
\footnote{512} Id. at 29 n.44.
the full-time residents of Valparaiso, and the local economy was largely dependent upon the students.

Add to the above the fact that the Porter County residents were overwhelmingly Republican as were most of the Indiana Klansman, who regularly endorsed only Republican candidates for public office. Those locally supporting the Klan’s purchase included doctors, lawyers, businessmen, and civic boosters. Finally, the trustees were themselves for the most part doctors, lawyers, businessmen, and civic boosters. Given the expectations, demands, and pressures from people all around him, Evans likely felt he had little choice save that of resigning his office, which of course he could have done, than to support the University’s sale to any group that would continue its operation.

As regards Bowman—the VU Vice-President, former acting President, and still Dean of the School of Law—several questions remain unanswered. When Bowman was involved in the negotiations of the sale of VU to the Klan, did he feel he had no choice? Was he a dutiful soldier following the directives of President Evans? Did he actively argue against the possible sale to the Klan with the President and before the trustees? Not a shred of evidence suggests that Bowman tried to avert the sale. To the contrary, it has been suggested that he was one of the principal enablers of the possible sale to the Klan. Historian Trusty concluded that Bowman “apparently worked diligently to secure the sale of the school to all comers, including the Ku Klux Klan.”

President Evans undoubtedly asked Bowman to take on this assignment. The record discloses that Bowman in his role as Vice-President often performed the lawyering duties on behalf of VU which, in the modern era, a university’s general counsel would perform. In any event, Bowman was a highly-educated and intelligent man and a respected legal educator, one knowledgeable in law and presumably concerned with matters of human dignity and justice. So the question remains, how could he have actively worked to sell the University to the Klan?

Well there is one possible explanation, but a rather cynical one. According to Gary Post-Tribune reporter Turcotte, during the

513 Id. at 35.
514 Id. at 12.
515 See Letter from H.M. Evans, President, VU, to Rev. J.C. Bauer (Nov. 10, 1925) (noting that Dean Bowman was examining certain athletic contracts involving the University).
negotiations, the Klan agreed that after it had purchased VU it would build a new law school building on the VU campus. If true, this prospect might have interfered with Bowman’s rational thinking process. New and larger facilities for the School of Law were needed.

One other question needs to be asked. Was Bowman personally sympathetic to the Klan? Although it can be dangerous to weigh Bowman’s background too heavily in the equation, it should be remembered that Bowman was a White, Protestant, and Baptist who grew up in a southern Indiana community, Madison, which resembled the anti-bellum south. The possibility certainly exists that Bowman may have been sympathetic to the Klan’s cause. Yet, this tentative conclusion may be unfair given his otherwise unblemished thirty-seven-year record in legal education, first as a dean, and then as a law professor (twenty-one years at VU and subsequently sixteen at Indiana University). Upon his retirement in 1944, Bowman was described as a man who “was a thoroughgoing believer in democracy.”

Regarding the VU faculty as a whole, two had left during the early crisis years of 1919 through 1922, and more did so during the summer of 1923 upon hearing that the Klan might take over the University. Students too were leaving upon hearing of the possible Klan purchase.

The secretary to VU founder and first president, Henry Baker Brown—Catharine Corboy—stayed on as secretary to the succession of presidents through 1925. Corboy was a devout Roman Catholic. In reply to Catholic and Jewish student inquiries expressing concerns about the KKK’s possible take over of VU, Corboy warned them that should the sale to the Klan go through, “[h]ereafter, Valparaiso will not be the place for the Kellys, Burkes, and Steins.” Consequently, VU Catholic and presumably Jewish students did not return in the fall of 1923. In another letter to a friend in Michigan, Corboy wrote, “The Ku Klux Klan claim the old policies of VU will prevail but given their vicious attacks on Jews, Negroes, foreign-born and Catholics, [such people] won’t likely

516 Turcotte, supra note 473, at 1.
518 BAEPLER, supra note 4, at 106; Trusty, supra note 473, at 20.
519 See supra note 518.
520 See supra note 518.
attend, but [the Klan] have so many of their own and they certainly need an education."\textsuperscript{521} She was right about that.

Q. Aftermath

Although the Klan purchase of VU never happened, the nation-wide publicity about the sale caused scorn and ridicule to be directed at the University in newspapers across the country, including the \textit{Chicago Tribune}, \textit{New York World}, \textit{Washington Star}, \textit{Louisville Courier-Journal}, \textit{Columbus Journal}, and \textit{New York Times}, as well as in magazines including \textit{New Republic} and \textit{Literary Digest}. One example: \textit{The Louisville Courier-Journal} in July before the sale had fallen through wrote that VU would become "Klan U . . . . The Grand Headquarters for the \textit{Grand Gizzard} and the \textit{Imperial Klowns}, . . . a monument to the rule of prejudice and the rule of the mob."\textsuperscript{522}

Despite all the publicity in local and national media about the possible sale of VU to the Klan, virtually nothing was said about it in campus publications of the time. An alumnus of the School of Law class of 1928, Leslie Young of New York City, does not recall hearing anything about the failed Klan sale during his three years at the School of Law from 1925 through 1928.\textsuperscript{523} Ironically, people on the outside may have known more about the VU-KKK affair than many did on the campus.

Yet wide-spread negative press probably contributed to the smallest number of students enrolling at VU in the fall of 1923 in thirty years, a total of 614 students, a bit over ten percent of VU’s nearly 6,000 students who enrolled during the 1915-1916 academic year.\textsuperscript{524} W.C. Dickmeyer, who years later became chairman of the VU Board of Trustees in the Lutheran era, in describing the University’s past, wrote: “A great school had been built and gone to seed.”\textsuperscript{525}

Following the Klan’s failed purchase, during the 1923-1924 academic year VU was on the brink of closing. President Evans continued to attempt to find a buyer and to raise money, but to no avail. With the

\textsuperscript{521} Letter from Catharine Corboy, Secretary to the President, VU, to a prospective student (July 1923).
\textsuperscript{522} \textit{CHALMERS}, supra note 483, at 168.
\textsuperscript{523} Memorandum from Jay Conison, Dean, VUSL (Apr. 6, 2003) (regarding interview with Leslie Young).
\textsuperscript{524} \textit{MOORE, CALUMET REGION}, supra note 14, at 469 n.38.
\textsuperscript{525} Dickmeyer, supra note 58, at 8.
help of local politicians, Evans commenced one final effort, this one to have the State of Indiana purchase the institution and turn it into a state normal school. The idea had been suggested back in 1919, when the trustees had offered VU to the state as a teachers college, there being no state teachers college in northern Indiana. The politicians rejected the offer in 1919, but by the spring of 1925, President Evans was mobilizing political support for a new bill before the Indiana legislature, which would allow the state to take over VU and turn it into a state-subsidized school. The bill passed the Indiana House by a seventy-two to fourteen vote, and then the Senate by a thirty to nine vote. Klan-endorsed Governor Edward Jackson then pocket-vetoed the bill, having the right to do so, but gave no reason. Baepler describes Governor Jackson as the pawn of Indiana KKK's Grand Dragon Stephenson.

The Klan story does not end yet. In February 1925, in an effort to rehabilitate the University's reputation, VU alumnus E.A. Miller, editor of the South Bend Tribune, issued a public statement on behalf of the University, which was subsequently headlined in the New York Times, that VU was "open to the education of all without thought of race, religion, social standing, wealth, politics or influence." The statement was directed to the media "for the information of [VU's] 10,000 or more former students and graduates now scattered throughout the country and in foreign lands." The statement concluded by proclaiming that henceforth VU "cannot be controlled by any class organization or religious sect." The date of the statement was February 2, 1925. Within three months, the LUA would begin negotiations to acquire the University.

R. The School of Law During the Crisis Years

In 1915, approximately 200 students were enrolled in the Valparaiso University School of Law. By the fall of 1923, right after the University's sale to the Klan fell through, the number of law students had fallen to sixty-four. By 1927, it had fallen further to the forties. Back in 1915, the law faculty consisted of nine members: Dean Bowman and Professors Boman, Gillett, Crampacker, Summers, Oare, Daly, Dowdell, and

526 MOORE, CALUMET REGION, supra note 14, at 470.
527 BAEPLER, supra note 4, at 109.
528 Letter from H.M. Evans, President, VU, to A.F. Hoffsommer (May 19, 1925).
529 Id.
530 BAEPLER, supra note 4, at 108.
531 Id.
Reading. In the fall of 1923, the law faculty consisted of only four members: Dean Bowman and Professors Berry, Daly, and Dowdell. Only Bowman, Daly, and Dowdell remained of the nine who had been on the faculty eight years earlier. One had died and five had left.\(^{532}\)

Prior to the years of declining enrollment, Bowman had raised both the standards for admission and for the LL.B. law degree at the School of Law. Beginning with the 1916-1917 academic year, new entrants either had to have graduated from "standard universities or colleges," or be at least eighteen years of age and have the equivalent of a four-year high school course of study or beyond, which included certain required units in English and other designated subjects.\(^{533}\)

The following academic year, 1917-1918, Bowman extended the course of law study from two to three years, "to put [the School of Law] in better position than ever before for carrying out its great role in the educational world."\(^{534}\) Back in 1896, the ABA had approved that for admission to the bar, the applicant had to have met the minimum requirements of a high school diploma and two years of law study.\(^{535}\) These remained the "official" ABA requirements until 1921. However, the ABA's Section on Legal Education as early as 1909 had urged that the admission standard be raised to three years of law study and either a fourth graduate year or a year in a law office in some sort of apprenticeship arrangement.\(^{536}\) When the Valparaiso University School of Law extended its course of study to three years, many schools had already done so, while many others soon would follow. However, by the beginning of the 1919-1920 academic year, the VU bulletin implied that the higher-admission standards implemented in 1916 may have been lessened. It stated that anyone could be admitted with the equivalent of a high school education, rather than a high school diploma.\(^{537}\)

Despite the raising of the School of Law's standards prior to the University's years of crisis, the School of Law during the crisis years was able to do little given the severe financial burden confronting VU. The

\(^{532}\)This data comes from a study of the list of faculty set out in the VUSL Bulletins and Announcements for the years 1915-1916 and 1923-1924.

\(^{533}\)BULL. VAL. U., DEPT OF L., 1916-1917, at 8.

\(^{534}\)THE RECORD (VUSL), 1923, at 159.

\(^{535}\)STEVENS, supra note 90, at 96.

\(^{536}\)Id.

\(^{537}\)BULL. VAL. U., July 1919, at 12.

http://scholar.valpo.edu/vulr/vol38/iss3/1
crisis was having a severe negative effect on the School of Law. For one thing, the law library collection was quickly becoming deficient. In November 1922, the law students staged a vaudeville show to raise funds for the benefit of the law library.\textsuperscript{538} During and after World War I, from 1917 through 1922, "the school was compelled to discontinue [procuring] some of the most important sets of Reports and Digests."\textsuperscript{539} The proceeds of the show were to be used "to bring these sets up to date and perhaps add a number of new books to the library."\textsuperscript{540}

When Dean Bowman was called in 1922 by VU's Board of Trustees to serve as interim president of the University, he retained his position as dean of the School of Law. Nonetheless, given the financial situation confronting the University, it is unlikely that he was able to devote much time if any to the affairs of the School of Law. Then, Bowman became vice-president for the next three years under President Evans, and, as stated earlier, in effect was also serving as the University's general counsel during this period. Certainly his involvement in the unfortunate KKK venture, as well as his likely involvement assisting Evans' efforts to have VU become a state institution in 1924, followed finally by the sale to the LUA in 1925, had to mean that for this extended period he concentrated his attentions on matters other than the School of Law.

From 1923 onward, Bowman also had to be distracted by ramifications of all the bad press VU had received as a result of the Klan episode. For example, Gus Hadwiger, a 1910 School of Law graduate from Alva, Oklahoma, in 1926 wrote Bowman stating, "[T]he University has had a bad name for a time, first it was Bolshevism and then K.K.K. and we have hoped all along that matters would be adjusted and the Law School prosper as formerly."\textsuperscript{541} Bowman revealed his frustration when he responded, not altogether truthfully. "The Klan never had one penny in the school or anything whatever to do with it. That story was simply advertisement on their part to gain members . . . ."\textsuperscript{542} The stress was showing. Part of Bowman's anxiety was likely due to the change in the University's administration and its pronounced intention to change most administrative personnel. President Evans a few months earlier

\textsuperscript{538} THE RECORD (VUSL), 1923, at 164.
\textsuperscript{539} Id.
\textsuperscript{540} Id.
\textsuperscript{541} Letter from Gus Hadwiger to M.J. Bowman, Dean, VUSL (Aug. 9, 1926).
\textsuperscript{542} Letter from M.J. Bowman, Dean, VUSL, to Gus Hardwiger (Aug. 17, 1926).
had himself been asked to step aside in favor of an acting Lutheran president, the Rev. John C. Bauer.\(^{543}\)

Despite the obvious anxiety of VU administrators, historian Strietelmeier notes that the "remarkable thing" about the years of decline is that the morale of the student body "did not seriously deteriorate until about 1925."\(^{544}\) That appears to be accurate as regards students at the VUSL. Following successful annual lawyers' straw hat parades through 1924, the parade for the first time in two decades did not take place in the spring of 1925. An editorial in the student paper, The Torch, lamented that despite advance publicity of an annual Lawyers' Day Parade, "There was no LAWYERS' DAY,"\(^{545}\) adding that the rest of the students had anticipated a demonstration "which would characterize the spirit [of the School of Law]... We were compelled to withstand the disappointment that arose in the LAWYER'S failure to stage [the parade]."\(^{546}\) No explanation was given why the annual festivities were discontinued, but it is reasonable to infer that the law students by then recognized that the school might be near the end of its existence. A year later, The Torch again lamented the 1925 discontinuance of the annual lawyers' traditional parade, adding that "it would be splendid if such a parade were planned this year."\(^{547}\) But once again, the annual lawyers' parade was neither planned nor held.

Another tradition that applied to first-year law students (then called "frosh" lawyers) also fell away in 1925—the requirement that "frosh lawyers" wear green beanies on campus like all other freshmen. The VU law students revolted from the traditional practice. Debates ensued, including an angry editorial in The Torch declaring, "Frosh [lawyers], respect the upper men. Find your place in the student body and maintain it admirably!"\(^{548}\) The students' response in essence was, "[N]o way, we are lawyers." Law students in the mid-1920s seemed to push their own self-importance a bit far. What probably started as good natured intra-departmental rivalry at some point turned somewhat ugly, an impression gleaned from reading letters and reports in The Torch. It may be that the law students were not assigned sufficient cases to keep them busy and a little humble. Yet, despite the banishment-of-the-

\(^{543}\) BAEPFLER, supra note 4, at 151; see also infra notes 591-92 and accompanying text.

\(^{544}\) STRIETELMEIER, supra note 14, at 74-75.

\(^{545}\) THE TORCH (VU), Apr. 29, 1925, at 2.

\(^{546}\) Id.

\(^{547}\) THE TORCH (VU), Apr. 21, 1926, at 1.

beanie anguish, morale at the School of Law appears to have held up rather well during the University’s years of crisis.

Still, the period was a disappointing one for the School of Law as a whole. No significant advancements took place. Rather, conditions generally worsened. Faculty left from 1921 through 1925; student enrollment sank dramatically; admission standards were relaxed; no new innovative courses or programs were introduced; and the library reached a point where it could no longer buy the latest reports and case digests. This state of affairs was in sharp contrast to Bowman’s first decade as dean when the School of Law grew both quantitatively and qualitatively.

Although one finds scant references to the School of Law’s stagnation and academic decline from 1918 through 1925 in the literature of the period, the School of Law’s deterioration became known to those within the University administration after a national consultant hired by VU—Dr. Floyd Reeves of the University of Kentucky—reported in 1928 that “the law school was academically the weakest link in the University, a casualty of the recent desperate years.”549 Coincidentally—or perhaps not—this negative report was issued to the new VU Lutheran leadership during what turned out to be Bowman’s final year as dean of the School of Law. Minutes of the Committee on Instruction of the VU Board of Directors, dated April 16, 1928, indicate that Dean Bowman had been demoted to “Acting Dean” for the 1927-1928 academic year.550

S. Frances Tilton Weaver: A Pioneer

Good things did happen at the School of Law during the years of crisis. Students continued to study law although in fewer numbers; the annual lawyers’ parades were re-established, even drawing national press coverage as noted earlier; banquets, debates, and mock trials all continued to take place as reported in the student newspaper, The Torch.

Certainly one of the more positive occurrences had to be the enrollment in the School of Law and subsequent graduation of Frances Tilton Weaver. Entering in the fall of 1923, she received her LL.B. degree in 1925. Although there had been many successful women at VUSL ahead of her, Frances Tilton Weaver would become a “First Woman of

549 BAEPER, supra note 4, at 159.
550 Minutes of the Comm. on Instructions, Bd. of Trustees, VU 6 (Apr. 16, 1928).
Valpo Law" in numerous respects. Her story has been told many times, but the best is the one authored by Professor Ruth Vance of the VUSL faculty.\textsuperscript{551}

Professor Vance notes that Weaver was the youngest woman to be admitted to practice before both the Indiana and Illinois Supreme Courts; the first woman attorney to practice law in Porter County, Indiana (after having practiced in Chicago for several years); the first woman to be appointed special judge of the Porter Circuit Court; and the first woman attorney to sit on the Valparaiso City Plan Commission.\textsuperscript{552} Admitted to practice in Indiana at the age of twenty-one, Weaver passed the Illinois Bar examination the following year.

The only woman lawyer in the 1925 graduating class, she was born on May 29, 1904, in Kansas with the name Frances Ellen Tilton. She married Avery Weaver only a few months after graduating from law school. He eventually would become treasurer and general manager of the community's leading newspaper, The Vidette Messenger. Frances Tilton Weaver, meanwhile, practiced law continuously for forty-one years, retiring in 1966.\textsuperscript{553}

Her paternal grandfather was a postmaster appointed by President Abraham Lincoln at Mt. Liberty, Brown County, Indiana. Both her parents had been school teachers and administrators. Her mother had been a suffragette and supporter of women having a choice as to careers. Her father, Ira C. Tilton, left teaching and was admitted to the Porter County Bar and the Indiana Supreme Court in 1914 and practiced until disabled by a stroke.\textsuperscript{554} Ira Tilton taught at VUSL on a part-time basis after beginning his law practice.\textsuperscript{555}

How did Francis Tilton decide to study law at the School of Law? She explains: "[M]y father had a chance visit with Milo Bowman . . . . He told the Dean of my interest in the study of law. The Dean suggested that I call him . . . . [She did so and went for an interview.] The Dean . . .

\textsuperscript{551} See Ruth Vance, Frances Tilton Weaver, Our "First Woman," THE AMICUS (VUSL), Winter 1994, at 8.
\textsuperscript{552} Id. at 9.
\textsuperscript{553} Francis Tilton Weaver, LL.B.; J.D.—Valparaiso University (n.d.) (unpublished autobiographical statement) [hereinafter Weaver]; see also Mary Henrichs, VU Law Grad of 1925 Recalls: Girl Friends – Not Profs – Greatest Critics, VIDETTE MESSENGER (Valparaiso, Ind.), June 7, 1975.
\textsuperscript{554} Weaver, supra note 553, at 1, 2.
\textsuperscript{555} BAEPLER, supra note 4, at 73.

http://scholar.valpo.edu/vulr/vol38/iss3/1
declared that in his opinion I had the capabilities of understanding the study of law. That was all I needed!"\textsuperscript{556} She enrolled. Upon graduation three years later she decided to go to Chicago to practice. It took courage for a woman in those years to venture out into the world the way she did. She writes:

I was a woman, a person, I never for once considered myself a second class citizen, nor did I believe that sex (anatomy) was one's destiny. Instead I believed the development of the mind was the destiny of mankind. I was a woman, and proud of it and wanted to retain my femininity in the world understanding that it was [then] a man's field I was entering.\textsuperscript{557}

With no letters of introduction, she marched into several Chicago law firms and asked to see the "senior member of the firm." She says that because of her ignorance and brazenness, the senior lawyer in the firm of Vose & Vose found her of interest and gave her a clerking job.\textsuperscript{558} After passing the Illinois bar examination and being admitted to practice before the Illinois Supreme Court in Springfield, she became an associate in the firm located at 140 South Dearborn Street. She commuted back and forth from Valparaiso to her Chicago law office on the Pennsylvania Railroad for several years.\textsuperscript{559} Because of the depression, by 1933 the firm's work had lessened considerably and the senior Vose retired. Weaver decided to leave Chicago and find a lawyering position in Porter County. In addition to working with her father in his law office, she also took on the job of Porter County Fee Attorney of the Home Owner's Loan Corporation. She was appointed by Indiana Democratic Senator VanNuys.\textsuperscript{560} Subsequently, in 1944, Weaver was appointed Special Judge of the Porter Circuit Court.\textsuperscript{561}

Back in 1930, Frances Tilton Weaver, along with other professional women in Valparaiso, set up a new organization known as "The Portia Club." The purpose of the club was to assist and promote women who

\textsuperscript{556} Weaver, \textit{supra} note 553, at 2.
\textsuperscript{557} \textit{Id.} at 3.
\textsuperscript{558} \textit{Id.; see also} Vance, \textit{supra} note 551, at 8.
\textsuperscript{559} Weaver, \textit{supra} note 553, at 4.
\textsuperscript{560} Vance, \textit{supra} note 551, at 9.
\textsuperscript{561} Weaver, \textit{supra} note 553, at 4.
had obtained law training or were in the process of doing so. An article telling of the Club's formation stated that "Valparaiso's School of Law is an unusually desirable school for women, because it has all of the advantages of co-educational training and none of the disadvantages for women which seem to be ... prominent in larger universities. The faculty and men students at Valparaiso are unusually considerate, respectful, and friendly in their treatment of the women members of the law school." Weaver was named vice-president of the Club, the president being a law student named Avis Worstell. Writing about Frances Weaver, Worstell said that "Mrs. Weaver ... is extremely well liked and very highly esteemed," having a "charming personality, attractive appearance, quick wit and keen mentality."

Despite Worstell's laudatory compliments, Weaver found that during her practice of law most of her critics were other women, not men. Many could not understand her choice not to stay at home and wondered what compelled her to enter the legal profession. Some of the criticism, she opined, was "a matter of jealousy."

In 1993 at the age of eighty-nine, Francis Tilton Weaver received from Valparaiso University School of Law the Antoinette Dakin Leach Centennial First Woman Award in commemoration of one hundred years of American women in the law. The previous October, the Porter Country Bar Association named Weaver "A Woman-in-the-Law Honoree" in light of her many accomplishments and "firsts" in the legal profession. In 1995, the ninety-year-old Francis Tilton Weaver donated to the School of Law her 1925 VU law diploma, 1925 Indiana bar certificate, 1927 Illinois bar certificate, and a letter from United States Supreme Court Justice Sandra Day O'Connor in reference to the 1994 ceremony at the School of Law where both Justice O'Connor and Weaver were honored as "women pioneers in the law." Today, the School of Law has a endowed scholarship in the name of Francis Tilton Weaver.

---

563 Id.
564 Id.
566 Interview by Ruth Vance, Professor of Law, VUSL, with Francis E. Tilton Weaver 2 (Nov. 23, 1993) (typewritten notes on file with the VU Archives).
567 Vance, supra note 551, at 9.

http://scholar.valpo.edu/vulr/vol38/iss3/1
Although the details of how a group of Lutheran laymen with the support of influential Lutheran clergy purchased VU in 1925 is ably told both in Strietelmeier's and Baepler's respective histories of the University,\textsuperscript{569} a short summary of key events is set out here. Although many assume VU was the country's first Lutheran-affiliated institution of higher learning intended to admit laity in addition to theological candidates, Strietelmeier tells us that is not so. Back in 1839, officials of the "evangelical Lutheran Synod of Missouri, Ohio, and Other States (later The Lutheran Church-Missouri Synod) had founded a little Lutheran College in Perry County, Missouri."\textsuperscript{570} In time it became Concordia Seminary in St. Louis, and from then on only aspiring Lutheran clergy were admitted.\textsuperscript{571}

American Lutherans, nearly all of German descent, officially organized the Missouri Synod in 1847.\textsuperscript{572} By 1925, there were over one million members in America. The new Synod encouraged the establishment of parish-sponsored elementary schools. In addition, nine German "Gymnasium" institutions (of which several were named Concordia College, two Concordia Seminaries, and two Concordia Teachers Colleges) were started. They were established to train Lutheran clergy as well as teachers for Lutheran parochial schools.\textsuperscript{573}

As Baepler points out, "almost alone among the larger Christian denominations in the United States, the Missouri Synod had no college for its lay members."\textsuperscript{574} By 1917—coincidentally the 400th anniversary of the Reformation—starting with a group known as the Lutheran Society of New York, calls for a national lay Lutheran university begin to be made. One came from the Rev. O.H. Pannkoke, described by one historian as "Lutheranism's first promotional genius."\textsuperscript{575} Pannkoke would become one of the principal supporters of the Lutheran's acquisition of VU.

\textsuperscript{569} See BAEPLER, supra note 4, at 131-61; STRIETELMEIER, supra note 14, at 77-101.
\textsuperscript{570} STRIETELMEIER, supra note 14, at 77.
\textsuperscript{571} Id.
\textsuperscript{572} BAEPLER, supra note 4, at 134.
\textsuperscript{573} Id. at 134-35.
\textsuperscript{574} Id. at 135.
\textsuperscript{575} Id. at 138 (quoting historian Richard Solberg).
Another declaration of support came from the Rev. John C. Bauer, a Missouri Synod minister at Trinity Lutheran Church in Fort Wayne, Indiana. In the period following World War I, not only did the Ku Klux Klan attempt to purchase VU, it also had spearheaded attempts to outlaw parochial schools as "un-American institutions." One response was that a group of Lutheran laymen formed the American Luther League ("ALL"). Among the League's leaders was Rev. Bauer, who actively assisted the League's efforts to counter the Klan's attempts to close Catholic and Lutheran parochial schools.

Enter the Rev. George V. Schutes, pastor of Immanuel Lutheran Church in Valparaiso, who called upon Rev. Bauer in Fort Wayne. Rev. Schutes at this meeting suggested that the Lutherans might be able to purchase VU, but they would "have to act quickly." That meeting set the wheels in motion. Various groups heard about the idea, including the National Lutheran Education Association ("NLEA") and the entirely Lutheran lay organization known as the ALL. Rev. Bauer was a "field secretary" for the ALL. Bauer asked Schutes to present his idea regarding the purchase of VU at an annual meeting of the ALL held in the summer of 1925 in Fort Wayne. Dr. Herman A. Duemling, president of ALL, told the annual gathering about the opportunity for the ALL to purchase VU. The delegates overall were receptive.

On June 22, at an organizational convention to establish a Midwest chapter of the NLEA, the Rev. Jacob Miller, senior pastor of St. Paul's Lutheran Church of Fort Wayne and vice-president of the Missouri Synod, proclaimed:

I'm for Valpo [first] because I love my children and want to deepen their faith as they develop, which is why we built our schools. Secondly, the church cannot rise higher than the pew. Finally, ... [w]e must have Christian doctors, lawyers and others active as citizens for the sake of our society.

576 STRIETELMEIER, supra note 14, at 82.
577 Id. at 82-83.
578 Id.
579 BAEPLER, supra note 4, at 143.
580 Id. at 145.
581 Id. at 146.
The convention delegates endorsed the organizing committee’s suggested purchase of VU. The committee then adopted a new name, “The Lutheran University Association,” and created a board of directors. The Board authorized the LUA to borrow money and to hold title to the VU property. On July 22, 1925, the LUA, after meeting with the Brown family, took a thirty-day option to purchase the VU property. Shortly thereafter, the option was exercised. The deal was made. Baepler writes that at the very moment the “final agreement was signed in [attorney] Martin Luecke’s Fort Wayne office on August 11, 1925, the bells rang out in Valparaiso, setting off a city and campus-wide celebration . . .”

The legal arrangement that finally resulted involved two separate bodies. The LUA was organized as a holding company that owned the physical assets of VU and managed the University’s endowment. The Valparaiso University Association was separately set up to be responsible for the operation of the University. Rev. Bauer pointed out after the acquisition that the Lutheran Church “does not own, control, and operate the university,” rather the owner, the LUA, “is a lay organization within the Evangelical Lutheran Synodical Conference of North America . . . [T]his is the only school of its kind within said church body, the schools controlled by the church itself being devoted almost exclusively to the task of training ministers and teachers for the churches and the church schools.”

The Valparaiso Lutheran pastor who had initially presented the purchase idea to the Fort Wayne Lutherans in August 1925 gleefully wrote: “A Lutheran university is an accomplished fact! . . . Many will rub their eyes and some will pinch themselves to make sure they are not dreaming. And yet, Presto!” In a letter from the LUA dated September 3, 1925, and signed by its president, Dr. Herman A. Duemling, to members of the NLEA, Dr. Duemling asserted that one great advantage of acquiring VU was that it was an ongoing operation...

582 Id.
583 Id. at 147.
584 Id. at 148.
585 Rev. J.C. Bauer 1 (1925) (unpublished manuscript).
586 Id.
587 George F. Schutes, At Last A Lutheran University, AM. LUTHERAN MAG., Aug. 1925, at 1-2.
which merely needs to "be transformed to our needs and ideals." The transformation would not come easily.

Historian Strietelmeier notes that when VU opened its doors under Lutheran administration on September 28, 1925, "two streams of history met in the reorganized University and, until the eddies calmed, the Lutheranism of the institution was to be more of a hope than a reality." The Rev. John Bauer would later write that when the Lutherans took over VU, "the school as such, practically every part of it, had reached the bottom academically, and in some other respects as well (a possible reference to VU's diminished reputation resulting from the Klan episode)." Things were about to change, however, and that included the School of Law. But first, the then president of the University would have to be replaced.

Baepler reports that President Evans was pressured to resign within several months of the LUA takeover. In his place, as of January 1926, Rev. Bauer was appointed acting president, the first Lutheran effectively to head the University. The Directors then appointed Dr. William H.T. Dau, professor at Concordia Seminary, St. Louis, as the first official president of the new Lutheran era. Dau accepted the post as a divine call and in June 1926 became president of the University. Upon assuming the presidency he changed VU's motto to "In Thy Light We See Light," Psalm 36:9.

At the same time, Rev. Bauer was named Business Manager. He showed sketches to President Dau of several new campus facilities, including a possible new School of Law building. Financial realities, however, postponed many of these projects for years, in the case of the law building, until 1964. There were more immediate priorities—the installation of devotional worship services four times a week at the VU chapel (non-compulsory at this time); a battle with the existing Greek fraternity system; a dispute with the Valparaiso Immanuel Lutheran Church's Rev. Schutes, which in a few years would cause Rev. Schutes to resign from the VU Board of Directors; and finally, the president's

588 Letter from LUA (Sept. 3, 1925).
589 STRIETELMEIER, supra note 14, at 77.
590 John C. Bauer, Business Manager, VU 4 (n.d.).
591 BAEPLER, supra note 4, at 151.
592 Id.
593 Dr. Dau to Become Pres. Will Assume Change Here About June 1st, THE TORCH (VU), Feb. 17, 1926, at 1.
personal problem with serious depression. After serving only a few months as president, Dau asked for and was granted a year’s leave of absence, and Rev. Bauer again became acting president, this time for the 1926-1927 academic year.594

II. Impact of Lutheran Takeover on the School of Law

Regarding the School of Law, Rev. Bauer wrote, “It is positively the intention of the new [Lutheran University] to build [the School of Law] up gradually, not so much with a view to size, but rather to quality.”595 He added that the administration would move consistently to secure a “high grade teaching force.”596 It turns out that this statement was made in anticipation of an ABA inspection of the School of Law, an event required in seeking ABA approval.597

The School of Law catalog published in July 1926, the first one after the Lutheran takeover, noted that VU was now being run by the LUA “to perpetuate the school.”598 Significantly, the catalog also announces that “effective immediately after the Fall [1926] Term, two years of college work, in addition to a standard high school course, will be required for admission.”599 It is likely that Bowman pushed for this upgrade in admission standards, being aware of the requirements of the ABA and AALS. The School of Law at this time was not an “approved” ABA/AALS school. The Rev. Bauer and President Dau clearly understood the importance and necessity for the School of Law to attain that status. They knew that the accreditation of VU by the North Central Association (“NCA”) required such law school approval. To add prestige to the School of Law, they asked for and received from the VU Board of Directors a resolution in January 1928 that the “law department” henceforth be known as the “Valparaiso University School of Law.”600

In the 1926 VU catalog, a sentence under the title “Religious Interests” reads, “Brief services, at which attendance is voluntary, are

594 BAEPLER, supra note 4, at 157-58.
595 Bauer, supra note 585, at 4.
596 Id.
597 Id. at 5.
599 Id. at 9.
600 Minutes of the Meeting of the Comm. on Instruction, Bd. of Dirs., VU 2 (Jan. 5, 1928) (held in Detroit, Michigan).
held at stated periods throughout the school year."\(^{601}\) Bowman was still listed as professor of law and dean, but he no longer had any University-wide administrative responsibilities. The remaining faculty members consisted of Virgil Berry, John Morland, William Daly, and a new member, Robert Daniels.\(^{602}\) Bowman's days of dean of VUSL, however, were numbered.

In March of 1928, notes of the Valparaiso University Board's Committee on Instruction notes its dissatisfaction with the condition of the School of Law, indicating that "we should get complete details as [what] must be done at the law school without delay."\(^{603}\) The VU Board decided that it needed to "consult with Dean Horack," of the University of Iowa Law School, who also served as secretary of the AALS. The ABA accredited, or to use its term, "approved," law schools, and the AALS set standards for membership in the ABA.\(^{604}\) The VU Board had been told by its consultant, Professor Floyd Reeves of the University of Kentucky, that VU could not obtain final NCA accreditation unless each of the schools within the University also had been accredited or approved by their respective scrutinizing agencies. The School of Law finally gained ABA/AALS approval in May 1929 (to be discussed in detail below.)\(^{605}\) Once the NCA was assured that the School of Law would in time be approved by the ABA, the NCA in turn gave full accreditation to VU on March 13, 1929, an event producing "enthusiastic celebrations" on campus and in the town of Valparaiso.\(^{606}\)

Although the Board's initial plan to possibly build a new structure to house the School of Law did not materialize, the new administration did agree in 1926 (probably following repeated requests of Dean Bowman), to move the School of Law out of its deteriorating Greenwich Street house to what was then called the Arts-Law Building (later DeMotte Hall).

The School of Law took an important step in qualifying for ABA approval when it required that beginning in the fall of 1927, all new law students would need to have a minimum of two years of undergraduate work as a prerequisite for admission, as announced in and issue of The


\(^{602}\) Id. at 7.

\(^{603}\) Notes in Connection with Meeting of the Comm. on Instruction 2 (Mar. 17, 1928).

\(^{604}\) See infra notes 622-51 and accompanying text.

\(^{605}\) See infra notes 677-79 and accompanying text.

\(^{606}\) BAEPLER, supra note 4, at 160.
Torch, which also reported that Bowman would "remain in charge as head of the law department for the coming year."\footnote{Law School Demands Pre-Legal Work, THE TORCH (VU), Sept. 28, 1927, at 4.} It did not, however, turn out that way.

On April 17, 1928, the VU Board of Directors made Milo Jesse Bowman "acting dean" of the VUSL.\footnote{Report to the Bd. of Dirs., VU 2 (Apr. 17, 1928).} This probably was a shock to Bowman, who likely considered the action a demotion and a halfway position to his eventual ouster from the VU administration. He would have guessed right. The Minutes of the Board of Directors Committee on Instruction for April 1928 reveal that Bowman had been made "acting Dean of the School of Law up to Nov. 10, 1928." Moreover, the Board of Directors Committee recommended that Bowman's resignation as acting dean then "be accepted and in his place Mr. John W. Morland be appointed as acting dean . . ."\footnote{Minutes of the Comm. on Instruction, Bd. of Dirs., VU 6 (Apr. 1928).} This transfer of power did in fact occur in November of 1928, and Bowman's twenty-one-year deanship of the School of Law came to what had to be for him a disappointing end.

Somewhat symbolically, at Bowman's final graduation as dean of the School of Law, only eleven students were granted the LL.B. degree, the fewest number in three decades.\footnote{Fifty-Seven Students Will Graduate Sunday, June 10, THE TORCH (VU), May 31, 1926, at 1.} Both for Bowman and the School of Law, the downward spiral had continued into 1926. Clearly it was time for the School of Law to have new leadership, new ideas, a rebuilding of standards, and ABA approval. Bowman clearly was on his way out.

V. Bowman Leaves the University

As of November 6, 1928, Bowman was no longer acting dean, but he retained the position of professor of law on the School of Law's faculty. Nonetheless, he left VU in early November to go to the Indiana University Law School in Bloomington. Why? The record discloses that at first Bowman had no intention of leaving VU permanently, but had expected to return, or at least to keep that option open. It must have become clear to him, however, that he was no longer considered an asset by the new VU administration. Given that the 1928 report of Dr. Floyd Reeves of the University of Kentucky had lambasted the School of Law as "the weakest link in the University," what choice did the Lutheran administration have? Whether deserved or not, Bowman became the sacrificial lamb for the School of Law's deficiencies.
The VU Board of Directors' Minutes for April 1929 reveal that Bowman, having been informed he would have to give up the deanship, had asked whether—when he had to turn his office over to Morland—he could take a leave of absence from the University. Bowman added that if the University saw fit not to grant him the leave, then he wished to resign altogether from VU. The VU Board of Directors considered his requests. The Minutes read in part: "Because of inefficiency in handling record work and laxity in cooperation, the president recommends [Bowman's] resignation." In response, rather than granting Bowman a leave of absence, the Board and President Dau accepted his resignation.

Bowman then took a permanent teaching position at Indiana University ("IU") Law School in Bloomington. He remained at Bloomington until 1945, when he reached IU's mandatory retirement age of seventy. When he first had gone to IU, he had taken the place of professor Paul V. McNutt, a later Governor of Indiana, who had left his law teaching post after being elected national Commander of the American Legion.

Although Bowman left VUSL in November 1928, he returned many times over the years, and finally, shortly before his death, returned to teach law at VU once again. After retiring from the IU law faculty, he was persuaded to teach part-time at the VUSL beginning in the fall of 1947, when he was also given the title (rather belatedly) "dean emeritus" of the Valparaiso University School of Law. He would teach for only a short time, his death coming in late January 1948.

In 1937, Bowman had returned to Valparaiso to attend the inauguration of the VUSL "Lawyers' Alumni Association." At that occasion, he was presented with an oil portrait of himself by the VU law class of 1912. His portrait hangs today at the School of Law.

In 1944, Bowman was again guest of honor at the School of Law, where alumni "of the Old School" gathered to honor him and present him a gold watch and chain. Undoubtedly of greater value, seventy alumni wrote personal letters to Edmund J. Reynolds, president of the

611 Minutes of the Bd. of Dirs., VU (Apr. 16-17, 1929) (held in Valparaiso, Indiana).
612 Minutes of the Comm. on Instruction, Bd. of Dirs., VU 3 (Mar. 21, 1929) (held in Valparaiso, Indiana).
613 Id.
VUSL Lawyers’ Alumni Association, attesting to Dean Bowman’s abilities as a skillful teacher and caring mentor during their law student days. One letter came from Frances Tilton Weaver. All the letters were given to Bowman along with a cover letter from Reynolds, which read:

I am giving these letters to you because I think that the finest reward a teacher can have is the realization that his students appreciate and do not forget the laborious and unstinted efforts put forth in and out of the classroom on their behalf. These letters bear witness that you have done a great and fruitful work, enriching the lives of grateful men and women throughout the length and breadth of our land.615

Following Bowman’s death, the IU law faculty, along with the “Bench and Bar of the State,” also paid homage to the memory “of a great teacher and legal scholar” in a dedicatory introduction to volume twenty-three of the Indiana Law Journal, published in April 1948. The attribute commented that his life had been one of great distinction, that few surpassed him in scholarship, and that he contributed original thinking to his teaching.616 The tribute continued that Bowman “welcomed new, significant books and methods of legal instruction, correcting and supplementing them with long experience and sound judgment.”617 The homage concluded by observing that “few equaled Mr. Bowman in the soundness of instruction, and none drew greater satisfaction from the work of the classroom.”618

W. Historical Assessment of the Bowman Era

Just as Strietelmeier suggests that the team of Brown and Kinsey may not have adapted their successful open-university model to changing times,619 it may be that Milo Bowman could not adapt to a changed new University administration. During Bowman’s first decade as dean—from 1907 through 1917—the School of Law experienced one of its more prosperous and successful periods in its history. The largest law school in Indiana for many of those years, it welcomed immigrants

615 Letter from Edmund J. Reynolds to Dr. Milo Bowman, Dean, VUSL (Apr. 23, 1944), along with over sixty accompanying letters to Dean Bowman.
616 In Memoriam, supra note 517, at 219.
617 Id.
618 Id. at 220.
619 STRIETELMEIER, supra note 14, at 62.
from around the world and American-born citizens from across the country. Bowman's "New Education" ideas were right for the times as were his insistence that the faculty shift over to the casebook and Socratic pedagogies. A popular law teacher, a generally respected dean, acting university president, then vice-president, and author, Milo Jesse Bowman, overall had a positive impact on the School of Law during his twenty-one years.

As a law teacher, Bowman, throughout his years at the School of Law, was clearly admired by his students. He, in turn, persistently cared about the success of his students. As an example of how alumni felt about him, consider the following comment from a member of Bowman's first class, a VU law graduate of 1909, who began by referring to Bowman as "our dear old Dean," adding that his "unique and admirable character... enriched our lives. It more than compensated for the poverty of our physical surroundings at the school."620 Then consider this excerpt from a handwritten letter from a South Bend, Indiana, VU grad, who asserted that Bowman was not only a great teacher and personal friend, but that Bowman "was my greatest teacher and surpassed other great teachers such as Henry Wade Rogers and William H. Taft" of the period.621

Not only did Bowman win the praise of his students, he brought new ideas about teaching and learning the law to the School of Law. Colonel DeMotte was stuck in the old teaching ways and traditions. Bowman, in contrast, was more in tune with the changing pedagogies in academia, especially as related to legal education. Bowman's significance comes down to the fact that he was the first "academic" dean in the history of the School of Law, one who made himself aware of the intellectual changes taking place both in law and in legal education. He had earned three academic degrees and had authored four scholarly works in the law. In addition, Bowman understood the need to hire able, academic-minded faculty. At the same time, he also saw the need for "practical" instruction and, therefore, hired judges and practitioners who would compliment the "academic" study of law with real-world instruction and experience. To his credit, Bowman raised both the standards for admission and for graduation. He expanded the required law course from two to three years.

620 Letter from Daniel McLaughlin to E.J. Reynolds, President, VUSL Alumni Ass'n (Apr. 5, 1944).
621 Letter from Roland Oberchain to John Morland, Dean, VUSL (Apr. 2, 1944).
Perhaps most positive of all, Milo Jesse Bowman personified something that became characteristic over the years at the School of Law—an admired and respected classroom teacher, one possessing a clear talent for teaching, combined with a caring attitude about the success and well being of his or her students. Bowman’s example of a good and caring teacher would be emulated in time by many others who came to teach law at VUSL.

Yet, the final assessment of Bowman has to take note of the decline of the School of Law during the last decade of his deanship. Perhaps one of the lessons learned is that a University should not have one person serve as law school dean, university vice-president, and, in effect, university counsel concurrently. Another lesson: deans can stay in office too long. And a third: financial resources do matter.

III. THE MORLAND ERA: 1928-1954

A. Law as “A Public Profession” Requires Regulation

The significance of accreditation and approval of American law schools in general and of the Valparaiso University School of Law in particular can hardly be overstated. The standards established and enforced by the ABA’s Committee (later called Section) on Legal Education and Admissions to the Bar and the AALS over the past century have been a major force in shaping the American law-school environment of today. To understand why the School of Law like all law schools became regulated by these agencies, their genesis needs first be highlighted.

The birth of the ABA took place at a resort hotel on August 31, 1878 in Saratoga Springs, New York. In time, the incipient Association—originally consisting of only seventy-five lawyers, judges, and a few law professors—grew both in numbers and influence, especially as that influence affected the development of legal education throughout the country. Historian Lawrence Friedman reports that by 1902, ABA membership had grown to 1,718. At the outset, four “committees”

622 “It is impossible to measure or even estimate the effect which the activities of the principal national professional organizations have had on ... legal education in the United States.” Sullivan, supra note 136, at 401.
623 Id.; see also Seavey, supra note 135, at 155.
624 FRIEDMAN, supra note 86, at 650; see also Seavey, supra note 135, at 155.
625 FRIEDMAN, supra note 86, at 650.
were formed, including a Committee on Legal Education, described by Harvard Law School professor Warren Seavey as "the first . . . organized group to undertake on a national scale the betterment of legal education."626

The ABA's inception resulted from several factors, including the efforts of Connecticut lawyer Simeon E. Baldwin, the encouragement of the American Social Science Association and its president, Lewis Delafield, and the growing recognition among leading lawyers that the practice of law was a "public profession."627 Delafield and Baldwin, among other prominent attorneys, articulated the position that the bar itself should set the standards of admission rather than the unregulated and proliferating law schools of the era, many of which insisted that students should be granted a "diploma privilege," automatically becoming members of the bar upon graduation.628 For the bar to set admission standards, of course, would indirectly regulate critical aspects of legal education in the law schools.629

To these ends, the original ABA Constitution of 1878 provided for the establishment of a Committee on Legal Education and Admissions to the Bar.630 The following year—coincidentally four weeks prior to the opening of VUSL's doors—the Committee on Legal Education and Admissions to the Bar presented a report to the gathered ABA delegates in Saratoga Springs. The report urged comity among states in their respective admission standards, then went on to reject apprenticeship as a means of acquiring the necessary legal education, recommending instead that the ABA "convention go on record in favor of legal education in the law schools."631 The ABA report concluded: "The verdict of the best informed is in favor of the [law] schools."632

The report offered resolutions for adoption, which included the recommendations that state and local bar associations across the country urge states to approve and "maintain" schools of law in their respective

626 Seavey, supra note 135, at 155.
627 Id.; see also REED, PUBLIC PROFESSION, supra note 114, at 208; STEVENS, supra note 90, at 26-28; EDWARD R. SUNDERLAND, HISTORY OF THE AMERICAN BAR ASSOCIATION AND ITS WORK (1953).
628 STEVENS, supra note 90, at 26-27.
629 Sullivan, supra note 135, at 401.
630 Id.; 1 A.B.A. REP. 16 (1878).
631 Sullivan, supra note 135, at 402.
632 2 A.B.A. REP. 26 (1879).
jurisdictions that provided "faculties of at least four well paid and efficient teachers;" which required students to take "full and fair written examinations;" and which schools shall offer a "general course of instruction," covering a three-year curriculum.\textsuperscript{633} Although the Committee's 1879 resolutions were not adopted by the full ABA that year, they represent the first attempt by an organized national bar association of lawyers to upgrade the standards of legal education and admissions to the bar and thereby portended the future regulation of legal education. Moreover, the 1879 resolutions of the Committee on Legal Education and Admission to the Bar marks, symbolically at least, the end of the Jacksonian era of deregulation of the profession of law and legal education.

Fourteen years later, the ABA adopted a resolution at its 1893 convention creating a "Section on Legal Education and Admissions to the Bar," the first section of the ABA to be established.\textsuperscript{634} The initial meeting of the Section took place the following year and brought representatives from seventy-two law schools, sixty-five of which were university- or college-affiliated.\textsuperscript{635}

The ABA Section on Legal Education and Admissions to the Bar was the body from which the AALS was born in 1900.\textsuperscript{636} The Section began to hold annual meetings that many law school professors would attend. Most of these professors, however, were not members of any bar; thus,

\textsuperscript{633} Id. at 27-28. The resolution went on to list the minimum courses which any law school should offer, including courses in:
- Moral and Political Philosophy
- The Law of Real Rights and Real Remedies
- The Law of Personal Rights and Personal Remedies
- The Law of Equity
- The Lex Mercatoria
- The Law of Crimes and Their Punishments
- The Law of Nations
- The Maritime and Admiralty Law
- The Civil or Roman Law
- The Constitution and Laws of the United States of America
- and herein of the Jurisdiction of Practice of the Courts of the United States, and . . . Political Economy.

Sullivan, \textit{supra} note 135, at 403-04.

\textsuperscript{634} Sullivan, \textit{supra} note 135, at 407.

\textsuperscript{635} Id. at 408. Among the papers presented at the meeting was one titled \textit{Legal Education of Undergraduates} by Woodrow Wilson. Id.

\textsuperscript{636} Seavey, \textit{supra} note 135, at 155.
ABA rules precluded them from voting. Yale law professor Henry Wade Rodgers in 1899 suggested that a new committee be appointed to bring reputable law schools into closer relation with each other and with the Section and to invite schools to meet with the Section the following year. In late August of 1900, thirty-five law schools sent delegates to Saratoga Springs. They established the AALS, naming Harvard Law Professor James B. Thayer as its first president.

The AALS, unlike the ABA, never has "approved" or "accredited" law schools. Yet it has had a strong influence on law schools that have sought membership in the AALS. Unlike the ABA Section on Legal Education and Admissions to the Bar, the AALS was not open to all law schools. To be admitted to membership in the AALS, the law school was required to have a minimum of two years of instruction of at least ten hours per week, raised to three years in 1905; not permit students to graduate without examinations; have an adequate full-time law faculty; and accept only applicants for admission to the law school who had a high school or equivalent education. In 1900, the School of Law did not meet these requirements and, as a result, was not among the original thirty-two law schools to become Charter Members of the AALS. The School of Law at that time was among the fifty percent of law schools that did not require either two years of attendance or that applicants have the equivalent of a high school education.

In 1921, two important events took place affecting American law schools. First, was the issuance of a report of the Carnegie Foundation authored by Alfred Z. Reed. The report was based upon an eight-year study of legal education in the United States. The Reed study may be the most comprehensive analysis of American law schools and legal education ever undertaken, far more detailed, analytic, and comprehensive than the Redlich report seven years earlier. Reed’s report, one respected commentator declared, "faced the facts." More and more part-time, evening law programs—typically not associated

637 Id. at 157.
638 Id.
639 Id. at 157-58.
640 Id. Seavey points out that of the thirty-five schools invited to the original meeting, twenty-seven accepted the conditions for membership and five more were quickly added. Id. at 158.
641 See REED, PUBLIC PROFESSION, supra note 114.
642 See supra notes 359-63 and accompanying text.
643 Seavey, supra note 135, at 162.
with universities or colleges—were in existence, and most had minimal, if any, standards. Reed drove home the point that these schools were not going to go away. The bar responded by considering whether to open its doors to all law schools so as to impose standards that would be applicable to part-time law schools, so that part-time students could obtain "as good an education as . . . feasible." In other words, if the bar could not abolish these part-time entrepreneurial schools, it would welcome them in so it could regulate them.

The ABA Section's response to the Reed Report signifies the beginning of the regulatory age of American legal education. The Section meeting of 560 attendees was chaired by former ABA Chairman Elihu Root. Upon motion of Dean William Draper Lewis of Pennsylvania, the Section recommended that applicants for admission to the bar anywhere in the country should be limited to: (1) graduates of law schools which require a minimum of two years of pre-legal college level work for admission; (2) those who took either three years of full-time law study or a longer course of study—at least four years—for part-time students; (3) only students who attended law schools which possess an adequate law library; (4) graduates of law schools which have a professional full-time teaching staff in sufficient number giving "their entire time to the school"; and (5) those students who have taken a written examination in the law as a requirement for graduation.

The AALS, not to be outdone, quickly followed the pattern of raising standards first promulgated by the ABA Section on Legal Education and Admissions to the Bar, but not as regards admission to the bar, but rather in respect to a school's eligibility for membership in the AALS. Thus, for example, the AALS raised the number of classroom hours a member school must require for graduation from 900 to 1,080.

Not all legal historians believe that the regulatory purpose of the ABA and AALS in their early years was to raise standards. Rather, the bar's efforts to raise standards in Professor Jerold Auerbach's views, were primarily concerned with keeping out Jews, Blacks, and immigrants. Auerbach has claimed, "the poorly educated, the ill-

---

644 Id.
645 Stevens, supra note 113, at 493 n.119.
646 Seavey, supra note 135, at 162; Stevens, supra note 113, at 493; Sullivan, supra note 135, at 410-13.
647 Stevens, supra note 113, at 494 n.124.
648 Stevens, supra note 90, at 100.
prepared, and the morally weak candidates . . . normally included non-native born Americans.” In 1909, the ABA Section declared that lawyers “had to be American citizens.”

Auerbach’s discriminatory thesis that the purpose of the ABA and AALS raising standards was to keep out Jews, Blacks, and immigrants seems overly-broad and ignores a legitimate argument for raising standards: to require better educated and more qualified lawyers to practice the public profession of law than was the case at the time. From the 1890s through the mid 1920s, women, Catholics, Jews, Hispanics, and scores of immigrants enrolled in the School of Law, despite the ABA’s early pronouncements that only American citizens should be admitted to America’s law schools. However, African Americans were not admitted.

In any event, the actions taken by the ABA and the AALS during the first few years of the 1920s drew the attention of Dean Milo Bowman of the School of Law. Perhaps more importantly, the agencies’ actions were also noticed by the University’s Lutheran administration and, above all, by Professor John Morland when he became acting dean. Indeed, the School of Law’s approval by the ABA and membership in the AALS became their top priorities.

B. The University’s Accreditation Crisis

Recall that VU was denied accreditation by the NCA in 1920. The School of Law, on the other hand, had never been approved by the ABA. Until the mid-1920s, no compelling reason existed for seeking such approval. Nevertheless, Indiana’s Constitution continued to permit entrants into the legal profession with no or minimal education, although in reality, most new Hoosier lawyers from the turn of the century had attended law schools having either two- or three-year courses of instruction.

649 STEVENS, supra note 90, at 99-100 (quoting JEROLD L. AUERBACH, UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA (1976)). Although lawyers spoke the language of professionalism, their vocabulary often masked hostility toward the threatened hegemony of Anglo-Saxon-Protestant culture. There arose themes of anti-urbanism, anti-semitism, and nativism. AUERBACH, supra, at 99.
650 See supra notes 389-91 and accompanying text.
651 STEVENS, supra note 90, at 100.
652 See supra note 458 and accompanying text.
Dean Bowman became aware, however, that in response to the ABA recommendations, various states were beginning to require for admission to practice law three years of undergraduate study prior to law school. The VU catalogs from 1923 onward indicated this development and notified VU law students that they could chose to remain for a third year of instruction.

Following the Lutheran takeover, the required VUSL curriculum was extended to three years for all students. However, the School of Law still had serious problems, notably the law library’s financial inability to purchase the latest state decisions and other essential legal sources. The University also had a problem with declining enrollment, as many students did not come when they learned that the University was not accredited and that credits earned at VU would not be transferrable to other colleges and universities.

In response to this accreditation crisis, the University took much-needed steps in 1927 and 1928. First, it appointed an energetic acting dean of the faculty, Frederick Kroencke, a Lutheran pastor with a doctorate degree, who was put in charge of the drive for NCA academic re-accreditation.653 One of the NCA’s requirements for a university to be accredited was that each of its professional schools had to be independently accredited or approved. At VU, this meant that in order for the University to gain accreditation, it had to have its School of Law meet the standards of the ABA Section on Legal Education and Admissions to the Bar. This, however, was a problem. The law library was grossly deficient, the faculty were few in number by 1927; and other concerns and questions about the School of Law needed to be addressed.

Dean Kroencke recommended that the University hire, as a consultant for the NCA accreditation drive, Dr. Floyd Reeves of the University of Kentucky. Although a professor of education, Reeves was also Director of the University’s “Bureau of School Service.” The Bureau consisted of a team of experts who inspected institutions of higher learning and ascertained what steps would need to be taken to meet NCA requirements. The team was invited to VU. They did their job.654

653 BAEPLER, supra note 4, at 158.
654 See Reeves et al., supra note 450, at 1-208.
With the assistance of Reeves, the University set a target date of spring 1929 to be ready for a North Central visit.655

One conclusion of Reeves’ report in 1928 was that the School of Law was “academically the weakest unit in the University.”656 The administration’s decisions to demote, then to replace, Bowman as dean of the School of Law were made after receiving this report, as was the decision to appoint a new acting dean to lead the drive for the School of Law’s ABA approval, upon which the University’s NCA accreditation depended. President Dau turned to the one member of the law faculty who had strong academic credentials and prior experience as a college administrator—Professor John W. Morland.

C. The Lutherans Appoint Morland Dean

John Wallace Morland’s biographical description in the 1935 VU yearbook reads in part:

Round faced, twinkling, quizzical eyes, high-pitched voice, clothes not too well pressed . . . Loves to tinker with old motors and machines . . . Even rides a motorcycle . . . Extraordinarily interested in his own field—constitutional law . . . Actually makes a hobby of history . . . . favorite vacation is visiting historical spots—graves and birthplaces . . . Likes Will Rogers, wild westerns and family of four children . . . claims to be very ordinary.657

Ordinarily he was not. Moreland/Morland liked changes in his life, like the spelling of his name,658 and, apparently, his religious preference. His background profile statement lists no religious preference, but in

655 This information comes from Richard Baepler’s unpublished, typed notes used in preparation for his later book, Flame of Faith, Lamp of Learning [hereinafter Baepler, Unpublished Notes].
656 BAEPLER, supra note 4, at 159.
658 Or, was it John W. Morland? After being at VU a few years, he apparently changed the spelling of his name to “Morland” from “Moreland,” which he used in his correspondence and documents at least through 1927. After becoming acting dean in 1928, his name began to appear as “Morland.”
In reviewing his curriculum vitae, what stands out is that between the years 1917 and 1925, when he joined the VU law faculty, Morland held nine different positions in eight years, including: (1) the president of Vincennes University for three months; (2) principal and teacher at a Knox, Indiana, for two years; (3) professor at Vincennes University for one semester; (4) history and politics professor at VU and politics for one summer; (5) assistant registrar at Johns Hopkins University for one summer; (6) registrar at VU for two years; (7) registrar and assistant professor at Monmouth College for two years; (8) dean at Lincoln Memorial University for one year; and (9) professor of law at the School of Law in Valparaiso.

Many administrators today would likely be suspicious of hiring such a multi-employed although multifaceted person. Regardless, time would prove that Morland’s hiring was a good decision. He would remain a member of the School of Law faculty from 1925 until his retirement in 1963, a span of thirty-eight years including twenty-six as dean of the School of Law. No one has ever served in the School of Law dean’s position longer.

John Morland was born at Harlem Springs, Ohio, on October 28, 1886. His father was John Thomas Moreland, and his mother, Mary Lucile DeFord. Soon after his birth, the family moved to Green County, Indiana, near Bloomington. He attended Beach Creek Township School and at the age of nineteen spent one year at the Indiana State Normal School. Later, he earned an A.B. degree from Indiana University in 1916, followed in 1917 by a LL.M. and an A.M., also from IU. After working in
various jobs, he entered the University of Chicago Law School, and he earned a Juris Doctor degree in 1922. Morland then spent several years working in college administrations, including a brief period as VU’s registrar.662

To understand Morland’s important role in attaining ABA approval, it is necessary to give the background of the University’s first efforts in that direction. University officials had begun in early 1927 to develop a plan to move the School of Law toward ABA approval. The two men most involved were Dean Kroencke and President Dau. Together they agreed to contact Professor Claude Horack of the State University of Iowa for advice and consultation.663 A few years earlier, the ABA had changed its constitution to provide for an elected “Council” of the Section on Legal Education and Admissions to the Bar. The Council would have the power to approve or disapprove law schools as being in compliance with ABA standards.664 The first full-time advisor to the Council on Legal Education and Admissions to the Bar was Professor Horack, described as “an exceptionally competent lawyer.”665

In 1927, Horack, as the newly-appointed advisor, began to travel over the country, inspecting law schools and giving advice on what a school would need to do to gain ABA approval.666 In response to a request of VU officials, presumably President Dau and Dean Kroencke, Horack agreed to make recommendations to the University administration concerning the VUSL’s seeking ABA approval.667

Although no report or correspondence from Horack referring to VUSL has been found, he reportedly recommended that several important things that had to be done included upgrading the law library, strengthening the faculty, modernizing the curriculum, and bringing in a

662 The biographical information comes from various sources, including Morland’s Fall 1949 Biographical Information Press Sheet released by the VU Public Relations Office. See also Morland Dies, Retired Dean, VIDETTE MESSENGER (Valparaiso, Ind.), Jan. 25, 1974, at 1; supra note 660.
663 Baepler, Unpublished Notes, supra note 655, at 116. Both Baepler in his history of VU and Strietelmeier in his history refer to Horack as “Dean” Horack. At the time of his visits to VU, it appears he was not Dean of the University of Iowa School of Law, but was a full professor on its faculty. Id.; STRIETELMEIER, supra note 14, at 101. But see, Sullivan, supra note 135, at 411.
664 Id.
665 Id. at 417.
666 Id. at 418.
667 Baepler, Unpublished Notes, supra note 655, at 116.
private consultant to detail the specific steps needed to accomplish these
objectives. All of these steps had to be accomplished by 1929—
coincidentally, the fiftieth anniversary of the founding of the School of
Law—a time frame workable within the University’s seeking its own
accreditation from the NCA.668

D. Morland Gains ABA Approval and AALS Membership

In a November 1928 letter to Dean Kroencke, Dean Morland wrote
that he had surveyed thirty-one AALS member schools and found that
with one exception, each had a minimum of at least three “Professors,”
adding, “this convinces me that we should have at least three men who
hold the title of Professor of Law.”669 Within the year, two new full-time
law faculty members were hired.

Another priority for ABA approval was to get the law library in
conformity with ABA regulations. Here, the School of Law’s Lutheran
affiliation turned out to be especially beneficial. In July 1928, the
Walther League, an organization of younger parishioners of the
Lutheran Church, was contacted for help at its convention in
Milwaukee.670 The delegates pledged $15,000 to the VUSL School’s
library. The League had raised enough money to allow the School of
Law to increase its library volume count to a sufficient number for ABA
approval and one that also met the AALS library minimal requirement
for membership.671 The money pledged reportedly was the largest
amount at the time donated by the League.672

In a December 1928 issue of The Torch, with the banner headline
“EXTRA SPECIAL LAW SCHOOL EDITION,” the University’s brief for
ABA approval of the School of Law was presented.673 Articles praising
the law school and the law by President Dau, Dean Kronecke, Dean
Morland, and selected lawyers and jurists, along with news items with
headings such as “Law Library Ranks Third in State,” undoubtedly were
all intended for the eyes of the members of the ABA Council on Legal
Education and Admissions to the Bar.

668 See supra notes 653-55 and accompanying text.
669 Letter from J.W. Morland, Dean, VUSL, to Dean F.W. Kroencke (Nov. 15, 1928).
670 STRIETELMEIER, supra note 14, at 101.
671 Baeppler, Unpublished Notes, supra note 655, at 116.
672 Pledge to Pay $15,000 Gift to University, MILWAUKEE J. (Wis.), 1928 (page number and
exact date are missing).
673 THE TORCH (VU), Dec. 14, 1928, at 1-3 (special ed.).
Of greater importance, however, the VU leaders had requested assistance from one of the country's most respected legal scholars and administrators, John H. Wigmore. A renowned expert on the law of evidence, Wigmore was dean of the School of Law at Northwestern University and a graduate of the Harvard Law School, where, in 1887, he had been one of eight student editors who had started the Harvard Law Review.674 Dean Kronecke reported that after "repeated consultations with Dean Wigmore, our curriculum was reorganized."675 In the same issue of The Torch, under the title "Wigmore Helps Reorganization," a letter from Dean Kronecke to Dean Wigmore is reproduced, thanking him "for the many hours of patient devotion to our problems, . . . and for placing at our disposal, a quarter of a century of high endeavor in the field of legal education."676 Because no written report or letter from Dean Wigmore has been located, it is a reasonable assumption that Dean Wigmore orally offered his recommendations.

In January 1929, Consultant Reeves submitted a final report to VU Board of Directors, including a written statement by Dean Morland. In it Morland wrote that Professor Horack, then president of the AALS, would inspect the School of Law in February 1929, in response to its application for approval to the ABA Council on Legal Education and Admissions to the Bar, adding that the Council would meet and decide the issue in April or May.677 Morland further wrote that all the requirements of both the ABA and AALS had been met.678 He pointed out, however, that the AALS would not vote on the School of Law's application for membership in that body until December 1929 at its annual meeting, and that if membership was offered, it would not become effective for two years from that date, as one of the conditions for membership was two years of continuous compliance with AALS standards.679

After his February inspection, Horack assured the University that the School of Law would be approved in May upon his recommendation. That news was sent to the NCA, which on March 13, 1929, granted full accreditation to the University, rating it a "Class A"

674 See Swygert & Bruce, supra note 93, at 769-73.
676 Id.
677 Id.
678 Id.
679 Id.
University. As Baepler points out, the commitment of the Lutheran founders to upgrading the University "had paid off." The good news for the School of Law officially came later in mid-May. The ABA Council on Legal Education and Admissions to the Bar, as expected, voted to approve the Valparaiso University School of Law, making it one of sixty-five schools on the ABA's approved list. The approval had to gladden Morland, who had labored for two years to bring the School of Law into full compliance with ABA standards.

Over $10,000 had been spent on the law library, bringing it to 9,000 volumes. The School of Law committed itself to spend a minimum of $1,500 per year in the future on acquisitions. At that point, the library had case reports of thirty-seven states, a complete set of English reports through 1929, and half of the states' statutes. Moreover, a new three-year curriculum had been instituted with the aid of Dean Wigmore.

In short order, Acting Dean Morland was made official Dean of the School of Law effective, January 1, 1930. He had accomplished his mission: ABA approval of VUSL.

The ABA's favorable inspection report had been transmitted also to the AALS. The AALS, in turn scheduled a separate inspection of the School of Law, this one to be conducted by Dean Albert J. Harno of the University of Illinois College of Law. Dean Harno came to the VU campus in October and made a "survey" of conditions at the School of Law. The Harno survey, along with the Horack report, went before the AALS for consideration at its December 1929 meeting. Again, VU came away a winner; its School of Law was granted membership in the AALS subject to the required two-years of full compliance with AALS standards. At the AALS meeting in December, six schools had submitted applications for membership but only four were granted.
Besides the VUSL, other applicants included Duke, Maryland, and Richmond universities.687

By meeting the standards of both the ABA and AALS, VUSL emulated what has been called "the elite model" of law schools of the era.688 According to New York University Law Professor Harry First, four AALS requirements typify "the elite model:" (1) a full-time faculty, (2) a lengthy pre-admission educational requirement, (3) day-only instruction, and (4) a non-for-profit requirement.689 Part of the model, the "day-only instruction" requirement, was in response to the proliferation of part-time and evening law schools, usually entrepreneurial.690 By lengthening the required minimum of college work before being admitted to a three-year law program to two years, and by increasing the number of full-time faculty members, the School of Law by the end of 1929 had met all the criteria of the AALS model.

The entire VU community sensed the importance of the School of Law's inclusion in the AALS. An editorial in The Torch declared: "The admission of our School of Law into the Association of American Law Schools does not, as it may seem, bring honors only to the Law School. Rather, it is an additional testimony of the academic standards and financial status of the entire university."691 Despite the hyperbole, it was an important milestone in the history of the School of Law.

E. Morland Builds the Law Faculty

Back in December 1928, when VU officials hoped that both the University and its School of Law would soon be accredited, President Dau in The Torch touted the reorganized School of Law by writing a short essay on the relationship of the study of law to good character.692 Dau noted that the law study put the student in touch with two fundamental requisites for building a strong and noble character: "truth and justice . . . which are attributes of God."693

687 Id.
689 Id.
690 See Reed, Public Profession, supra note 114, at 415-17; Alfred Z. Reed, Legal Education, 1925-1928, 6 AM. L. SCH. REV. 765, 769, 775-79 (1930).
691 School of Law Reaches New Heights, supra note 685, at 2.
693 Id.
After the ABA and NCA issued favorable decisions a few months later, the administration naturally was relieved and pleased. The University and its School of Law not only had attained their goal of full accreditation, each believed they had accomplished something more. For the University, it was being designated by the NCA as a "Class A" institution, thought to be the highest rating possible. Regarding the School of Law, it had not only been approved by the ABA, it had also been admitted into the comparatively prestigious group of law schools comprising the AALS, consisting of sixty-five of 173 law schools in existence in 1928.  

Following receipt of the good news from the ABA and the NCA, Rev. Dau decided to step down as president of VU. The Rev. Oscar C. Kreinheder was named Dau's successor, assuming the office in April 1930. Although not an academic himself, Kreinheder understood that the quality of the institution depended upon hiring and retaining excellent teachers in all departments. He surely encouraged Dean Morland to seek the strongest possible law faculty candidates, preferably Lutheran.

In 1926, the first full year of the Lutheran administration, the School of Law faculty consisted of five members: Dean Milo Bowman, professors John Morland, Virgil Berry, and William Daly, and lecturer Robert Daniels. By the end of 1928, following Bowman's departure, the number had fallen to four. In contrast, during the academic year 1930-1931, the first after ABA approval, the law faculty had been expanded to twelve members. Nine were either lecturers or part-time instructors; only three were full-time professors—Morland, Berry, and Jerome Finkle.

Recall that in the Bowman era, nearly all full-time members of the faculty were denoted professors of law. One consequence of the reorganization of the University following the Lutheran acquisition was the adoption of a set of qualifications for ranking faculty throughout the University. At the School of Law, this meant that instead of having four designated as professors of law as indicated above in 1926, there was

---

694 STEVENS, supra note 90, at 177. That same year there were 46,397 total law students in the United States. Id. Of these, sixty percent, nearly 28,000 students, attended non-ABA approved law schools, either part-time or combination day and evening schools. Id.; see also Charles Kinnane, Recent Tendencies in Legal Education, 25 A.B.A. J. 559, 561 (1939).

695 BAEPLER, supra note 4, at 166.

only one member of the faculty designated as full-time professor of law, Dean Morland, in 1930. All other faculty members were listed as assistant professors, part-time instructors in law, or as lecturers of denoted subjects. For example, Judge Grant Crumpacker was listed as a lecturer on federal jurisdiction and practice. Definable academic ranks were just one of the manifestations of the University's increased attention to raising academic standards.

Dean Morland's expansion and reorganization of the School of Law included appointing in 1929, for the first time in the School of Law's history, a "Law Librarian," along with a "Senior Law Library" and two student "Assistant Law Librarians." Apparently these appointments were made upon the urging of the outside consultants. Who should Morland appoint as the School's Librarian? Not surprisingly he turned to a colleague whom he had come to trust and appreciate, a man Morland would turn to again and again for assistance over the next thirty years—Professor Virgil Edwin Berry.

1. Virgil E. Berry

Virgil Berry had been hired by Dean Bowman in 1919, just prior to the onset of VU's years of crisis. Born in 1882 in Cass County, Indiana, Berry went to public schools in Logansport. He entered Indiana University in 1905 and the School of Law in 1906. Earning his LL.B. degree in 1909, he later took graduate courses at Winona College and VU. Subsequent to his legal training, he served as principal of several high schools in north central Indiana, including Logansport, Winamac, Lucerne, and Twelve Mile. In addition, he taught art, history, and mathematics.

His father was an artist, which may explain why Virgil Berry loved art. His hobbies were painting and drawing. Berry must have considered teaching art as a career. During the 1918-1919 school year, he was Supervisor of Art for the Public Schools of Cass County. He had practiced law for two years, from 1911 through 1913, but never practiced again. Rather, he spent several years in education before joining the VUSL faculty in 1919. That same year, he married Hazel Dean Gibbs of Plainfield, Indiana. Professor Berry was a practicing Methodist and

697 See VAL. U. BULL., 1930-1931, at 3.
698 See supra note 696 and accompanying text.
apparently never felt out of place at VU. He remained thirty-nine years at the new Lutheran-affiliated institution.699

Ten years after joining the VUSL faculty, Professor Berry was appointed the first Law Librarian by Dean Morland. This appointment was in addition to Berry’s regular duties as a faculty member, as he continued to teach a full schedule of classes. Over the years, he taught courses in creditors’ rights, trial practice, future interests, mortgages, and personal and real property.700 With Dean Morland, Berry often attended annual meetings of the AALS and of the Indiana State Bar Association.

As an academic, Professor Berry had one serious shortcoming. Despite nearly four decades on the faculty, he never published—not one article, monograph, or book. He surely had opportunities to publish. True, in those days, unlike today, a full-time instructor at the School of Law would be teaching each semester a minimum of three and often four different courses. Still, both DeMotte and Morland had published, and others with the same teaching load published. Arguably, had more VUSL faculty published research during the 1930s and 1940s, the School of Law’s academic reputation might have been enhanced. As it was, the School of Law during those decades was overwhelmingly a teaching rather than a teaching and research institution.

Professor Virgil Berry, like Morland, was highly respected by the students. Berry was to be among those teachers who by their examples established what became a tradition of teaching proficiency and competency at the School of Law. Alumni of the 1930s and 1940s often attested to Professor Berry’s skill as a teacher.701

In October 1939, upon Berry’s twentieth anniversary of joining the VUSL faculty, the VU Lawyers’ Alumni Association held a banquet in

699 The biographical material set out in the paragraph above is drawn from completed forms filled out by Professor Berry for the VU News Service, the first dated November 1956, and the second, March 1957, which are on file with the VU Archives. See also Who’s Who in Valpo, THE TORCH (VU), Apr. 21, 1922.
700 Id.
701 The officers of the VUSL Alumni Association, the Dean of the School of Law, as well as the Director of Alumni Relations in recent years have attended annual banquets where scores of alumni from the 1930s, 1940s, and later years have been invited to attend. At each of these functions, the alumni are asked to talk about their experiences at the School of Law. Names of certain professors are referred to as the ones who were the “best teacher,” “most concerned about the students,” etc. Among the many names that have stood out from the 1930s besides Dean Morland, are Professors Berry and Jox.
his honor. A testimonial, written by Herbert Freise and signed by former Lawyers' Alumni Association President Herb Krenz and Secretary William Hirsch, was read. Sixty-four members of the VU Lawyers' Alumni Association attended, including its president, Elmer Wilson. Others included Judge Harold Strickland, Perry Chaplin, and William D. McAfee. Dean Morland and acting VU President Walter Friedrich each praised Berry’s contributions to VU and to the School of Law. Former Dean Bowman sent a congratulatory message as well.

Berry was also admired throughout his career by his dean. In late 1929 and extending into 1930, Dean Morland was away from the School of Law. For the first but certainly not the last time, Morland, with approval of central administration, placed Professor Berry in charge of the School of Law during Morland’s absence. Again, for the academic year of 1940-1941, Dean Morland was away as a visiting professor at the University of Kentucky Law School, and as before, Professor Berry served as acting Dean of the School of Law.

At one point, Professor Berry was tempted to leave legal education. In the spring of 1931, he entered a primary election to be judge of the Porter County Circuit Court. He won the primary, defeating Valparaiso lawyer Ira C. Tilton. As previously noted, Tilton was the father of the pioneer VUSL graduate, Francis Tilton Weaver. Dean Morland gave Berry begrudging praise upon his primary victory: “Although we wish him success [in the general election], we shall feel the loss of Prof. Berry in the Law school.” Not to worry. In the subsequent general election, Berry was defeated by VUSL graduate James Chester. We can presume Dean Morland was relieved. Professor Berry never sought public office again.

Finally, in 1958, one year shy of four decades, Virgil Edwin Berry retired from the School of Law. Banquets were held and awards were bestowed upon him in his last years on the faculty. At the 1955 annual banquet of the VU Lawyers Alumni Association, Berry was presented an

703 Id.
704 Prof. Berry in Charge of Law School Work, THE TORCH (VU), Nov. 1, 1929, at 1.
705 Bowman, Biographical Information, supra note 331.
706 Law School Professor Wins Primary Nomination, THE TORCH (VU), May 6, 1931, at 1.
707 See supra notes 551-68 and accompanying text.
708 Berry Nominated in Primary Vote, VIDEtte MESSENGER (Valparaiso, Ind.), May 7, 1936, at 1.
incribed watch along with thirty-six silver dollars representing the number of years he had then served on the faculty.\textsuperscript{709} Upon his retirement in 1958, again he was honored for thirty-nine years of continuous service, which at the time was the longest of any professor or dean in the history of the University. Attending were the School of Law’s recently-hired new dean, Knute Stalland, along with Dean Emeritus John W. Morland, professors Marshall Jox, James S. Savage, and Louis F. Bartelt, Jr., instructors Jack A. Hiller and Richard Stevenson, and administrative assistant, Mrs. Margaret Brown, a VUSL graduate of the class of 1927.\textsuperscript{710} A third banquet in Berry’s honor was held by members of one of the legal fraternities at VU, Delta Theta Phi. Eighty-five guests attended that event.\textsuperscript{711} Presumably, Virgil Berry left active teaching well fed.

2. W.G. Loehr

Shortly after Milo Bowman left the School of Law in early November 1928, acting Dean Morland, with the approval of President Dau, filled Bowman’s vacancy with a graduate of the Indiana University School of Law, one who had an additional year of study at the Harvard Law School, William G. Loehr.\textsuperscript{712} Having ten years experience as a trial lawyer in Warsaw, Indiana, Loehr from the outset taught trial practice at the School of Law.\textsuperscript{713} Part of Dean Morland’s reorganization of the curriculum was to incorporate more “practice” courses, as recommended by Dean Wigmore and Professor Horack.\textsuperscript{714} Writing on the importance of these courses in legal education, Professor Loehr set out his ambitions for the School of Law:

\begin{quote}
The practical side of the substantive law courses should not be overlooked.... As the teacher [who] is responsible for the courses in practice and procedure in our law school, it is my ambition to make our school
\end{quote}

\textsuperscript{709} Honor Professor, VIDETTE MESSENGER (Valparaiso, Ind.), June 21, 1955, at 1.
\textsuperscript{710} Prof. Honored, Virgil E. Berry, VIDETTE MESSENGER (Valparaiso, Ind.), Feb. 7, 1958, at 1.
\textsuperscript{711} Recent Fraternity Dinner Honors Prof. V.E. Berry, VIDETTE MESSENGER (Valparaiso, Ind.), Apr. 23, 1958, at 3. In attendance was Valparaiso attorney James W. Chester. \textit{Id.} Gary attorney Chris Pappas served as master of ceremonies. \textit{Id.} The dean of the fraternity, Paul Melchert, presented Berry with an award. \textit{Id.}
\textsuperscript{712} W.G. Loehr Added to Law Department, THE TORCH (VU), Nov. 16, 1928, at 1.
\textsuperscript{713} \textit{Id.}
\textsuperscript{714} See supra text accompanying notes 663-68 and 674-76.
Besides teaching many sections of trial practice, Professor Loehr taught a course in bankruptcy. Then, for reasons unknown, he left. Loehr’s name never appears after the 1929-1930 academic year in any University publications. Loehr’s significance, nonetheless, is that he was the first full-time law teacher hired at the School of Law to teach what are today called “skills” courses.

3. Jerome R. Finkle

Known on campus as “Dr.” Finkle, even though he never earned a Ph.D. degree, Jerome R. Finkle earned an A.B. degree from VU in 1917. After graduating from VU, he spent one year as superintendent of schools of Moundridge, Kansas. He then worked a year for the United States Army administering psychological tests. In the fall of 1919, Finkle entered the University of Chicago Law School, and he graduated in 1922 with a J.D. degree. He was appointed as a full-time member of the VUSL faculty in the spring of 1930.

Finkle was called doctor because he had earned a juris doctorate degree. At the time, only a few universities offered the J.D. degree, among them the University of Illinois and the University of Chicago, and then only if the student had earned a bachelor’s degree prior to entering law school. Another VU faculty member, Louis Albert Wehling, would also be referred to as “Dr.” throughout his years at the University and the School of Law. He had also earned a Chicago J.D. degree, but never a Ph.D. The same was true of “Dr.” Marshal Jox.

717 Other “skills” courses common today include appellate advocacy, pre-trial practice, negotiations, legal drafting, arbitration and mediation, discovery practice, use of forensic or scientific evidence, accounting and the law, and, most important of all, legal research and writing, including the use of computerized search and information retrieval computer systems.
718 Former Valpo Student Accepts Law Position, THE TORCH (VU), Mar. 7, 1930, at 2; see also Dr. Jerome R. Finkle Joins Law Faculty, VAL. U. ALUMNI BULL., June 6, 1930, at 2.
719 See infra note 753 and accompanying text. A third VU faculty member who was not a Ph.D., but who held a University of Chicago J.D. degree, was Professor Marshall J. Jox, who, although referred to by some as doctor, generally asked students to call him either Professor or Mr. Jox.
After finishing law school at the University of Chicago, Finkle worked for the Legislation Drafting Bureau of the Illinois State Legislature, assisting members in drafting legislation. During the time he was at the Illinois Legislature, he taught at Lincoln College of Law in Springfield, Illinois. He then practiced for one year in Akron, Ohio, before joining the American Law Book Company in New York City, where he helped write and edit the legal encyclopedia *Corpus Juris.*

Although spending only two years on the VUSL faculty, Professor Finkle taught two required courses for first-year law students: civil procedure and torts. His name does not appear in the 1932-1933 Announcements. Why did he leave, and where did he go? We do not know.

4. Part-Time Lecturers

Although from 1930 through 1932 only Morland, Berry, and Finkle were full-time members of the law faculty, part-time faculty members consisted of John Crumpacker, Jesse Wilson Gammon, Benjamin Clifford Rees, Judge Grant Crumpacker, Judge A.J. Link, Judge H.H. Loring, W.W. Miller, Daniel J. Moran, and Judge E. Miles Norton. John Crumpacker, a graduate of Indiana University School of Law, taught agency. Gary attorney Gammon, a VUSL alumnus, taught courses on mortgages. LaPorte attorney Rees, also a Indiana Law School graduate, was hired to teach courses on taxation and suretyship. Judge Grant Crumpacker, VUSL graduate of 1894, lectured on federal jurisdiction and practice. Judge Link of LaPorte, both a Ph.D. and J.D. graduate of the University of Chicago, gave lectures on juvenile courts. Judge Loring, a VUSL graduate, taught Indiana procedure and practice. Judge Norton, a VUSL graduate of the class of 1904, was hired to give lectures on legal history, and Hammond attorney Moran, an Indiana Law School graduate, lectured on appellate practice.

Symbolizing the Lutheran emphasis on the ethical practice of law was Gary attorney W.W. Miller. Vice-president of the Indiana State Bar

---

720 Former Valpo Student Accepts Law Position, supra note 718, at 2.
721 Id.
724 Four Profs. Added to Law Department, supra note 716, at 1.
725 Id.
726 Id.
Association and president of the Gary Bar Association, Miller accepted an appointment as "lecturer on legal ethics" at the School of Law in 1930. Over the next year, Miller presented several lectures at the School of Law on the ethics of law practice. A graduate of the University of Wisconsin School of Law, Miller was a highly respected attorney in Gary and throughout the state. He had lectured on legal ethics earlier at Indiana University School of Law. While he was lecturing at the VUSL, Miller became president of the Indiana State Bar Association, but, unfortunately, he died shortly thereafter at the age of fifty-four.

5. Robert Lincoln Taylor

Dean Morland made other appointments to the faculty over the next few years. One was Robert Lincoln Taylor, whom Morland appointed to the VUSL faculty in the fall of 1933. Taylor had an impressive academic resume. A cum laude graduate of Yale University, he went on to earn his law degree from Northwestern University, serving on the editorial staff of what was then known as the Illinois Law Review. The Torch reported that his hiring was due to "increased requirements of the National [sic] Association of American Law Schools."

Taylor had earned his undergraduate degree from Yale in 1927 and his J.D. from Northwestern in 1930. He then practiced insurance and banking law in Chicago until his appointment to the VUSL faculty. Professor Taylor remained on the faculty for only four years, as his name does not appear in any literature beyond the 1936-1937 bulletin, which listed Taylor as an "Instructor in Law." Taylor's significance is in the quality of his academic credentials, being both a Yale honors undergraduate and a staff member of one of the nation's leading law reviews of the era. His appointment in 1932 suggests that Dean Morland was pursuing the hiring policy of VU President Kreinheder, specifically,

---

727 Id.
728 Id.
729 Law School Lecturer Succumbs at Gary Home, THE TORCH (VU), Mar. 27, 1931, at 1. Many VUSL students and faculty attended his funeral, including Mox Ruge, representing the Lawyers' Club, Dean Morland, and Professor Berry. Id.
730 Four New Instructors Augment the VU Faculty, THE TORCH (VU), Sept. 22, 1933, at 1.
731 Id.; see also Swygert & Bruce, supra note 93, at 784-86. During the 1920s and up until 1932, the Illinois Law Review was produced jointly by law students at both Northwestern University and at the University of Chicago. Id. at 785.
732 Four New Instructors Augment the VU Faculty, supra note 730, at 1.
to seek out and hire the academically best-qualified faculty prospects possible.


When Dean Morland hired Marshall John Jox to the law faculty, he hit a home run. Jox had strong academic credentials, became an engaging classroom teacher, produced numerous worthy publications, and gave valuable service not only to the School of Law, but also to the University. Historian Baepler's description of Jox's appointment reads: "The law faculty was substantially strengthened by the addition of Marshal Jox, a graduate of the University of Chicago, who would become a notable academic leader in the wider Valparaiso University." Jox was appointed by Morland to the law faculty in 1934. And, like Morland and Berry, Jox remained at VU in excess of thirty years, but unlike the others, Professor Jox never retired. He died with his feet in the stirrups in July of 1969, thirty-five years following his initial appointment at the School of Law. Dr. Jox was planning on teaching that fall and was working on a new edition of one of his treatises at the time of his death. In all respects, Marshall Jox was a special breed of law teachers at VUSL, even when it came to enduring hardship.

In January 1967, the "Great Blizzard of '67," as it became known, hit Valparaiso and the greater Chicago metropolitan area. Officially in Chicago, twenty-two inches of snow fell, but according to folks in Valparaiso, the snowfall there was much heavier. Compounding the situation were raging winds, producing huge white mountains, which in turn made relatively flat Valparaiso into a landscape of incredible beauty, suggestive of the foothills of the Rockies. Cars were buried under Everests of snow. Every road, alley, expressway, sidewalk, and field became impassible by ordinary means.

The School of Law was located in the then three-year-old Wesemann Hall on East Campus. Snow drifts swept over the roof of the one-story structure totally obscuring the outside world for the few diehards who had decided at the beginning of the blizzard "to ride it out." This account is based on first hand knowledge of the author, as he was one of those who had miscalculated the severity of the storm and remained in the building. The storm had hit hard around 11 a.m. Thursday morning and by noon everyone was told to go home as soon and safely as possible. By 5 p.m. no one could drive anywhere. Tens of thousands of commuters were stranded in downtown Chicago. Airports were closed.
entire Northwest Indiana region was isolated. No trucks, trains, police cars, or ambulances could move. For two days, helicopters took desperately ill or injured patients to Porter Memorial Hospital by landing in a plowed-out area on the VU campus near the hospital. Drifts were reportedly in excess of ten to fifteen feet. (Within a year, some said they were twenty to thirty feet.) By nightfall, nothing seemed to be moving. The environment in a matter of hours had been transformed. The next morning, all awoke to a world of immobility—no car, truck, bus, snowplow, train, or person could be seen in motion. The world had become silent.

Well, not quite. Looking out from one small un-obscured window of the School of Law, a few snowbound law students and the building’s custodian—who chose to stay “with the ship” – witnessed across the icy and snowy mountainous landscape of East Campus what appeared to be an individual struggling to fight through the snow barricades, occasionally dipping out of sight due to the height of the intervening drifts. As the incredibly brave or incredibly lost individual slowly came closer to the stranded School of Law fortress and its amazed occupants, one observer cried out, “It’s Professor Jox!” Indeed it was. Coming through a side door at 7:30 a.m., and after removing many garments and boots, this heroic knight of responsibility informed those present that he was there to teach his 8:00 a.m. class in civil procedure. He was genuinely disappointed to learn that classes had been officially cancelled and that no first-year students were or likely would be in the building.

Who was this man of adventure who would today win any virtual television contest as America’s idol of endurance and responsibility? His name was Marshall John Jox, and he was a plodder. Whether in trumping through the snow or in writing a legal treatise, both of which he demonstrated with great proficiency, he kept steadily advancing on his mission, regardless of obstacles. He never ran to get things done. He never hurried his classes. Rather, he was a soft-spoken, patient, methodical, exacting person who understood and typified the old saying that trifles make for perfection and that perfection is no trifle.

Trains could not run. Semi-truck drivers had given up, and, like thousands of motorists, abandoned their vehicles, then tried to walk to the nearest shelter, which might be a farmhouse, store, or university building.

736 If Jox should ever desire to work for the U.S. Postal Service, he would be a “boot in.”
Marshall Jox had degrees from three universities and studied at a fourth. He received his A.B. degree from IU in 1928, followed by a J.D. degree from the University of Chicago Law School in 1931. Several years later, he took a year's leave of absence from the School of Law to study at the University of Michigan Law School, which awarded him an LL.M. degree in 1954. During the summer of 1946, he took courses in personnel management at Columbia University in New York City.737

After earning his J.D. degree, Jox practiced law for three years in Chicago. Then he was contacted by VU officials, and after talks with University administrators, including Dean Morland, he was offered a full-time position on the law faculty, which he accepted. Not only were his academic credentials appealing to VU, but the fact that he was a lifelong Missouri-Synod Lutheran was also a positive factor. He was the prototype of the smart, industrious, scholarly, and pious Lutheran faculty candidate the University was striving to hire. As it turned out, the appointment of Marshall Jox was an outstanding hire, not only for the School of Law, but also for the University.

In 1943, during World War II, when the School of Law's enrollment sank to an all-time low,738 VU President O.P. Kretzmann created a Personnel Bureau and appointed Jox the Director of Personnel for the University. As Bureau Director, Jox recruited a staff of faculty counselors for students, organized all student files in a central location, and encouraged students to take their personal and academic problems to their assigned counselors.740

Obviously satisfied with Jox's administrative performance, President Kretzmann named Jox to the newly-created position of "Dean of Men" of...
VU in 1948.742 Retaining his other titles of Director of Personnel and Professor of Law, Marshall Jox, in his new position, proceeded to organize the annual orientation week for incoming freshmen; supervise men's residence halls and all the fraternities; serve ex-officio on the faculty-student council; consult regularly with the president, various deans, and other University administrators; and concurrently keep abreast of developments in his areas of expertise in the law, civil practice and procedure.

Despite his eight years of administrative service to the University, Marshall Jox's greatest contributions to the development of VU and the School of Law included not only his scholarship but also his role as a productive scholar. It is arguable that no faculty member before or since has produced the quantity of published works that Jox did. After asking to be relieved of his administrative responsibilities in 1950, he commenced to research, write, and publish with a dedication and enthusiasm he would persistently maintain until his death. Although he had published several short pieces earlier, in 1950 he began a major revision of a two-volume treatise titled Blashfield's Cyclopedia on Automobile Law and Practice,743 initially authored by Professor DeWitt C. Blashfield in 1927. Jox's edition contained several new chapters and numerous law updates and surveys. It was published in 1955 by West Publishing Company of St. Paul, Minnesota.744

Then, with the encouragement of his publisher, Jox began what would be his most significant work, another two-volume treatise, also published by the West Publishing Company, titled Indiana Practice Methods.745 This was entirely his own work. The project took three years of effort and it shows.746 The treatise can only be described as encyclopedic in scope, covering real estate transactions and documents, mortgages, property taxes, guardianship, adoption, divorce, workmen's compensation, corporations and partnerships, mechanic and artisan liens, attachment, garnishment, bankruptcy, replevin, cognovit

742 Dr. Marshall Jox Is Named Dean of Men at University, VIDETTE MESSENGER (Valparaiso, Ind.), Aug. 24, 1948, at 1.
743 The original book has not been located.
745 MARSHALL J. JOX, INDIANA PRACTICE METHODS (1958) (two volumes).
746 VU Law Professor Publishes Treatise, THE TORCH (VU), Dec. 11, 1955, at 10 ("[The] result of several years of painstaking effort, the work is, in the publisher's word, 'A practical lawyer's treatise on What to Do and How to Proceed.'").
judgments, execution, supplementary proceedings, practice before the Indiana Public Service Commission, bills of sale, chattel mortgages, probate, will drafting and execution, and more. Forty chapters are included in the two volumes. The treatise is well documented with tables of cases, statutes, administrative and procedural regulations, court rules of practice and procedure, and forms and check lists.

This compendium certainly was useful to Indiana lawyers, especially from the mid-1950s when it was published through the mid-1960s, by which time it was becoming dated. Although he had been writing annual supplements, which West would distribute to purchasers of the treatise, by 1965, new subjects needed to be included. Jox contracted with West to produce a new edition, and he had been working on a revision of his treatise at the time of his death in 1969.

Besides these mammoth works, Jox authored numerous additional publications, including a third book, *Lawyer's Concise Guide to Trial Procedure: A Complete, Authoritative Guide to Every Phase of Trial Practice*, published by Prentice Hall. This volume was the most focused of his books and had the widest potential audience as it was not intended for the lawyers of any one jurisdiction. The publisher described the volume as "a complete course in trial procedure." Jox, in addition, published various articles and studies over the years, the best-known of which was an analysis of long-arm statutes, titled *Non-Resident Service of Process Acts*, a 100-page discursive and detailed work published in *West's Federal Rules Decisions*. The research for this exhaustive study took two years and was done not only at VU, but also on the campuses of Michigan State University and the University of Chicago.

Through his publications, Marshall Jox became a recognized authority in the fields of trial practice and civil procedure. He further helped his own and the School of Law's reputations by being elected to the prestigious American Law Institute and by serving as Consultant to

---

749 Id. (on the back sleeve of the book jacket).
the Indiana Code Study Commission, as Reporter of the Indiana Judicial Council, and as an active member of the Committee on the Improvement of Civil Procedure of the Indiana State Bar Association. In addition, he was a member of the American Judicature Society. If this were not enough, Jox was actively involved in civil and community work, most notably, by serving for eleven years as a member of the Valparaiso Board of Zoning Appeals, including three years as chairperson.

In assessing Dr. Jox's significance in the history of the VUSL, one has to conclude that he was the first faculty member to function at VU in the normative expectation of a modern-day law professor: one who is expected to combine research and scholarship with teaching on a full time basis—one who, besides preparing for and teaching classes and counseling students, works in his or her office day after day, often until late in the evening, utilizing non-teaching time for the most part in scholarly research and writing. Being a responsible law professor and doing the job right is a full-time occupation requiring an academic's full energy and effort. Marshall John Jox demonstrated this level of commitment throughout his thirty-five years on the faculty of the School of Law Valparaiso. He serves, therefore, as a role model for today's faculty.

7. "Dr." Louis Albert Wehling

Two years after Jox was hired, Morland made another appointment that would have long-term significance for the School of Law, but perhaps even more so for the University, that of Louis Albert Wehling. He preferred to be known by his middle name, Albert, and was commonly called Dr. Wehling. Only twenty-six years old when he joined the law faculty in 1936, Wehling was born in 1910 in Chicago, where he was raised by German parents. After spending a short time at Crane Junior College in Chicago, he went to the University of Illinois at Urbana-Champaign, where he earned an A.B. degree in 1932. From there, he went to the University of Chicago and earned a J.D. degree in 1935. In 1940, Wehling received an A.M. degree from the University of Southern California. In the summer of 1941, he took public law courses at Harvard University, and in 1946, he spent a summer in residence at

752 See V-M Viewpoint: Distinguished Law Professor, VIDETTE MESSENGER (Valparaiso, Ind.), July 16, 1969, at 6. As an editorial in the local newspaper put it following his death from complications of surgery in 1969: "The university and community have lost a distinguished professor and citizen. He shall be missed." Id.

http://scholar.valpo.edu/vulr/vol38/iss3/1
the University of North Carolina. He also briefly attended the University of Arizona. In 1942, Wehling requested a leave from VU to enter service. The leave was granted and he began a four-year tour of duty with the United States Navy ("U.S.N."). During those years, Wehling was attached to various naval aviation units, serving eighteen months with the Fourth Fleet. He mustered out with the rank of Lieutenant (J.G.), U.S.N. For many years he continued in the United States Naval Reserves ("U.S.N.R."), attaining the rank of Commander.

Wehling was appointed to the rank of instructor of law when he was hired in 1936. Over the next six years, he taught a wide variety of courses, including contracts, sales, agency and partnership, business associations, suretyship, insurance, bills and notes, and legal ethics. In his legal ethics course, he chose to use Professor Cheatham’s *Cases on Legal Ethics*. In 1942, the same year he entered Naval service, Wehling was promoted to the rank of assistant professor of law.

His several years on the law faculty were not entirely harmonious in his relations with Dean Morland. One may surmise that Wehling, who possessed a broadly encompassing intellect, felt that he was being asked to teach primarily technical courses such as suretyship, bills and notes, insurance, and agency and partnership. His teaching was spread thin, as he was expected to teach as many as seven different courses each academic year. Wehling, however, loved the “big picture,” and “the grand concepts” that were present in the public law area, especially constitutional law, but he rarely taught such courses at the School of Law. He must have been thinking of making a change during his years...

---

753 The biographical information comes from several sources, including a one-page typed document titled *Biographical Sketch: Dr. Louis Albert Wehling, Valparaiso University*, which is on file with the VU Archives.
754 *Id.*
755 *VU Professor Appointed to Navy Position, VIDEtte Messenger* (Valparaiso, Ind.), Oct. 23, 1958, at 1. In 1958, the Navy at its Great Lakes Naval Headquarters named Commander Wehling the official Naval Representative for Northwest Indiana. *Id.*
756 See VU Bulletins for the academic years 1936-1937 through 1940-1941, each having a list of courses with the instructors also listed.
in the Navy and in anticipation, entered Harvard University in the summer of 1946 to take courses in government and constitutional law.\textsuperscript{759}

Upon his return to VU in 1946, Wehling divided his teaching between the School of Law and the University, where he taught Spanish.\textsuperscript{760} Wehling's departure from the faculty of the law school was complete when, he was appointed Associate Professor of Government in 1947, the same year a major in government was first established at VU, partly in response to his urging. Two years later, in 1949, President Kretzmann appointed Wehling Chairman of the Government Department, a post he held for twenty years.

Wehling's significance to the School of Law is not related so much to the years he spent on the School of Law's faculty, but rather to what he did during the twenty years as Chairman of the Government Department. Throughout this period, Dr. Wehling was a prime promoter of the School of Law as well as of law as a career that undergraduates should consider. He was what today is known as a “pre-law advisor,” counseling undergraduates about the opportunities and realities of going to law school after graduation. Moreover, in his government classes, he would consistently stress the importance of law and professional responsibility as the underpinnings of a legitimate democratic political system. Every educated person should have his or her own copy of the United States Constitution, he would say. He emphasized legal concepts such as jurisdiction, pointing out that the United States consisted of fifty-one jurisdictions, not fifty (the fifty-first being the United States of America.

Over the years, Wehling encouraged numerous undergraduate VU students to go to law school, not all necessarily to VUSL, but a significant number.\textsuperscript{761} He was an excellent teacher of conceptual thinking, a

\textsuperscript{759} Dr. Wehling's dissatisfaction with his role at the School of Law in the late 1930s is based in part on discussions the author had with Dr. Wehling during the years 1964-1967, when the author was a law student at VUSL. Dr. Wehling and I met for lunch several times during those years, and Dr. Wehling confided in me his recollections about his years as a full-time member of the law faculty. Subsequently, the author has spoken with other VU law faculty members who recalled a few elements of the disharmony existing back then among Wehling, Morland, and later a few others on the VUSL faculty.

\textsuperscript{760} \textit{Law School Prof. Returns to Campus}, \textit{THE TORCH} (VU), Oct. 26, 1945, at 4.

\textsuperscript{761} One of the undergraduate students that Dr. Wehling successfully encouraged to attend law school was the author of this work. I personally know many others who were similarly encouraged and who subsequently decided to enroll in law school, many at VUSL.
revolutionary mental process for some undergraduates. Moreover, he loved the law and influenced others to admire it as well. For several years, he taught an international law course at the School of Law in addition to his full-time Government Department responsibilities.

F. Curriculum Expansion and Reconstruction

During the ABA and AALS consultations and subsequent inspections of the School of Law in 1929, it became clear that the School of Law’s curriculum needed to be expanded and reconstructed. As noted above, Dean Morland had obtained the advice of Dean Wigmore of Northwestern’s Law School. By the time the ABA approval was forthcoming in May 1929, the new curriculum had already gone into effect, having been implemented in September of 1928.

Perhaps surprising for those not familiar with legal education, the first-year curriculum of 1928-1929 was quite similar to the School of Law’s curriculum today. Moreover, it parallels what the vast majority of law schools require and have considered for decades to be “core” courses. The first-year requirements in 1928-1929 included five credit hours of contracts, eight hours of property, five hours of torts, three hours of criminal law and procedure, three hours of civil procedure, one hour of legal research, and three hours of agency, for a total of twenty-eight credit hours. Most law schools today—seventy-five years later—still require contracts, property, torts, civil procedure, legal research and writing, and criminal law in the first year, although several also require a course in legal ethics, jurisprudence, or constitutional law. A few schools make administrative law a first-year requirement. Nonetheless, the core curriculum of contracts, torts, property, procedure, legal research, and, to a lesser degree, criminal law, continue as the required first-year core building blocks at most law schools.

The required second-year courses at VUSL in 1928-1929, for the first semester, consisted of two hours of administrative law, two hours of municipal corporations, two hours of equity, two hours of bills and notes, two hours of wills, and two hours of damages. In the second semester, a student took one hour of legal ethics, three hours of equity, three hours of sales, two hours of persons, two hours of code pleading.

\footnote{See supra notes 674-76 and accompanying text.}
\footnote{See VAL. U. BULL., 1928-1929, at 5.}
and two hours of insurance. In addition, there were a few elective choices that could be substituted for one or more of these courses with the consent of the faculty.\textsuperscript{765}

The third-year curriculum included courses in conflicts, constitutional law, quasi-contracts, evidence, trial practice, trusts, practice court, corporations, carriers, bankruptcy, and taxation.\textsuperscript{766} Second- and third-year law students, if qualified and approved, could take up to an additional four hours of electives from either the School of Law or from the College of Liberal Arts in any or all of the semesters of their second and third years.\textsuperscript{767} From 1931 onward, to graduate from the School of Law, a student had to earn a minimum of seventy-five credit hours with a minimum of seventy-five quality points, a C being considered 1.0 on a 3.0 scale.

A review of all the announcements of the School of Law published as part of the VU bulletins during the 1930s reveals few changes in the curriculum. Of course, there was tinkering, sometimes adding or subtracting an hour from a particular course. A few courses were added, notably mortgages as a separate subject and bankruptcy, subsequently renamed "creditors' rights."\textsuperscript{768} By decade’s end, the required number of hours in the first year were increased to thirty, and a required course in equity was added. Legal ethics was always required but was expanded from one to two credit hours. The number of elective credit hours a student could choose rose from four to six in each semester of a student’s second and third years of study.\textsuperscript{769} The minimum number of credit hours needed to graduate was raised to seventy-seven by the end of the decade.\textsuperscript{770}

Not only did students throughout the 1930s need to have a certain minimum number of credit hours to graduate, they also were required to attend up to twenty scheduled lectures a year delivered by visiting judges and practitioners.\textsuperscript{771} Many of the lectures dealt with specialized

\begin{footnotes}
\textsuperscript{765} Id.
\textsuperscript{766} Id.
\textsuperscript{767} VAL. U. BULL., 1931-1932, at 198-99.
\textsuperscript{768} See, e.g., BULL. VAL. U., 1936-1937, at 102-03.
\textsuperscript{769} See, e.g., VAL. U. BULL., 1940-1941, at 82-84.
\textsuperscript{770} Id.
\textsuperscript{771} Students were expected to attend some twenty lectures on subjects of practical importance given by men who were active in the profession of law. VAL. U. BULL., 1930-1931, at 8.
\end{footnotes}
practice areas, while others pertained to legal ethics and professional responsibility.

Hammond attorney Louden L. Bomberger, VUSL class of 1901, gave a series of lectures on the topic of appellate practice at the School of Law during the 1931-1932 academic year. Bomberger was recognized by the bar and by Morland as one of the leading attorneys in Indiana. By 1931, Bomberger had practiced law for thirty years since his graduation from VUSL. Throughout his career, he was active in law reform, working with and chairing various committees of the Indiana State Bar Association. A member of the bar's "Board of Control," he also authored several law review and bar journal articles. He later became president of the Indiana State Bar Association. Other lecturers whom Morland hired to give either a single or a series of lectures included Judge W.J. Murray of Crown Point, attorney Thomas J. Hurly, VUSL class of 1911, and Gary attorney W.W. Miller, another VUSL alumnus.

G. Emphasis on Ethics and Professionalism

In the summer of 1933, the presidents and leaders of a group of Lutheran colleges affiliated with the Norwegian Lutheran Church of America met at the University of Chicago to consider the issue of a Lutheran philosophy of higher education. This was followed in 1935 by a second workshop held at the University of Minnesota. Valparaiso University, not being affiliated with the Norwegian Lutheran Church, did not participate. Nonetheless, historian Baepler observes that these meetings produced the first major attempt to articulate a Lutheran approach to higher education. The sessions resulted in two monographs.

Baepler writes that the thrust of these conferences was that Lutherans rejected a purely pragmatic approach to education, given its narrow focus on training students for later success in society. In contrast, Lutheran higher education must involve an "integration" of essential religious beliefs and practices with a world view, allowing a student to understand that he or she still lives and works in a secularized

773 BAEPLER, supra note 4, at 171-72.
774 Id.
775 See 1:1 STUDIES IN LUTHERAN HIGHER EDUCATION (1933); 1:2 STUDIES IN LUTHERAN HIGHER EDUCATION (1935).
society, and to further understand that this world of imperfections and sin is the "theater of the living God." 776

What meaning could or did Lutheranism have for the School of Law in the decade or so after the Lutheran take over the University? No easy or satisfactory answer can be given to this important question. Still, the historical record allows certain conclusions to be drawn. First, no evidence has been found which indicates that VU or its School of Law ever required any student or faculty member to have or to espouse any particular religious belief. Moreover, there is no evidence that non-Lutheran or non-Christian students or faculty were discriminated against once they had associated with the University or its School of Law. Similarly, nothing has been found that suggests or implies intimates that Lutheran students were given preferences once enrolled at the institution.

To be sure, Lutheran professors and Lutheran students were actively sought. Any academically-qualified prospective instructor or student having a Lutheran background was always encouraged to associate with the University or its School of Law. Being a religiously affiliated institution, this kind of preference was not (and is not) a former illegal discrimination. Thus, the University and its School of Law gave preferences in hiring and admission to those who were academically qualified and had a personal or family connection to Lutheranism. In the 1930s, reportedly sixty percent of the VU faculty were Lutherans. 777

The evidence regarding the pedagogical ramifications of the Lutheran takeover, reveals a divergence between its impact on the University’s undergraduate students and on the School of Law's students. The rise of a Lutheran culture on the VU campus in relation to the curriculum primarily affected undergraduates. In 1929, the Department of Religion and Philosophy was created. The following year, a single course religion requirement was established, later changed to two courses in 1931. Required chapel attendance in time was initiated. Law students were exempt from required participation, 778 although many chose to attend chapel.

776 BAEPLER, supra note 4, at 172.
777 Id. at 168.
778 Id. at 168-69.
The theological and philosophical implications of the new Lutheran era for the School of Law are not as clear. VU historian Baeppler points out that, unlike the Catholic colleges and universities in the 1920s and 1930s, which were promoting a Catholic culture "integrated by a renewed Thomistic philosophy," Lutheran higher educators "were slow to articulate" what Lutheran traditions and practices of education meant for their institutions.\footnote{Id. at 171.} VU's Department of Theology over time became a strong voice in theological discussions affecting Lutheranism. Yet, for the typical law student's daily routine at the University, the influence of Christian philosophy and theology was difficult to measure.

The most significant result of the Lutheran takeover of the University was the purposeful increase in emphasis on legal ethics and professional responsibility in the School of Law. Morland brought in speakers who did not merely present discursive analyses of a new statute or the latest case, but who spoke on the ethics and the responsibilities of lawyering. News clippings from issues of The Torch tell of lectures of judges and practitioners who discussed the ethical dimensions of lawyering.

For example, a former judge of the Porter County Circuit Court, H.H. Loring, gave a lecture on legal ethics. At the time, Loring was president of the First State Bank of Valparaiso.\footnote{Judge Loring Delivers Final Lecture Tomorrow, THE TORCH (VU), Dec. 4, 1931, at 1.} Judge William J. Murray spoke on the critical importance of being honest with the court and with one's clients.\footnote{"Be Honest," Judge Says, THE TORCH (VU), Mar. 24, 1938, at 1.} Attorney Thomas Hurley lectured on the topic of "honesty and fairness, . . . the two most essential characteristics of a successful law career."\footnote{Hurley Stresses Honesty in Law, THE TORCH (VU), Oct. 21, 1937, at 1.} Another Porter County Circuit Judge addressed the law students on the topic, "Let Your Fee Be the Least Consideration," noting that a lawyer must first be concerned about the client's best interests under the law, and not if and how much he or she will be paid. The address was given during the Great Depression.\footnote{Judge Tells Lawyers Fees Come Second: Jensen, Local Jurist, Addresses Students on Obligations of the Legal Profession, THE TORCH (VU), Nov. 19, 1936, at 1.} On another occasion, the vice-president and president-elect of the Indiana
State Bar Association addressed VUSL students on the topic of unethical abuse of legal process, including abuse of venue.\textsuperscript{784}

In addition to special lectures on topics related to legal ethics and professional responsibility, the School of Law throughout the 1930s required that all students prior to graduation take and successfully pass a course in legal ethics. Instructors of the course included Professors Rees (two years), Taylor (three years), and Wehling (four years). The 1932-1933 School of Law Announcement indicates that the instructor for the required legal ethics course "is to be appointed."\textsuperscript{785}

\section*{H. Formation of the VUSL Alumni Association}

In the mid-1930s, law alumni of the "Old School" desiring to meet together contacted each other and commenced a tradition that continues through the present—class reunions. The first law alumni reunion took place in Valparaiso in October 1935, and was arranged by the graduates of the VUSL class of 1910. Frederick W. Rennick of Illinois reportedly made the arrangements for his class to come back for its twenty-fifth reunion.\textsuperscript{786} Sixteen members of the class returned, coming from Ohio, Michigan, Illinois, and Indiana. At the reunion, those present decided to form an association of alumni and also to work on compiling a VUSL alumni directory.\textsuperscript{787} Dean Morland and former Dean Milo Bowman, who had been dean when the class of 1910 graduated from the School of Law, were present. The reunion concluded with a banquet held in honor of Dean Bowman at the Lembke Hotel.\textsuperscript{788}

For the next several years, annual class reunion banquets were held in Valparaiso. The class of 1911 began their twenty-fifth anniversary with a morning reception at Recital Hall, followed by an evening banquet which Deans Bowman and Morland attended. VU Lawyers' Alumni Association student president Louis Lichstinn welcomed the guests.\textsuperscript{789} Twenty members of the class returned, including Judge S.M. Bone of the Third Judicial District of Arkansas.\textsuperscript{790}

\begin{flushright}
\textsuperscript{784} Vice-President of Indiana Bar Association Delivers Address on Legal Ethics, THE TORCH (VU), Mar. 21, 1930, at 6. The speaker was attorney W.W. Miller of Gary, Indiana.
\textsuperscript{785} BULL. VAL. U., 1933-1933, at 187.
\textsuperscript{786} Law School Class of '10 in Meeting, THE TORCH (VU), Oct. 24, 1935, at 1.
\textsuperscript{787} Id.
\textsuperscript{788} Id.
\textsuperscript{790} Id.
\end{flushright}
The following year, fifteen members of the class of 1912 returned for their twenty-fifth anniversary, including a female graduate, Mrs. Alice Van Zimmerman of Milwaukee, Wisconsin.\footnote{Lawyers Observe 25th Anniversary, THE TORCH (VU), Oct. 7, 1937, at 1.} In 1938, the annual reunion was opened up to all graduates. And, at this occasion, for a second time, a law alumni association was formed, the first effort having been made by graduates of the class of 1910 at their twenty-fifth reunion in 1935,\footnote{See supra notes 786-87 and accompanying text.} at which the president was Elmer C. Wilson of Kankakee, Illinois.\footnote{Law Alumni to Convene June 19, THE TORCH (VU), May 24, 1939, at 1.} Interestingly, the new alumni association began in the midst of the Great Depression.

I. The Depression’s Impact

Hopes for the future were sky high in May 1929 after the news that the University had received “Class A” accreditation from the NCA and that the School of Law had been approved by the ABA. In anticipation of rising applications to the School of Law, Morland hired several part-time instructors to supplement the School of Law’s three, full-time professors. But the rise in applications did not occur. After the stock market crash in October 1929 and the onset of the Great Depression, both the University and the School of Law found themselves once again in difficult times.

In 1929-1930, the School of Law’s total enrollment was nineteen including two women; in 1930-1931, twenty-one including one woman; 1931-1932, twenty-seven including one woman; in 1932-1933, twenty-eight including one woman; in 1933-1934, forty-four including one woman; in 1934-1935, forty-seven; in 1935-1936, thirty-eight including two women; in 1936-1937, thirty-eight including two women; in 1937-1938, thirty-one including two women; in 1939-1940, thirty-one including four women; in 1940-1941, twenty-five including one woman; 1941-1942, nineteen, including four women.\footnote{The enrollment figures came from the VU Catalogs for the years 1929-1930 through 1941-1942, all on file with the VU Archives.} Thus, after World War II commenced, VUSL’s enrollment never exceeded forty-seven in any year of the depression. The enrollment during the twelve years of the depression averaged around twenty-nine students per year.

Similarly, the University’s total enrollment in all programs including the School of Law ranged between 451 students in 1929-1930 to 457
students twelve years later in 1941-1942, with a peak of 520 students in 1934-1935.\textsuperscript{795} Consequently, during the depression, both the University and its School of Law had virtually zero growth in student enrollments.

This fact is critical in understanding why the University and its School of Law had insufficient economic resources to grow or significantly improve the academic quality of their programs during those years. There was virtually no endowment and, given that lawyers, doctors, and other professionals reportedly had lost on average forty percent of their incomes during the depression, gifts were few and far between. The high hopes following the Lutheran takeover in 1925 had to be postponed. The 1929-1930 high-water mark of NCA, ABA, and AALS accreditation, approval, and membership respectively, was not to be surpassed.

Another ramification of the depression was the dampered "spirit" of the times, which in turn affected student activities. Recall that during the years from 1900 at least up to 1917, law students at VU enthusiastically were involved with banquets, debates, poetry sessions, annual pajama, straw hat, and cane parades, and engaged in annual spring roustabouts with the "pharmies," "scientifcics," or "commercials."\textsuperscript{796} In contrast, the School of Law literature of the depression years reveals few regular activities of these sorts.

This is understandable. World War I had intervened and thousands of VU students went off to war. Then the worst depression in America's history had resulted in wide-spread gloom. Although consuming alcohol was still in, gaiety as such was out. It was a different age in America. Jacksonian democracy and Midwest populism were of another era. For some academics across the country, Marxism seemed to be an alternative to liberal capitalism, which did not appear to be working, with millions of Americans hungry and unemployed. Lawyers often wrote wills or provided other legal services for a chicken or a bag of potatoes.\textsuperscript{797}

At the School of Law, the holiday banquets, Hero's Day, the debating clubs, and even the parades, for the most part, vanished. Instead, organizations were established for networking. In 1935, the

\textsuperscript{795} See supra note 794.
\textsuperscript{796} See supra Part II.I-J.
\textsuperscript{797} The author's father was a lawyer during the Great Depression, and records for that period reveal exchanging legal services for food.

http://scholar.valpo.edu/vulr/vol38/iss3/1
encouragement of Dean Morland, students began a “Law Club” for the purpose of inviting outside speakers to the School of Law and to engage in other extra-curricular activities that might be promotive of the students' making more inroads into the real world of lawyers. Although not yet a common word in this context, students understood the importance of “networking,” especially in hard times.\footnote{798} Student organizers of the Club included Harold Kruse, William Rekeweg, Ralph Bernecker, and Joe Kowalski.\footnote{799} A constitution was drawn up, and the club became known as the “Valparaiso University Lawyers’ Association.” The officers included Gilbert Herzberg, James Clements, and Joe Kowalski.\footnote{800} This was the origin of what later would be known as the “Student Bar Association.”

Law fraternities took on added importance in the 1930s. Back in 1916, VUSL students had formed a chapter of the national law fraternity Sigma Delta Kappa.\footnote{801} In 1934, the VUSL student fraternity known as the “Zeta Chapter,”—now a much larger group of students—leased the commonly-called “mansion,” which VU’s founder and first president, Henry Baker Brown, had lived in for nearly forty years, at the corner of Chicago and Jefferson Streets.\footnote{802} Mrs. C.T. Eadis of Valparaiso was selected as “House Matron.” It was said that the Brown house could accommodate twenty-five students and that plans were being made to have the local Porter County Bar Association have lunches and meetings in the house.\footnote{803}

The VU Lawyers’ Association got a boost in 1939, when the managers of the Indiana State Bar Association approved an application of the VU students’ group to become officially “affiliated” with the State Bar organization.\footnote{804} An article in The Torch noted that the Bar’s approval of the affiliation of the VU Lawyers’ Association was “made possible by the efforts of Dean Morland.”\footnote{805} The networking continued.

\footnote{798} See New Law Club Secures Bar Officers as Speakers, THE TORCH (VU), Mar. 8, 1934, at 1.
\footnote{799} Id.
\footnote{800} Law Students Adopt New Constitution, THE TORCH (VU), March 15, 1934, at 1.
\footnote{801} Lawyers Observe Anniversary Day: Sigma Delta Kappa Entertains Forty Guests at Hotel Lembke Banquet, THE TORCH (VU), May 28, 1936, at 3. “On May 20, 1916, a charter was given to the thirteen young men students of the Valparaiso University School of Law . . . .” Id.
\footnote{802} Sigma Delta Kappa Legal Organization Leases Brown Home, THE TORCH (VU), Sept. 21, 1934, at 5.
\footnote{803} Id.
\footnote{804} Law Association Joins State Bar, THE TORCH (VU), May 18, 1939, at 1
\footnote{805} Id.
The 1930s were financially a difficult decade for the University and its School of Law. Nonetheless, recommendations of the consultants made in the late 1920s continued to be implemented. The liberal arts in particular were strengthened and reorganized. Given the limited resources and comparatively small number of students of the period, consolidation of selected programs and elimination of others were necessitated. The notion that smaller can be better was a principal theme at VU for the decade. This allowed the maintenance, and even to a degree improvement, of academic standards. Still, Strietelmeier describes the years as a "period of consolidation." Throughout the decade, the University and its School of Law were restrained by severely limited resources.

From July 1939 through October 1940, Professor Walter G. Friedrich was acting president of VU. Near the end of this brief term, he prophesied that since many of the problems that had retarded development of the University were being obviated, the incoming administration was in a position "to challenge the imagination of our entire Church;" he might have added, of the entire VU community.

Inaugurations of presidents have the potential to be defining moments in the life of a college. They rarely achieve this goal, but two have qualified in the history of the University. One such moment occurred on October 3, 1926, at the inauguration of Rev. William Dau as the first Lutheran president of VU. The Vidette Messenger estimated that 10,000 Lutherans came to Valparaiso that day, although other observers said the number was closer to 5,000. Rev. O.C. Kreinheder of Detroit, Michigan, who would become VU's second Lutheran president, gave the keynote address, titled "The Aim of Our University Enterprise," reportedly to "thunderous applause." Rev. Kreinheder declared:

The highest ideal of a noble life is the Christian ideal, and the Christian ideal is the ideal of service.... Our school voices morality, Christian character, and is

These included the recommendations of Professors Reeves, Horack, and Wigmore. Strietelmeier in detail discusses the reorganization and strengthening of the University's programs. Id. at 113-23. Id. at 111-32. Id. at 131-32. BAEPLER, supra note 4, at 154.
certain to exert a noticeable influence for good on youth, church and country.\footnote{STRIETELMEIER, supra note 14, at 92.}

Kreinheder called the occasion "historic hour, the inauguration of the first President of the only Lutheran University in America."\footnote{BAEPLER, supra note 4, at 154. Many other Lutheran seminaries and colleges existed at the time, but VU was the only Lutheran university because it was the only institution of higher education that had a professional school for graduate students—the School of Law.} The new President Dau then spoke. He appealed to the Christian faith of students, "rejoicing," historian Baepler states, "in the goodness of the universe, natural and cultural."\footnote{Id. Baepler describes Dau’s inaugural address as having an “irenic, even evangelical quality.” Id.} The \textit{Vidette Messenger} labeled the inauguration “one of the greatest events in the history of the school."\footnote{Id. at 155.}

The inauguration of 1928, as lofty as it had been, was surpassed fourteen years later by a speech delivered by VU’s then new president, the Rev. O.P. Kretzmann. Described by one historian as a “tour de force” and by another as changing overnight “the entire atmosphere of the campus,” the speech was visionary and, in retrospect, clearly represents a defining moment in the University’s history. O.P.’s words remain as relevant today as when they were spoken sixty-four years ago.

The thirty-nine-year-old new president titled his speech: “The Destiny of a Christian University in the Modern World.”\footnote{Id. at 199.} The 2,000 students, faculty, and friends of the University who had gathered in the new gymnasium had to have been impressed.\footnote{President Assumes Office with Discussion of Destiny of Christian Universities; Says Future of School Depends on Courage and Willingness to Make Sacrifices, \textit{THE TORCH} (VU), Oct. 10, 1940, at 1.} Historian Strietelmeier was one of them. Later he would opine that the inaugural speech would be singled out as one of the most significant accomplishments of O.P.’s three decades at VU.\footnote{STRIETELMEIER, supra note 14, at 139-40.}

Historian Baepler has observed that O.P.’s address changed attitudes and mind-sets and “began the transformation of the struggling, impoverished school, . . . into a serious and unusual educational enterprise. It became, in effect, the intellectual charter of the modern
Valparaiso University. Strietelmeier noted that "the young president was obviously willing to risk his future and the future of the University in a gamble for greatness." O.P.'s remarks were risky because they countered the convention-wisdom of those Church-related college administrators who feared the spread of Darwinism and the potential of science to make discoveries that might be hard to explain in the context of accepted Christianity.

O.P.'s words that day were transforming. People left the premises knowing that something had changed on campus. What words did he speak to precipitate such transformations? One has to read his entire address to appreciate fully the wisdom and insights it contains. The address is reprinted in Strietelmeier's history. In reading the address, it is helpful to first understand the broader dimensions of the man and of the historical period.

Kretzmann was a devout Lutheran pastor of German heritage. As such, he knew well the history of the Protestant Reformation which began on October 31, 1517 when Martin Luther posted his ninety-five propositions on the door of All Saints' Church at Wittenberg. O.P. understood the intellectual as well as religious significance of this major historic event. The Reformation was ultimately one involving not only religion, but also one of epistemology—of how we think, reason, and come to know the truth. Yes, the Reformation involved a reformation in Christian worship and practice, but it also affected how people think and learn.

Cultural historian Jacques Barzun has described the Reformation as one of only four "revolutions" to occur in the last 500 years, a revolution because it led to "the transfer of power and property in the name of an idea." Barzun, the Seth Low Professor of History and Provost at Columbia University, notes that the Protestant revolution was not against the Catholic, i.e., "universal," religion and its faithful, but it was against the pontiff, the bureaucracy, and their trappings of worship.

818 BAEPFLER, supra note 4, at 199.
819 STRIETELMEIER, supra note 14, at 140.
820 STRIETELMEIER, supra note 14, at 133-39.
821 JACQUES BARZUN, FROM DAWN TO DECADENCE: 500 YEARS OF WESTERN CULTURAL LIFE, 1500 TO THE PRESENT 3-4 (2000).
822 Id. at 7.
Barzun observes that the Reformation did not cause a religious revolution since "Christianity was not replaced by another religion." Rather, the reformation signified an intellectual revolution of the profoundest order. Luther had called for a principle of Christian liberty, where "every man is a perfectly free lord, subject to none." Luther's "Christian liberty" principle, Barzun writes, was the "first blast" heralding the conspicuous theme of our modern era, "emancipation." The Reformation, Barzun notes, posed the issue of diversity of opinion. Given the liberty principle, diversity of opinion is inevitable and has to be tolerated in seeking truth.

This insight was surely understood by O.P. Kretzmann, who saw its applicability to the modern Christian University, especially to Valparaiso University. O.P. had in his own life lived in diverse communities, from his own German-speaking family where all six sons became Lutheran pastors, to the streets of New York City where he spent his childhood and to which he would periodically return. Few Midwest German Lutherans were as urbane and understanding of the need for diverse multi-ethnic and multi-racial peoples to live in harmony under God as was O.P. He brought his life experiences with him to the table at VU.

The other dimension needed to fully appreciate O.P.'s inaugural words is an awareness of the historical context of the time. By the fall of 1940, the world had been in turmoil for years—world war and global depression. War was raging both in Europe and along the Pacific Rim. Britain was under attack. Areas of central and eastern Europe were occupied by the Germans. Back home, the United States was still in a decade-long major economic depression.

Moreover, the combination of the worst economic conditions in the country's history together with the world's warring nations contributed to a psychological malaise, which settled like a dark cloud over most Americans. Some were questioning the principles of democratic government and capitalism.

Given these conditions, O.P. understood that there would be those in his audience who believed that the world had become one without God.

823  Id. at 23.
824  Id. at 6.
825  Id. at 10.
826  Id.
827  BAEPLER, supra note 4, at 192-93.
So, when he walked to the podium on that early day in October 1940, he knew he faced a challenge but also an opportunity unlike any other in his life. He knew he had to inspire his listeners in an effort to restore their faith in God, in themselves, and in the University's future. With such faith, the destiny of the University could be chartered and realized. Without it, nothing could be accomplished. He commenced to speak:

[Even the most optimistic observer of the course of human events knows that the world has come to an hour of crisis in the life of man which threatens to destroy all the values of Western civilization as we have known them since the Church emerged from the catacombs. We have come now to the winter of the modern world and there are few signs of spring. It would be relatively easy, therefore, for us to retire to our campuses, our classrooms, and our sanctuaries, to admit that the important things in the world of 1940 are being said by bombs and planes and guns, ... in a world which is now concerned with another demonstration of the ultimate futility of life without God. ... This twilight hour of the world may darken down into a deeper night than man has ever known before, but the lights by which men find their way between the eternities will not die forever. ... The Almighty is not yet on the side of the strongest battalions. He may not balance the scales of history everyday, but when He does, the weight of the Universe is on the side of truth and mercy and justice and faith and hope and love. ... It is this great, fundamental fact—a fact which lies at the very heart of my personal philosophy of life and history—which has persuaded me to speak to you today concerning "The Destiny of a Christian University in the Modern World." ...

Essentially a University is a voluntary association of free men and women in a community which is dedicated to a two-fold task: the search for Truth and the transmission of Truth, free and unbroken, to those who are born later in time. Its first and supreme requirement is a company of men and women who will know Truth when they meet it, no matter whence it comes or whither it leads; who will love Truth more than riches and power; who will conduct the search for Truth with radical sincerity,
intellectual honesty, and a deep reverence for even its smallest and faintest gleam. . . Especially in the modern world it must be the destiny of a Christian University to cling to the reality of universal Truth. . . .

[T]he Church-related college has since the beginning of the Republic played an important role in the progress and development of American society. . . . A Christian University must be in the van of the progress of knowledge, not behind it. . . . It is this positive and aggressive approach to the problems of a changing world which enables us to face the future of this particular University with absolute confidence in its destiny. . . .

At this point, President Kretzmann became more specific. He made it clear that VU needed to offer everything a secular university offers and more. The "more" is what distinguishes the Church-related institution; to educate "wise" scientists, not just scientists; and, in the case of professions and vocations, to influence these men and women to be noble as well as useful in their work.

O.P.'s vocational point had and has special relevance to the School of Law and to its students. To quote O.P.'s exact words: "[Secular colleges and universities] may try to make men useful; we must do that—and we must make them noble." In this grandiose yet succinct and direct manner, the new Valparaiso president had challenged everyone within the institution, including the dean and the professors of the School of Law, to consider how they could do "more."

As uplifting and challenging as O.P.'s inaugural address was to the students and faculty at VU, it had a deeper intellectual meaning for religious-affiliated colleges and universities in general and for VU in particular. Given what many church leaders perceived as a spreading spiritual and social corruption emanating from modern social and physical science theories, notably, Darwinism and the works of Sigmund Freud, certain leaders within Christian higher education believed that universities had to protect their students from "the threats of

829 BAEPLER, supra note 4, at 200.
830 STRIETELMEIER, supra note 14, at 136.
modernity." O.P. challenged this view, declaring the VU, as a Christian institution of higher learning, would not be an escape from reality.\textsuperscript{831}

There are two battles in the world, O.P. pointed out, one involving bombs and guns, the other involving ideas and theories. The latter battle occurs daily, he noted, in the quiet classrooms, libraries, and laboratories of colleges and universities involving the great questions of God, the state, church, and humanity itself. "It is our destiny," O.P. declared, "to throw ourselves into this battle."\textsuperscript{832}

K. The President's Vision and the War Years

In one sense, it might be said that O.P. Kretzmann was to the VU community what Knute Rockne, according to legend, was to the Notre Dame football teams. Coach Rockne not only designed the plays and was in charge of the players, but, above all, he inspired the team members to give their best efforts to the cause. O.P. similarly led the VU community in setting goals, designing the implementing strategies, and taking charge of the administration, staff, and faculty for three decades. Yet, of greater significance, throughout all of these activities, O.P. continually inspired members of the VU community to give their best efforts in pursuit of the educational and Christian combined mission of the University. At times, the pursuit turned out to be difficult, but, O.P. never said that VU's pursuit of its destiny would be easy.

Just for a moment, appreciate how perplexing the challenge was for the Lutheran University in Valparaiso, Indiana, to succeed in its lofty mission. The Lutheran era began with the purchase of a run down, dispirited, un accredited, and financially deeply-indebted institution in 1925, one which many Americans at the time erroneously believed was owned by the Ku Klux Klan. Then, within five years of the Lutheran takeover, the Great Depression began, depriving the University of the financial resources it desperately needed to succeed in its mission of Christian service and academic excellence. The clouds of depression never broke for a dozen years. Then, without interruption, the world including the United States became ensnared in the most catastrophic world war in history. Following the Japanese bombing on December 7, 1941, of Pearl Harbor and America's entry into a war on the opposite side of the globe, VU, and even more so VUSL, once again faced a critical few years.

\textsuperscript{831} BAEPLER, \textit{supra} note 4, at 200.

\textsuperscript{832} \textit{Id}.
There were very limited military deferments during World War II for law study. The resulting sharp decline in the number of law students during the war years impacted all of the country's law schools. In 1943, at the low point of law student enrollment, there were only 4,800 law students in the 109 ABA approved law schools, compared with 28,000 at the same schools in 1938, representing a decline of over eighty-three percent. In the fall of 1941, the enrollment at the School of Law consisted of nineteen men and four women. In the fall of 1942—America now at war—the VUSL's enrollment fell to sixteen students, thirteen men and three women. Then, virtually all the men enrolled that year either were drafted or enlisted in the armed services during the ensuing twelve months. Thus, by the spring of 1943, the School of Law's enrollment had fallen to its lowest level in history. Only four students were in attendance. That same year, the single woman in the graduating law class, Adele Soh-Harrison, would say that she had enrolled in the School of Law "for the sole purpose of keeping it open."

The full-time law faculty during the 1943-1944 academic year consisted of Dean Morland and Professor Virgil Berry. Professor Wehling was on leave, serving in the U.S.N., and Professor Savage was serving in the Army Air Force. Part-time instructors at the School of Law were Noah Steiner Amstutz, lecturer in patent law; Grant Crumpacker, lecturer in law; and Mark B. Rockwell, lecturer in law. Thus, counting the three part-time lecturers along with Dean Morland and Professor Berry, during the 1943-1944 academic year, the VUSL faculty members exceeded the students by one, five faculty to four students.

On the basis of a cost-benefit analysis, it seems clear that the continuation of the School of Law made little sense during the years 1942 through 1945. At least twenty law schools in fact shut down for at least a

---

833 See STEVENS, supra note 90, at 217 n.7.
834 VAL. U. BULL., 1941-1942, at 102.
836 Id. at 113.
837 E-mail from Marilyn Otis, Director of Alumni Relations, VUSL, to Michael Swygert (Nov. 21, 2002).
838 Id. at 9-13.
839 Only a single law student, Jerome C. Barcus, graduated at the 1944 commencement. VAL. U. COMMENCEMENT PROGRAM 3 (Apr. 23, 1944).
portion of the war years. There is always a danger, however, in temporarily closing a school in response to adverse external conditions—when those conditions cease, administrators may decide to keep the doors closed permanently. Following World War II, at least seven law schools that had been operating in the fall of 1941 did not reopen.

Undoubtedly, many of the country's 4,800 law students were ineligible for military service due to gender, age, or health reasons. A few students qualified for deferments under what were known as V-1 Army and Navy Officer Reserve training programs, allowing these students to complete undergraduate programs and, in some cases, law school studies before having to enter military service.

A temporary closure followed by a decision not to reopen the School of Law could easily have been made by officials of the University before or at the end of the war. In 1944, only three law faculty members would have been affected by a decision to close the School of Law, and one of those, Professor Jox, was spending much of his time in administrative positions of the University as Dean of Men and Director of Personnel. Only Dean Morland would have been out of a job, but he was marketable to other law schools. As for Professor Wehling, he was considering the possibility of teaching Spanish along with law or even taking another teaching position upon his return from the Navy, one within the University as a professor of government. Thus, it would have been easy to cast off the School of Law. O.P., however, never lost sight of the destiny of VU. Looking ahead, he understood that America was going to need more lawyers following the war's end.

---

840 Those schools that closed during the war years are included and designated as closed on the 1944 Approved and Unapproved Lists of the ABA. See A Review of Legal Education in the United States: Law Schools and Bar Admission Requirements, 1944 A.B.A. Sec. Legal Educ. & Admissions to the Bar 5-18 [hereinafter 1944 ABA Review of Legal Education]. According to the lists, in the 1943-1944 academic year, twenty law schools had closed for at least one or more years during the war. These schools were Santa Clara, Stetson, Mercer, Nebraska, Newark, Lincoln, Wake Forest, Baylor, Wyoming, Jones, Oakland, Peabody, Minneapolis, Northwestern College of Oregon, East Texas, North Texas, South Texas, Houston, and St. Mary's law schools. Id.

841 Six law schools never reopened, and one, Newark, reopened as part of the State University of Rutgers in 1944. Id.


843 See supra text accompanying notes 738-42.

844 See supra note 760 and accompanying text.
Historian Baepler has written that President Kretzmann always reminded people that the Lutheran Founders had envisioned "a university, not just a liberal arts college, related to the Church." Kretzmann, Baepler added, added to this vision by desiring VU as a "university" consisting of a liberal arts college, some undergraduate professional programs, and a law school "of the highest rank." Moreover, it was obvious that the School of Law was the basis for calling the institution a university in the first place. Consequently, President Kretzmann made every effort to keep the School of Law going during the war.

In March 1942, O.P. and Dean Morland held a roundtable discussion at Valparaiso's Hotel Lembke, to which leaders of the region's bar and law alumni were invited to discuss how the School of Law could hold together during the war years. Many alumni pledged to help direct prospective students to the School of Law, although recognizing that it would be difficult so long as the war raged on. President O.P. Kretzmann declared, "The University considers the legal practice even more important in the future than it has been in the past; because our government is a government of laws." Efforts were made to enroll female students, but with little success.

Yet, the School of Law's doors remained open. Why? The best explanation seems to be O.P. Kretzmann's sincere conviction that VU as a Christian university needed a strong School of Law, one where students could be taught to be both useful and noble in furtherance of God's grand design.

With the tide of the war in Europe turning in favor of the Allies, the 1944 VU bulletin opined that despite regulations of the Selective Service System, which prohibited the granting of military deferments to law students, the School of Law nonetheless "has maintained its teaching staff and has increased its library in anticipation of an unusually high

845 Barristers Strive to Preserve VU School of Law, THE TORCH (VU), Apr. 2, 1942, at 1.
846 Id. (emphasis added).
847 Here's Why Women Should Study Law, THE TORCH (VU), Mar. 11, 1943, at 4; see also Miss MacNamara Tells Woman's Place in Law, THE TORCH (VU), Apr. 15, 1943, at 1.
848 "Women were urged to enroll in the Law School to keep its charter, but during much of this period professors outnumbered students in the Law School." STRIETELMEIER, supra note 14, at 151.
enrollment after the war." The bulletin further noted that "the Senator George W. Norris Edition of the Directory of Alumni of the School of Law of Valparaiso University had been recently published."

L. Post-War Surge in Enrollment

The School of Law's Norris Edition of the alumni directory would soon be out of date. By 1946, the number of law students at VU reached fifty-five, including forty-one veterans and four women. In the fall of 1947, the School of Law's enrollment shot up to eighty-seven, including seventy-eight veterans and two women. In only four years, the enrollment had climbed from an all-time low of four students in 1943 to eighty-seven in 1947, and then to 158 by the fall of 1949. The School of Law, like other schools across the country, had benefitted from the G.I. Bill. It made law school affordable for many who could not have gone but for the governmental aid. This explains in part the post-war surge in enrollment, which occurred at virtually every law school in the country.

Large increases in numbers of undergraduate college students were also happening all over America, but perhaps not to the same degree that VU was experiencing in the post-war rebound. A column appearing in The Lutheran Witness, published in St. Louis, titled Facts about Valparaiso, claims that "while the general rise in university enrollments throughout the country has been 25 percent to 30 percent in the past two years, Valparaiso's has been 300 percent in the same period."

Although this claim may be true on a percentage basis, it is misleading. Take the School of Law, for example. In comparing Indiana-based law schools, Notre Dame went from forty students in 1943 to 320 in 1947, an 800 percent increase. Indiana University's Bloomington and Indianapolis law schools' combined enrollment went from 129 in 1943 to 565 in 1947, roughly a 425 percent increase for the two law schools. In contrast, VUSL, in going from only four students.

http://scholar.valpo.edu/vulr/vol38/iss3/1
to eighty-seven in the three-year period, had an incredible 2,200 percent jump in students. Yet, when comparing the actual numerical increases, Valparaiso’s percentage gain is disproportionate and, consequently, misleadingly high.\textsuperscript{855} Only six university-related law schools in the country had seven or fewer law students in any of the years of World War II and remained open.\textsuperscript{856} Valparaiso’s law school was one of the six. Regardless of law school comparisons, historian Robert Stevens notes that following the end of World War II, the return of veterans “swelled the depleted ranks of law students” to a new high of 51,015 students by 1947.\textsuperscript{857} Of this number, nearly 37,000 were enrolled in ABA-approved schools, which, of course, included VUSL.\textsuperscript{858}

\textit{M. Morland’s New Wave of Faculty Appointments}

1. Dr. Walter Louis Moll

Dr. Walter Louis Moll was the perfect candidate for appointment to the faculty of the VU School of Law. What a curriculum vitae: he was an experienced teacher at a Lutheran College and at two major law schools; a distinguished visiting lecturer at VU in Applied Christianity; a Harvard Law School S.J.D. graduate; a graduate of Concordia Theological Seminary in St. Louis as well as of Concordia College in Fort Wayne; a law school graduate of the Indiana University School of Law; and a Greek, Latin, and Hebrew scholar who had studied in both Germany and at John Hopkins University. Moll’s acceptance of an offer to join the faculty in the summer of 1946 had to greatly please both the University’s Lutheran administration as well as Dean Morland.

\textsuperscript{855} This is because there were so few law students in 1943 at the beginning of the comparison—five at VUSL compared with a low of forty at Notre Dame, twenty-three at IU-Bloomington, and eighty-one at IU-Indianapolis. 1944 \textit{ABA Review of Legal Education, supra} note 840, at 8.

\textsuperscript{856} In 1943, Loyola University of Chicago had a total of four law students enrolled; University of North Dakota, seven; University of Oregon, seven; Washington and Lee, five; and, the smallest enrollment of any law school in the country, University of South Dakota, two students. \textit{Id.}

\textsuperscript{857} \textsc{Stevens, supra} note 90, at 205.

\textsuperscript{858} Forty-seven unaccredited law schools were still in existence, each having approximately 7,000 students enrolled. \textit{Id.} On part-time law schools, see generally Joseph T. Tinnelly, \textit{Part-Time Legal Education, in STUDY OF PART-TIME LEGAL EDUCATION} (Charles Kelso ed., 1972).
Walter Moll and a second Morland appointee, James Savage, were both appointed to the law faculty in 1946. Moll had earned his A.B. degree from Concordia College, Fort Wayne, in 1898, and the following year had received a diploma upon his graduation from the Concordia Theological Seminary in St. Louis. From the Seminary, he went to Johns Hopkins University as a designated "University Scholar" and "University Fellow." There he studied Hebrew, Greek, and Latin from 1900 through 1904. Subsequently, he spent the 1908-1909 academic year studying German and theology at the University of Berlin.

Afterwards, Moll returned to his alma mater, Concordia, Fort Wayne, where he taught for sixteen years. He then decided to earn a law degree. Enrolling at the IU School of Law in 1920, he earned his LL.B in 1923. The following year, he studied at the Harvard Law School and was awarded in June 1924 the coveted S.J.D., or Doctor of Juridical Science, degree, the highest research degree attainable in the field of legal studies. From 1924 until 1943, Dr. Moll served as a full-time law professor on the faculty of George Washington University School of Law in the District of Columbia. In 1943, he retired from George Washington and became emeritus professor of law. Then, for three years, he served as a visiting professor of law at the University of Cincinnati.

Dr. Moll was fluent in Hebrew, Latin, Greek, and German. At the request of Dean Roscoe Pound of the Harvard Law School, Moll translated a well-known book from German into English, a book authored by Eugen Ehrlich. The English title is *Fundamental Principles of the Sociology of Law*; it is one of the foundation books even today for the study of sociological jurisprudence.

During Moll's three years at the Cincinnati School of Law, he came several times to VU to deliver lectures. He first visited in the spring of 1943 to speak on "Applied Christianity." Returning six months later as

---

859 *Here and There, Law Prof. Retires, Val. U. Bull.*, Mar. 20, 1955, at 4. The 1955-1956 Bulletin, which would have included his name and the fact he was a new appointee that year, is missing. Moll's name was not listed in the 1945-1946 Bulletin, but is in the 1947-1948 edition, but not as a "new appointee."


861 See supra note 860.

862 See supra note 860. The S.J.D. degree is considered an equivalent of the Ph.D. degree.

863 See supra note 860.

864 It is still known as the Moll Edition. This information was furnished the author by VU Professor of Law Emeritus Jack Hiller. *Id.*
the first "Miller Lecturer," he lectured on the topics of the "Inner Life of the Christian," and on various aspects of Christian living, including "Faith," "Prayer," "St. Paul and Luther," "the Holy Spirit," and "Hearing and Doing."\textsuperscript{865} VU appointed Moll as the first Jacob W. Miller Lecturer in Applied Christianity for the entire 1943-1944 academic year, at the same time he was serving as visiting professor of law at the University of Cincinnati.\textsuperscript{866}

Even after joining the VUSL faculty in 1946, Moll continued to lecture on topics beyond his law teaching subjects. For example, in 1948, he spoke to the Phi Alpha Delta law fraternity at VU on the topic of "Law as an Instrumentality for Social and Economic Betterment."\textsuperscript{867} Moll also spoke at a banquet, which had been arranged for pre-law students interested in learning more about the School of Law. In speaking to the group of fifty law and pre-law students, Moll stressed the importance of a Christian education in addition to the technical knowledge of learning the law.\textsuperscript{868}

During his nine years on the VUSL faculty, Moll taught contracts, equity, damages, restitution, trusts, and comparative law. His specialties were contracts and remedies. It is interesting to note the casebooks which he used. They included Williston, \textit{Cases on Contracts} (4th ed.); Cook, \textit{Cases on Equity} (4th ed.); and Scott, \textit{Cases on Trusts} (3d ed).

Students recall that Professor Moll was quite conservative in his politics and strong in his religious faith. A graduate of the law class of 1951, Robert Schoon remembers Moll with great admiration.\textsuperscript{869} Originally from Fort Wayne,\textsuperscript{870} Walter Moll retired from the VUSL faculty at the end of the 1954-1955 academic year, just prior to the new
Dean Stalland's arrival at the School of Law in the fall of that year. Moll's retirement was noted at a dinner with graduating law students and faculty. Even though Moll had been a scholar and had published numerous articles, besides translating books from German, while on the law faculty at George Washington University Law School, he published little during his nine years on the VUSL faculty. Of course, he was in his seventies during most of that period.

2. James Schultz Savage

Given the School of Law's surge in enrollment following World War I, as well as Professor Wehling's decision to teach Spanish in addition to law following his return from the Navy, Dean Morland was searching for at least two new full-time faculty members. Besides himself, the only other full-time teachers were Virgil Berry and Marshall Jox, the latter splitting his time between teaching at the School of Law and serving as University Director of Personnel. In addition to the experienced Professor Moll whom he had hired, the dean sought a young, bright, and energetic person to join the faculty.

A VUSL graduate who had just served during World War II in the United States Army Air Corps (subsequently renamed the U.S. Air Force), surely came to Morland's mind. The student was James Savage who, Morland remembered, had won "high honors" in the Indiana State Bar Examination in the summer of 1938, shortly after having earned his LL.B. degree from the School of Law. Immediately after the war, Savage began practicing law in Fort Wayne, Indiana. Within a year, he was contacted by Morland and without hesitation agreed to enter the academic profession, a decision that would impact VUSL students for the next twenty-four years.

Born in LaPorte, Indiana, on November 26, 1915, James Savage had spent most of his youth in Fort Wayne. In the fall of 1933, he entered IU and, after two years, enrolled in its law school. He transferred to the VUSL in 1937, and the following year he was awarded the LL.B. degree. After graduating from the School of Law, Savage began law practice

---

871 Id.
872 Dr. Moll to Retire from Faculty, Honor Graduating Law Students, THE TORCH (VU), Feb. 3, 1955, at 3.
873 See supra text accompanying notes 738-42.
with attorney Carl A. Osterman of Fort Wayne, where he remained in practice for three years until entering military service in 1941.\textsuperscript{874}

An article in \textit{VU Alumni Bulletin} of July 1946 tells how the enlistee from Fort Wayne and graduate of the 1938 VUSL class had spent fifty-four months serving in the Army Air Force. The article explains that for two years Savage remained stateside, instructing navigators in celestial navigation. He was then sent to Guam, where he served as a navigator with the 20th Air Force Squadron in a B-29 group. The article highlighted that Savage had navigated several bombing missions over Japan. It concluded with the non-sequitur: "He is still a bachelor."\textsuperscript{875}

After returning to the United States at the war's end, Savage remained in the U.S. Air Force Reserve, attaining the rank of Major before surrendering his commission in 1958 after seventeen years of service. In 1946, then a reservist, he returned to law practice in Fort Wayne with attorney Osterman, but only for one year. The call from VUSL caused him to leave practice and enter full-time law teaching. He had found during his Naval service that instructing navigators was rewarding. He knew he would enjoy teaching law students, having performed well himself as a law student.

And, yes, it is true, Savage was a bachelor, a fact that has historical significance, if only at the School of Law. Many law alumni who graduated in the 1940s and early 1950s relate stories of how Professors Savage and Wehling were the most sought-after eligible bachelors of the era. Details of the rumors are not repeated here except to record that it is claimed by alumni that these two "debonair gentlemen brought a flair and degree of sophistication to the Valparaiso party circuit unbeknown previously."\textsuperscript{876}

But James S. Savage had more serious goals. In 1946 when he joined the VUSL faculty, he wanted to complete the course work he had not finished years earlier and obtain his A.B. degree. Thus, Savage earned

\textsuperscript{875} James S. Savage, \textit{VAL. U. ALUMNI BULL.}, July 15, 1946.
\textsuperscript{876} Both Savage and Wehling did marry eventually, bringing to an end what a few have called a competition for their attention. Savage married Maryalice McGill of the VU class of 1937, and Wehling married Mildred Buls, who also had been a former student at the University.
his law degree first, then ten years later in 1948 met all the requirements for his VU A.B. degree.877

Through his ensuing two and a half decades on the VUSL faculty, Professor Savage was admired by most students, but probably not by those who could not rise to the School of Law's academic challenge. From Savage's hiring in 1946 through 1970 when he retired, scores of law students who had entered the School of Law did not graduate due to academic deficiencies, meaning that they had not obtained the minimum grade-point average required for retention. Although the faculty's collective grades would determine any student's individual grade-point average, certain professors gained and retained reputations for being especially demanding graders. Savage was one of the earliest of these "hard nose" (other expressions were used) evaluators, one who was not at all reluctant to award a deserving student a grade of D or F. During these decades, the academic-based attrition rate could exceed fifty percent of a given class, meaning that less than one out of two who entered, graduated.878

Those students who worked hard to meet the intellectual challenge which Savage presented daily in the classroom and on his examinations came away the wiser. Many chose to go into corporate law, securities regulation, or antitrust as a career. One example is Frederich Thomforde of the VUSL class of 1966, who chose to practice securities regulation law after graduation. Of course, VUSL graduates prior to the time Savage joined the faculty had obtained corporate law career positions, but never in the numbers as those who had Savage as a professor.

How do we know? School of Law Alumni Director Marilyn Otis over the last several years has purposefully identified, and in many cases interviewed, law graduates who have served in corporate positions. That process continues today. In correspondence and interviews, alumni have related how Savage not only prepared them for business law practice, but also how he influenced them to consider specializing in the corporate world. In his corporations class, Savage explained how a corporate lawyer over time must learn about the company's managerial

877 The biographical information about James Savage comes from many sources, including an undated Biographical Information Questionnaire which he completed and which is located in the VU Archives.

878 By 1970, the academic attrition percentage was going down as the number and quality of applications were rising. In the most recent decade, academic attrition at the School of Law is around five percent of any entering class, sometimes less.

http://scholar.valpo.edu/vulr/vol38/iss3/1
strategies, personnel structure, modes of doing business, and financing arrangements. With this knowledge supplementing one's legal expertise, a corporate lawyer often finds himself or herself well positioned to be considered for management openings when they occur. Many students became aware of this alternative career strategy from Savage and in time positioned themselves accordingly.

James Savage made several other contributions beyond his demanding teaching and superb career guidance, both to the School of Law and to the wider Valparaiso community. He was an excellent public speaker. Thus, it was no surprise that he was chosen by Dean Meyer to address returning VUSL graduates who were granted J.D. degrees retroactively in 1970. Savage often spoke to various community groups.\(^879\) He was an active Democrat, once running (unsuccessfully) as a candidate for judge of the Porter County Circuit Court.\(^880\) Active in community service, for several years, Savage was president of the Northwest Indiana Crime Commission.\(^881\) He also loved the arts and was a charter member and served as chairman of the Valparaiso Community Theater Guild, even playing lead roles in certain Guild productions.\(^882\)

Research and publication, however, were not among his strengths, even though he did publish.\(^883\) Savage was awarded research grants for advanced study at the University of Chicago during the 1961-1962 academic year when on leave from VU. He had received a James Nelson Raymond fellowship and a Martin Luther fellowship from Lutheran

\(^879\) See, e.g., VU Professor to Speak at Memorial Day Rites in Michigan City, VIDETTE MESSENGER (Valparaiso, Ind.), May 22, 1958, at 1.

\(^880\) See Official County Officers Results, Judge Circuit Court, VIDETTE MESSENGER (Valparaiso, Ind.), Nov. 1962, at 1 ("Alfred Pivarnik (R) . . . 10,719, James Savage (D) . . . 9,510, Crumpacker (Ind.) . . . 1,600."); Democrat, James S. Savage, VIDETTE MESSENGER (Valparaiso, Ind.), Nov. 1962, at 3; Savage Throws Hat into Ring for Judge's Post, VIDETTE MESSENGER (Valparaiso, Ind.), Jan. 12, 1962, at 1.

\(^881\) Prof. Savage Re-elected by Crime Group, VIDETTE MESSENGER (Valparaiso, Ind.), July 25, 1960, at 1; Prof. Savage Secretary of Crime Group, VIDETTE MESSENGER (Valparaiso, Ind.), Sept. 26, 1959, at 1.

\(^882\) Stosh, James S. Savage, STALAG 17 PLAYBILL (n.d.); Savage Named Chairman of Theatre Guild, VIDETTE MESSENGER (Valparaiso, Ind.), Jan. 6, 1959, at 4.

Brotherhood, which enabled him to spend the year at Chicago. He had previously received a Rockefeller Foundation grant to attend a seminar for law teachers of corporations held at New York University School of Law in the summer of 1960. Nonetheless, his pen for the most part remained idle.

But for those who knew him, he will always be remembered for his perpetual warm smile and for his dedication to his students. Professor James S. Savage retired in 1970 at the age of fifty-five. He died in 1985.

3. Margaret Burns-Doran-Brown

In 1946, Dean Morland made still another appointment that would turn out to be advantageous for the School of Law. He appointed attorney Margaret Smith Burns, an alumna and the only woman to graduate in the VUSL class of 1927, to be his Administrative Assistant as well as Law Librarian.

When Burns came to VU, her name had changed to Margaret Doran, having married several years before. Loyal, tenacious, meticulous, and pleasant, she did whatever the dean asked, including helping in the University Registrar’s office. This experience enabled her to qualify for the position of Registrar at the Stetson University College of Law in St. Petersburg, Florida. She accepted Stetson’s offer in 1954. While at Stetson, no longer married to her first husband, she married Clarence R. Brown.

After a short time in Florida, the Browns returned to VU, where Margaret Brown once again became an invaluable administrative assistant to Deans Stalland and Bartelt. Dean Stalland appointed her to the faculty as an instructor in law. Alumni who fondly remember her claim it was she who “actually ran” the School of Law. The deans who worked with her would agree. She retired in 1972 and died in 1987.

884 Bertram, Savage Awarded Grants for Further Study, VIDETTE MESSENGER (Valparaiso, Ind.), May 12, 1961, at 5.
885 Id.
886 Stetson Selects Margaret Doran New Registrar, VIDETTE MESSENGER (Valparaiso, Ind.), July 7, 1954 (quoting a story published a few days earlier in the St. Petersburg Times).
888 Class Notes, THE AMicus (VUSL), 1988, at 22.
When he became a member of the VUSL faculty in 1948, Louis F. Bartelt, Jr., was well known to Dean Morland and professors Berry, Jox, Moll, and Savage. After all, Bartelt only months before had graduated from the School of Law. Three years previously, in 1944, he had earned his undergraduate A.B. degree from VU. Bartelt then entered the School of Law, graduating in 1947 with an LL.B. degree. During law school, Bartelt served on VU's Honor Council and subsequently was named president of the Council.

A Milwaukee native, after passing the Wisconsin Bar Examination and being admitted to the bar, Bartelt practiced in his home city for less than a year when the call came from his alma mater. From the first day he joined the law faculty until he retired, "Lou," as he preferred to be called, was a role model par excellence for his colleagues and for all the future lawyers who knew dignity and integrity. He considered every single law student he met as his friend and treated all fairly and with genuine compassion. Many recall how hurt he would be upon learning that a student would have to leave the School of Law because of low grades. Bartelt, it seemed, suffered as much as the student.

Upon joining the faculty as an instructor in law, Lou Bartelt found he was to have extraordinary responsibilities. This all seemed proper to Dean Morland. As a law student, Bartelt had done exceedingly well and had always been a mature and responsible member of the community. Oh yes, Lou had also performed very well in Morland's torts class, and the young neophyte would surely develop into a great torts teacher (meaning that Morland would no longer have to teach the subject). In addition to teaching the year-long course in torts, Bartelt also was assigned to teach criminal law and procedure, administrative law, and the use-of-law-books course. The latter subject went hand in hand with his other major responsibility which Morland asked him to assume—serving as the Law Librarian.

---

890 The author witnessed Bartelt's distress when students were academically dismissed during the author's three years on the VUSL faculty from 1969-1972.
891 The biographical material about Professor Bartelt comes from many sources, including VU Announcements and Bulletins, clippings from The Vidette Messenger, and from notes taken as a result of interviewing alumni of Bartelt's era.
As a young law teacher, he knew who the "giants" were in the fields in which he taught. In torts, Bartelt adopted Bohlen's Cases on Torts. For administrative law, he chose Gellhorn's Cases and Other Materials on Administrative Tribunals. And, for criminal law, he used Harno's Cases on Criminal Law and Procedure. It would be a few years before Bartelt turned to his favorite law book of all, Professor William Prosser's Cases and Materials on Torts.

Bartelt was the second VUSL law graduate and law professor to do graduate work at Yale Law School in New Haven, Connecticut, the first being Professor Oare, whom Dean Bowman had hired in 1914. A news release from Yale, published verbatim in *The Vidette Messenger*, began: "Louis Bartelt of Valparaiso is one of 20 outstanding legal scholars from all parts of the world to be named as graduate fellows of the Yale Law School for the 1953-54 academic year." A subsequent clipping in *The Vidette Messenger* reported that he was one of nine scholars who had been awarded a Sterling Fellowship for graduate study at Yale that year. In the spring of 1954, Bartelt received his LL.M., from Yale. While there, he established a reputation as an outstanding student among Yale law faculty members of the time. By doing so, he paved the way for future VUSL graduates to follow his path to New Haven.

Several years following his Yale studies, Bartelt was awarded a Rockefeller Fellowship at the University of Wisconsin Law School, where he spent a year working with the renowned American legal historian, Professor Willard Hurst. Bartelt's research was related to Hurst's in-depth study of the timber industry of Wisconsin. More specifically, Bartelt researched the legal and economic history of the State of Wisconsin's development of its highway system.

---

892 See supra text accompanying notes 384-85.
893 *VU Law Faculty Member Is Yale Graduate Fellow, Vidette Messenger* (Valparaiso, Ind.), Nov. 14, 1953, at 1.
894 The clipping is on file with the VU Archives, is undated, and is pasted to a page contained in the file of "Louis Bartelt."
895 One of those who followed Bartelt to Yale was Professor Jack Hiller. Hiller made the point regarding Bartelt's success at Yale in a discussion with the author.
896 See supra note 891.
897 Wins Fellowship, Louis F. Bartelt, Jr., *Vidette Messenger* (Valparaiso, Ind.), Apr. 10, 1959, at 1; see also VAL. U. ALUMNI NEWS, Oct. 1960. During the years 1964-1969 and again in 1970-1971, Louis F. Bartelt served as dean of the School of Law. His innovations and leadership as Dean are discussed later. See infra Part IV.N.
In 1979, at the time of the School of Law's 100th anniversary, Bartelt published in *The Cresset*—the University's review of literature, arts, and public affairs—a short history of the School of Law. The publication was based on an address he had delivered on April 4, 1979, in the Chapel of the Resurrection at a convocation commencing the centennial year of the School of Law. On that occasion Bartelt paid special homage to colleagues "who saw the vision and caught the spirit of the institution ... and dedicated most, if not all, of their professional careers, often at great personal sacrifice—to the fulfillment of its purposes." He mentioned by name Virgil Berry, Marshall Jox, James Savage, Charles Gromley, Jack Hiller, and Richard Stevenson, noting that there were others on the faculty, of shorter time in service at that point, who "evidence the same sensitivity, the same concern, the same dedication."

After the first fully-endowed professorial chair in law was established at Valparaiso University by Edward A. Seegers of River Forest, Illinois, Bartelt was chosen to be its initial recipient. His induction occurred on October 9, 1981, in the Chapel of the Resurrection. VUSL 1966 alumnus Fredrich Thomforde, Jr., then the Lindsay Young Professor of Law at the University of Tennessee College of Law, was the principal speaker. Thomforde lauded his mentor, "Lou Bartelt," and injected a good measure of humor while doing so. Seegers named the chair after his mother and father, and it remains today the Louis and Anna Seegers Chair of Law. Subsequent holders of the Seegers Chair have been Professors Alfred W. Meyer and Bruce G. Berner, its current recipient.

Bartelt was also recognized for his teaching skill. Walter Kretzmann, a former president of the Valparaiso University Alumni Association, announced in the summer of 1985 that Louis F. Bartelt, Jr., had been

---

899 See infra Part V.H.
900 Bartelt, supra note 898, at 21.
901 Id.
selected as the Alumni Association's 1985-1986 recipient of its Distinguished Teaching Award.\textsuperscript{903}

Throughout his career, Bartelt remained a member of the Wisconsin Bar Association and the American Judicature Society. Lou Bartelt retired from teaching in 1988? Among his publications was \textit{Zoning Problems in the Development of Shopping Centers}, published in the \textit{Notre Dame Lawyer} in 1959.\textsuperscript{904} An advocate of rigorous research and scholarship, Bartelt regretted that his administrative duties to the School of Law and to the University prevented him from engaging in more research and writing.

\textbf{N. Other Faculty of the 1940s and Early 1950s}

Other faculty of the 1940s and early 1950s included Noah Steiner Amstutz, who for several years taught a course on patent law. Amstutz was both an engineer and a lawyer.\textsuperscript{905} A member of the U.S. Supreme Court bar since 1930 and of the Indiana bar since 1917, Amstutz was also admitted to practice before the Court of Customs and Patent Appeals in Washington, D.C.\textsuperscript{906} It was said that he was a fellow of the Royal Society of Arts in London, England. There is no reference to any formal education, either in engineering or law, however. Nonetheless, VU granted Amstutz an honorary Sc.D., or doctor of science degree, in 1947.\textsuperscript{907} He was a member of various international law and scientific societies.

Another part-time instructor for a brief period was Frank F. Messer, who taught trial practice and legal ethics courses during the years 1948-1950. A 1907 graduate of Southern Iowa Normal School, he earned his LL.B. degree from the State University of Iowa in 1910. At the end of 1949, Messer left the faculty to resume the practice of law in Iowa. Law students liked Professor Messer and gave him a farewell party at the end of his two years on the VUSL faculty.\textsuperscript{908}

\textsuperscript{904} \textit{Louis F. Bartelt, Jr., Shopping Centers and Land Controls}, \textit{35 Notre Dame Law.} 184 (1959).
\textsuperscript{905} \textit{Betty Nolan, Amstutz, Lawyer-Engineer, Faculty Lecturer, Has Varied Background}, \textit{The Torch (VU)}, June 4, 1942, at 1.
\textsuperscript{908} \textit{Id.; see also Valparaiso University, College Hill Highlights (Nov. 14, 1949).}
The strongest among the part-time instructors around the end of the 1940s was George W. Douglas. He received his undergraduate training at the University of Michigan, earning his A.B. in 1928, and then earned his J.D. degree from the University of Chicago Law School in 1930. Teaching courses on Indiana pleading and practice and on federal procedure, Douglas remained a part-time faculty member at the School of Law for several years.\footnote{Val. U. Bull., 1950-1951, at 12. Professor Albert Wehling, formerly a member of the law faculty, but at the turn of the decade chairman of the VU Department of Government, in the summer of 1950 is listed as having taught a course in legislation. Id. at 16.} Other faculty included Harold C. Hector, who graduated from the School of Law in 1929. For two years he taught legal ethics at the School of Law.\footnote{Harold C. Hector, L. Sch. J., Dec. 2, 1949, at 2.} Finally, S. Earl Heilman taught for one year while Morland was visiting at the University of Kentucky. Heilman subsequently went to the University of Alabama Law School.

\section{Indiana Supreme Court Day}

December 2, 1949, was the first of what would become an annual visit to the School of Law by members of the Indiana Supreme Court, an event called “Indiana Supreme Court Day.” All five sitting justices of the Indiana Supreme Court came from Indianapolis to the School of Law: Justices Howard Sloan Young, Jr., Oliver Starr (who lived in Dune Acres near Chesterton, in Porter County), Frank E. Gilkison, James Allen Emmert, and the Chief Justice, Paul G. Jasper.\footnote{Valpo Lawyers' Association Brings Indiana Supreme Court Here Today, L. Sch. J., Dec. 2, 1902, at 1 [hereinafter Indiana Supreme Court Here]. In previous years, on occasion one or two justices of the Indiana Supreme Court would come to VU to speak, for example, Chief Justice Martin J. O'Malley and Justice Oliver Starr did so in 1947. See O'Malley Addresses Lawyers, The Torch (VU), Oct. 23, 1947, at 1.}

In addition, VUSL alumnus Justice Floyd Draper of the Indiana Appellate Court came, as did Judge Moses Leopold, an Indiana Circuit Court (LaPorte) judge. Thus, all three levels of the Indiana court system were represented. Justice Draper was a graduate of the VUSL class of 1915. A few years later, he received an honorary LL.D. degree from VU. Draper first served on the Indiana Appellate Court in 1943.\footnote{Indiana Supreme Court Here, supra note 911, at 1.}

This first annual Supreme Court Day was arranged through the combined efforts of Dean Morland, alumnus Justice Draper, and students of the Valparaiso Lawyers' Association. Officers of the
Association included John W. Thiel, president, Ted Thomas, and Wright Beasey.913

President O.P. Kretzmann spoke in the Chapel on the morning of Supreme Court Day about “Intellectual Virtue” as it applies to legal education.914 The Torch later editorialized about the hordes of lawyers sighted that particular morning in the Chapel. Under the heading, Lawyers Invade Chapel, the editors wrote:

It was refreshing, to say the least, to see so many lawyers attend chapel the day the Indiana Supreme court came to Valpo. Confronted by so many strange faces, Pres. O. P. Kretzmann rose to the occasion with a stirring tribute to the young barristers’ chosen profession. In Arts-Law that afternoon one law student was overheard humming a hymn to himself.915

After welcomes from President Kretzmann, Dean Morland, and from Association President Thiel, each of the seven judges delivered a short lecture to the assembled law students on topics including: The History of the Indiana Supreme and Appellate Courts; Supreme Court Procedure; What Constitutes a Good Appellate Brief; and Problems Young Lawyers Face in Trial Courts. The certain lectures were followed by a general question and answer session, which in turn was followed by a roundtable discussion comprised of all the judges and certain members of the law faculty.916 At the conclusion of the day’s events, Dean Morland proclaimed that Valparaiso University’s Supreme Court Day had been “one of the most outstanding occasions in the history of our law school.”917

The event also resulted in a new student publication, The Law School Journal, written and produced by students Loren Schnack, chairman, Tex Lamson, Glen Peting, Mike Vidakovich, Dick Homan, Bob Garrett, Frank Stodola, Chuck Stoner, Al Pivarnik, Max Bontrager, Jim Mason, Ken Whitted, and Bert Engleman.918 The students’ end product was very well-done, a professional four-page journal consisting of nine articles

913 Id. at 2-3.
914 Supreme Court Day Termed Outstanding, THE TORCH (VU), Dec. 9, 1949, at 3.
916 Id. at 1.
917 Supreme Court Day Termed Outstanding, supra note 914, at 3.
including one on the 70th Anniversary of the founding of the School of Law, and seventeen photographs. As such, The Law School Journal of December 1949, represents the first publication written and edited by law students at the Valparaiso University School of Law. The Valparaiso University Law Review would not publish its first issue until 1966.

The annual Indiana Supreme Court Day at the School of Law continued for many years but eventually became intermittent. Today, it is customary for the Supreme Court of Indiana to have one or more of its justices visit the School of Law to meet with students and deliver an address on the workings of the Court. That day is still known as the Indiana Supreme Court Day. In addition, either the Indiana Supreme Court or a division of the Indiana Court of Appeals visits the School of Law at least once a year and hears appellate arguments of actual cases for the students to witness.

P. First Indiana ALI Sponsored CLE Institute

In the early 1920s, the AALS investigated the possibility of establishing what it called a "juristic center" for advanced study and research in the law. Leaders of the effort included Harvard law professor Joseph Beale and Pennsylvania's William Draper Lewis, with the strong support of Elihu Root. Primarily due to their work, in 1923 a new organization was formed—the American Law Institute ("ALI"). Membership in the ALI was by invitation and consisted of prominent lawyers, judges, and law school professors and deans.

The objectives of the ALI initially were twofold: first, to survey the entire realm of Anglo-American law to discern its basic principles, and second, to state or "restate" these formulations in a manner that courts would accept as representative of the best American judicial pronouncements of the evolved principles of law. This massive undertaking became known as the "Restatement Project" of the ALI, which through the decades has produced "Restatements of the Law" in various subjects. The Restatement Project has been a major enormous influence on shaping and unifying American law, especially in the

---

920 See infra Part IV.P.
921 Sullivan, supra note 135, at 416.
922 Seavey, supra note 135, at 162.
923 Id.
common law areas of contracts, torts, and property. The Restatement Project continues through this day.

The second ALI objective grew out of the first, to assist the jurisprudential goal of unifying American law, given that each state represented a separate and distinct jurisdiction under the common law, free to develop the law in any direction the judiciary of each state might choose. The diversity and multiplicity of jurisdictions created a great potential for the development of disparate principles of law. In fact, the disparity had already become apparent by the early years of the twentieth century, and the process eventually led to confusion, uncertainty, and instability in American law. The Restatements themselves were not the law, but rather a guide that judges in the various states could turn to and then follow, with the hoped-for result that the principles of the common laws of the various states would more likely develop along parallel lines.924

In time, the ALI took on a third, albeit related, objective: to assist lawyers in keeping up with current developments in the law. Today, this is referred to as “Continuing Legal Education.” It is with this third function of the ALI that the School of Law early on became involved.

In 1950, Professor Charles Joiner of the University of Michigan Law School was chairman of the ALI Committee on Continuing Legal Education. He traveled throughout the country putting together local “institutes” on the law. He approached the Indiana State Bar Association’s president at the time, Charles C. Baker of Indianapolis, who in turn contacted Dean Morland. The three men planned an institute on “Legal Problems of Small Businesses” to take place at VUSL over a two-day period in June of 1950. It was the first ALI/ABA sponsored CLE institute held in the State, and it was held at the School of Law.925

Lecturers during the two-day “Valparaiso Law Institute,” as it was called, included: former VUSL Professor Lenn J. Oare, an attorney from South Bend, a member of Indiana’s Board of Law Examiners, and a VUSL graduate of the class of 1908;926 Professor Lawrence Wheeler of the Indiana University School of Law; Harold H. Bredell, an Indianapolis

924 Id.
925 Valparaiso Law Institute Will Be Held June 2 and 3, VAL. U. BULL., Apr. 1950, at 1.
926 See supra text accompanying notes 384-85.
attorney and Secretary of the ABA; A.P. Draper, a Gary attorney and graduate of the VUSL class of 1922; and Francis H. Uriell, an attorney in the Chicago law firm of Pope and Ballard.\(^{927}\)

The institute was under the co-direction of the Indiana State Bar Association and Professor Joiner. The sponsors included the VU School of Law, VU Lawyers' Alumni Association, Indiana State Bar Association, ABA, and the Committee on Legal Education of the ALI, which was chaired by Professor Joiner.

The following year, a second "Valparaiso Law Institute" was held, dealing with Indiana pretrial procedure and appellate practice, but it was limited to one day. Speakers included Indiana State Bar Association President Richard P. Tinkham of Hammond, attorney Thomas Scanlon of Indianapolis, Chicago Judges Harry M. Fischer and Cecill Corbett Smith, and Chief Judge of the Indiana Appellate Court and VUSL alumnus, Floyd Draper.\(^{928}\)

Of course, in addition to these CLE programs designed primarily for practicing attorneys in the region, the School of Law continued to bring in lecturers for the benefits of the students. In the early 1950s, these included Alexander Campbell of Fort Wayne, former Assistant Attorney General of the United States who supervised the Hiss-Chambers grand jury investigation, and Glen R. Winters of Chicago, who became president of the American Judicature Society.\(^{929}\)

Q. Student Activities: Forums and Fraternities

During the Depression and World War II, VUSL students naturally were less exuberant than they had been in previous generations. During the war years, so few were on campus that they were hardly noticed. Before the war in the 1930s, the student Valparaiso University Lawyers' Association routinely held what where called "forums," usually at the School of Law on Thursday evenings. Speakers were invited to discuss the "practical aspects" of lawyering. For example, VUSL alumnus Edmund J. Freund, of the class of 1911, was invited to speak at a law school forum in 1939 on the topic: "Practical questions which arise in the

\(^{927}\) Valparaiso Law Institute: Legal Problems of Small Businesses, June 1-3, 1950, at 1-4.
\(^{928}\) Press Release, VU (June 1, 1951).
\(^{929}\) Lawyers Visit, VAL. U. BULL., Mar. 20, 1955.
From the students' perspective, as noted earlier, the networking opportunities that could develop with those who were perceived to have power and influence in the real world of law were more important than the substance of the speakers' remarks.

Of greater significance than the infrequent forums, were the activities and living arrangements provided to many law students by the three legal fraternities which existed at the School of Law by the end of the 1940s. The earliest legal fraternity to organize at the VU campus was Sigma Delta Kappa, first begun by students at the University of Michigan Law School in 1914, which instituted the Zeta Chapter at the School of Law in 1916. As discussed above, the Sigma Delta Kappa chapter for many years leased the mansion, which had been the residence of VU's founder and first president, Henry Baker Brown, for thirty years.

The second legal fraternity formed during the 1947-1948 academic year. Called Phi Alpha Delta ("PAD"), a fraternity which limited local chapters to those connected with "Class A" accredited universities whose law schools were members of the AALS, it was the fifty-eighth chapter. Although not the nation's largest legal fraternity in 1948, PAD was the oldest, having been founded by students in Illinois in 1898. The VUSL chapter began as an independent group of students who came together and then petitioned for a charter from the national fraternity. The local chapter was named the Charles A. Halleck, chapter after the United States Congressman who represented the second congressional district of Indiana. At the chapter's installation, Congressman Halleck spoke along with President Kretzmann and Dean Morland.

The third legal fraternity established at VUSL, like PAD, began as an independent group of students. Then, in 1949, the group petitioned to become affiliated with the national fraternity, Delta Theta Phi. A charter was granted and the Otto C. Rentner Senate, or chapter, of Delta Theta Phi was installed. Delta Theta Phi reportedly had the largest

http://scholar.valpo.edu/vulr/vol38/iss3/1
membership of any legal fraternity in the country, the result of the 1913 merger of three fraternities. By 1949, there were eighty senates. VUSL professors Walter Moll and Albert Wehling, both members of the national fraternity, led the effort for the local senate.

The local chapter was named after Otto C. Rentner, who was General Counsel and Vice-President for Aid Association for Lutherans. Rentner, a University of Illinois College of Law graduate, had served as Chancellor of the national fraternity. The first initiation of twelve VUSL students as members of the Otto C. Rentner chapter of Delta Theta Phi occurred in March 1949, on the steps of the Cook County Building in Chicago, where Rentner had served as a master in chancery from 1927 until 1947. Eventually, the Rentner chapter purchased a large home on Lincolnway Avenue in Valparaiso for its members.

In 1955, the Rentner Senate of Delta Theta Phi and the Zeta Chapter of Sigma Delta Kappa merged into one senate of Delta Theta Phi. Second-year law student Herbert Stride retired as dean of the senate so that third-year law student Robert Stroebel, ex-chancellor of the Zeta Chapter, could become the new dean of the merged fraternities. Other officers of the combined fraternity included Glenn Tabor, Nick Thiros, Ray Skony, Robert Cox, and John Tagge.

One other new student organization was formed and then disbanded during the war year 1943—the VUSL Rotary Club. Dale Schoup was president. The Rotarians met for lunch on Thursdays for a six-month period before disbanding due to members leaving for the armed services. At their last luncheon, those in attendance pledged to meet for a grand reunion in Hilo, Hawaii upon the invitation of member and VUSL student George Shiroma, a Hawaiian. It is unclear whether the reunion ever took place.

937 Id.
938 New Law Frat, VIDETTE MESSENGER (Valparaiso, Ind.), May 20, 1949; see also Third Law Frat Installed Saturday, THE TORCH (VU), May 27, 1949, at 1.
939 Rentner Senate and Zeta Chapter Merge Here on April 23, THE TORCH (VU), Apr. 21, 1955, at 1.
940 Id.
By the late 1940s, students were returning to their old ways. The "lawyers" once again were in a marching mood and organized and led what was called the "Hobo Day Parade" at the 1949 Homecoming celebration. The student VU Lawyers' Association, under the presidency of John Thiel, decided to make an impression. They decided to have a parade:

[O]f clean-shaven, well-dressed prospective attorneys[, which] would place them in a well deserved position of prominence; however, to safe-guard against any possibility that their superiority would not be recognized[, each law student will have as accessories] a derby hat, a handle-bar mustache, a string-tie of black velvet, and a cane.... [All] the accessories were all designed toward an impression of dignity and superiority.  

On the day of the Hobo Parade, the law students marched in cadence, chanting in Latin the phrase "Caveat Lex, Rex Lex, Ex Lax." There was more. Reaching the parade's downtown Valparaiso terminus, the law students presented to the assembled throng their "Homebreaking Queen." Attired in a lovely gown, law student Wright Beasey "convincingly portrayed the 'post-virtuous lady.'" The students greeted her/him to cheers—"in Latin, of course."  

Professor Jack Hiller was a first-year student in the fall of 1952, when the a "Lawyers' Parade" took place as part of the Homecoming Hobo Day festivities. He recalls that the lawyers carried their bamboo canes and wore thin felt "fake" derbies. In those days, the "German Band" marched across campus "driving" students out of the classrooms, and then everyone followed the lawyers downtown to the Premiere Theater.  

The Hobo Day parades were in sharp contrast with the comparatively subdued campus atmosphere of the 1930s, as well as of the years of World War II. On the theory that "boys will be boys," by the

---

944 Id.
945 Id.
946 Id.
948 Id.
late 1940s, law students at VUSL were again becoming rowdy and
reestablishing the old traditions of the walking cane and straw hat
parade. These raucous activities revealed not only a fun-loving attitude
of the students, they may also have been demonstrative of the pride they
felt in their status as students attending the School of Law.

R. Academic Standards

1. State Bar Examinations

In the 1930s, after Indiana had repealed its 1850 Constitutional
 provision which provided that any Indiana citizen having good moral
 character could be admitted to practice law,949 an Indiana State Board of
Bar Examiners was established under authority of the Indiana Supreme
Court. By 1935, admittance to the Indiana Bar required the passing of a
bar examination administered by the Board. The following year, the
Indiana Supreme Court added a new qualification for admission to sit
for the examination: an applicant must have had a minimum of two
years of college before enrolling in an ABA approved law school. These
new rules had no effect on the School of Law, as it had years earlier
required at least two years of undergraduate work for admittance and, of
course, had been a fully-approved ABA school since 1929.950

In October 1936, Dean Morland spoke to VUSL students about the
Indiana bar examination but first proudly pointed out that three of the
five members of the Board of Bar Examiners had some connection with
the School of Law.951 He then went on to explain the substance,
procedure, and grading of the bar exam, noting that all students who
intended to practice in Indiana had to take and pass the examination. A
recent graduate, Arthur Raelson, then spoke, giving his impressions and
sharing his experience the year before in taking and passing the state’s
new bar examination.952

Students of the School of Law, in confronting the new reality of
having to take and pass a bar examination at the end of their three-year
program, were in no different position than the thousands of law
students across the country also meeting the fact of required state bar
exams. The ABA Council on Legal Education and Admissions to the Bar,

949 See supra notes 122-25 and accompanying text.
950 Law Students, VAL. U. BULL., June 15, 1936.
952 Id.
the AALS, and the ALI were all pushing the states to institute bar examinations as one of the requirements for admission to the bars of those states.

The dean of the University of Pennsylvania Law School, Herbert F. Goodrich, authored an article published in the American Bar Association Journal in 1932, which stressed that law schools and bar examiners share a common enterprise in screening applicants for the bar. The academic standards of the school, together with the rigor of a state-administered bar exam, not only permit those qualified to enter the practice, but also influence each other in a positive fashion, Goodrich suggested. He believed that law school faculty members would likely serve as bar examiners, who presumably would draft questions similar to the ones given to their classes.

Despite the hopes of Goodrich, it did not happen that way. The bar examiners were not, with few exceptions, law professors. They were lawyers who on average had been practicing for fifteen to forty years and who "were not acquainted" with the law school teaching methods and curricula of the mid-1930s. Serious complaints about state bar examinations soon emanated from members of the established legal-academic community. The complaints ranged from bar questions being irrelevant, the grading being arbitrary, to the entire procedure as not being evaluative of what constitutes good lawyering.

Among the critics was Leon Green, dean and professor at Northwestern University School of Law in Chicago. Green contended that bar examiners for the most part are "not competent to give examinations which reach the hearts of the various subjects which are prescribed as a basis of the examination." Green, in a lengthy analysis, explained why he believed bar examiners overall did not and could not test what is relevant for the successful practice of law. He argued that state bar examiners often passed mediocre students, permitting them to be admitted, while the more serious-minded students on many occasions failed. Green’s contentions are still heard today, although the quality of the bar examinations generally is higher than it was in the late 1930s, 1940s, and 1950s.

954 Id.
955 Leon Green, Legal Education and Bar Admission, 20 A.B.A. J. 105, 106 (1934).
956 Id.
957 Id. at 106.
Nonetheless, throughout those earlier decades and even into the 1960s, it was not uncommon for students from schools such as Harvard, Yale, NYU, and Stanford to perform poorly on bar examinations. In time, better students learned how an examinee answers a bar examination question is often different from how that student might be expected to analyze a problem on a law school examination. Bar examiners, Green pointed out, tended to look for simple, straightforward answers, and not "on-the-other-hand-type" of analyses, which in fact better mirror the world of law practice and the law school analyses of better students. Even today, the majority of law professors and law students in the United States likely consider bar examinations to be a hurdle, screening devices that test in a somewhat superficial manner rules of black-letter law, and do so with a simplistic and faulty assumption, specifically, that most questions have essentially only one correct solution under the law. First-year law students wish that were so, but quickly learn about the indeterminate nature of legal interpretation and analysis.

Whether a device to control the number of new entrants into the legal profession, or, as still claimed by many, a mechanism which screens incompetent from competent applicants for admission to practice, bar examinations are not going to disappear any time soon. Arguably, the most negative ramification of the broad curricular-based bar examination is that it drives at some schools not only what is included in the required curriculum, but it also may affect the teaching philosophy of certain faculty members, who may misconstrue their job as preparing students to pass the bar. Their job, of course, is to prepare law students to be ethical and competent lawyers, judges, administrators, and legislators, a far more formidable task than preparing them to pass a test which emphasizes memorization and regurgitation of black-letter rules of law as if the rules were unequivocal, unambiguous, or not connected to underlying policies and principles of economics, sociology, psychology, politics, and history.

Nonetheless, Dean Morland, in 1936, did the right thing by informing the VU law students about what they would have to do to prepare for and pass the recently adopted Indiana State Bar Examination. Today, virtually all states have a required bar examination, although in a few there remains what is known as a diploma privilege, i.e., if a student graduates from an approved law school in that state, then he or she will automatically be admitted to the state bar without the need to take and pass the state’s bar examination.
Wisconsin, which for decades has had only two law schools, the University of Wisconsin and Marquette University, is one of the last states to continue to offer this escape from the bar examination.

2. Admission and Graduation Standards

The standards of the ABA and AALS did not substantially change after 1930 for nearly two decades. Some tinkering, of course, did take place. For example, in the mid-1930s, the AALS increased what was known as the "C" requirement. Previously, applicants to AALS member and ABA approved schools had to have a minimum of sixty hours of college credit in which they had earned a "C" grade or better. Then, the standard was qualified in 1939 by requiring that a law school applicant's undergraduate transcript must reveal a cumulative grade-point average of all courses attempted of "C" or higher. The change likely caused a few applicants to become ineligible for admission, but probably very few.\textsuperscript{958} Dutifully, the School of Law applied the AALS change to its admission requirements.

Although not directly related to academic standards but more to academic practices, the School of Law instituted afternoon law classes in September of 1939. Previously, only morning classes were held. The editor of The Torch, John Strietelmeier, quoted Shakespeare's "The old order changeth, yielding place to new."\textsuperscript{959} The editor continued:

\begin{quote}
Until this year, law students have been a sort of fifth estate on the hill. They went to class in the morning, did whatever studying they did in the evening, and, in the afternoon, led the life of genteel folk.\ldots

\ldots

Then, like a bolt from the blue, came the announcement that \ldots [l]aw students were going to have to go to class in the afternoon just like the bourgeoisie \ldots\textsuperscript{960}
\end{quote}

In 1949, for the first time, the School of Law required any candidates who were attending the VU undergraduate school to have an interview

\textsuperscript{958} Law Entrants Must Have "C" Average, THE TORCH (VU), Feb. 10, 1938, at 1.
\textsuperscript{959} Afternoon Classes Now Curtail Lawyer's Sleep, THE TORCH (VU), Sept. 14, 1939, at 2.
\textsuperscript{960} Id.
with Dean Morland as a condition for being considered for admission.\textsuperscript{961} Applicants from other schools were required to have all their paper work to the School of Law no later than June 15th prior to the fall term, and then, their applications would also be screened by Dean Morland. Throughout his deanship, John Morland’s thumbs up or thumbs down decided the fate of each applicant. It is not clear what factors he considered, although some alumni have suggested that Morland may have on occasion played favorites in admitting and, it has also been suggested, in retaining or not retaining, students.

A major change regarding admission requirements was announced in 1952. With the advice of the faculty, Dean Morland required that all entrants into the School of Law, starting with the academic year 1953-1954, must have earned a bachelor’s degree as a condition for admittance.\textsuperscript{962} There was one exception: VU undergraduate students could continue to enroll in the School of Law after having completed three years of college work. After their first year in law school (their fourth in higher education), they would be granted either an A.B. or B.S. degree. Then, after successful completion of their final two years of law study, they would be awarded the LL.B. degree.\textsuperscript{963} This was known as the three-three program, and was an option only for VU undergraduates desiring to go to the School of Law from 1952 through 1968, when it was dropped. From that point on, all applicants to the School of Law had to be college graduates as one of the conditions for admission.

S. First African-American VUSL Graduate

The first African Americans to practice law in the United States in the nineteenth century it is said “read” the law as aspiring Caucasian lawyers had done so prior to the rise of academic law schools. In sharp contrast with the majority light-skinned Americans, Blacks who became lawyers by reading the law reportedly were only four in number.\textsuperscript{964} Professor Walter Gellhorn, a former dean of the Columbia University School of Law, reports that in 1869, George Lucas Ruffin was “the first

\textsuperscript{961} Candidates for Law School Must Have Interviews, VAL. U. BULL., May 1949.
\textsuperscript{962} Baepler, Unpublished Notes, supra note 655, at 172.
\textsuperscript{963} Id.
\textsuperscript{964} Gellhorn, supra note 250 (citing Brown, The Genesis of the Negro Lawyer in New England, 22 NEGRO HIST. BULL. 147, 173 (1958)). According to American law historian Lawrence Friedman, the 1870 U.S. Census listed only three black lawyers in Massachusetts in 1870. FRIEDMAN, supra note 85, at 639.
Negro to graduate from an American law school [Harvard]." Despite Ruffin's rare case, the conclusion is inescapable—Blacks were not welcome in the vast majority of America's law schools.

More than a century after the Emancipation Proclamation, the numbers of African Americans admitted to law schools remained minuscule. Professor Gellhorn notes that in 1968, one in 625 Americans became a lawyer, but "only one in 7,100 Negroes chooses the law." This legacy of past discrimination, Gellhorn points out, is demonstrated further by the fact that of 300,000 attorneys in the United States in 1968, less than 3,000, or under one percent of the total, were Black, even though Blacks made up slightly more than twelve percent of the population of the country. In the south, the disparities were even greater. In 1968, Mississippi had nearly one million Black residents, but only nine Black lawyers.

Turning to an examination of America's law schools, Gellhorn found things not much better. In 1968, approximately 10,000 students graduated from America's law schools. Of this number, only 200 were African Americans. Gellhorn squarely put the challenge to the nation's law schools. Above all, he wrote, they had to actively recruit a much larger number of African American law students. This included making available sufficient scholarship funds to make it possible for members of this discriminated-against group of Americans to be financially able to attend law school.

Twenty-one years previously, in 1957, a young African American named Hilbert L. Bradley drove sixteen miles from his home in Gary, Indiana, to the VU campus. The young student met with VU President, O.P. Kretzmann and with School of Law Dean John Morland. The two University officials encouraged the student to enroll in the School of Law. He did so and for three years commuted back and forth between worlds apart—Gary, Bradley's home, a mixed racial and diverse ethnic community of predominantly blue-collar steelworkers, and Valparaiso, a suburban entirely White community of academics, small store owners, professionals, and commuters. Nonetheless, local history was being made.

965 Gellhorn, supra note 250, at 1069.
966 Id. at 1073.
967 Id. at 1074.
968 Id. at 1077.
969 Id. at 1076-88.
In June 1950, Hilbert L. Bradley graduated from VUSL. He was the first African American to do so. In 1981, the Thurgood Marshall Law Association of Gary, Indiana, established a loan fund “for Black students in the Valparaiso University School of Law” in memory of Dean John Morland and in recognition of Morland’s personal support and “dream of a non-segregated institution.” Hilbert Bradley was among the presenters of the funds to the School of Law, along with former Gary Mayor Richard Hatcher—a VUSL graduate of the class of 1959 and later a member of the School of Law faculty—and Terry Gray, also of the law class of 1959.

The School of Law had been in existence for seventy-one years before admitting and graduating its first Black student. On the other hand, students of diverse ethnic backgrounds had been admitted routinely from the beginning—Hispanics, Asians, Islanders, Europeans, South American, Catholics, Jews, Protestants, Lithuanians, Italians, Canadians, and Mexicans, but not one person of Black color. True, few Black’s applied, but no one was recruited before Bradley as far as is known. Apathy, neglect, denial, ignorance, or outright discrimination, however one explains it, the impact was the same. The School of Law for generations, like the vast majority of American law schools, had failed to reach out to those Americans who represented more than ten percent of the country’s total population.

Things, of course, in time always change for better or worse, including an institution’s past discriminatory practices. The two people who initially caused the positive change at VU were President Kretzmann and Dean Morland. To be sure, others earlier had attempted to open the University to Black students, notably the Rev. Andrew Schulze, described as a “pioneering Lutheran pastor among African-Americans in St. Louis.” In 1925, shortly after the Lutheran takeover of the University, Rev. Schulze wrote VU President Dau asking about the admission of Blacks. President Dau, historian Baepler writes, at first responded in the affirmative by removing from the University’s catalogs the statement that “colored students” should not apply because there was no accommodation for them. Within a short time, however, similar words were reinserted into the VU bulletins and catalogs when Dau decided that conditions in the all-White town of Valparaiso would make
it inhospitable for "colored students." As Baehler puts it, a gap had developed between the University's religious practice and its all-White character.

Fortunately, O.P. Kretzmann influenced many positive deployments during his years as president of VU, not the least of which was his seeking and welcoming African American students to the University and to its School of Law. He and Morland were not alone in pursuing the goal of a diverse, integrated university community. Historian Baehler reports that due to efforts of the then campus-based Lutheran Human Relations Association—founded as a broad-based civil rights group—a few Black students began to enroll in the undergraduate college as resident students in the late 1940s. The School of Law's big push for African American law students was not made, however, until the early 1970s.

T. Historical Assessment of the Morland Era

The Morland deanship lasted thirty-six years, from 1928 through 1954, encompassing some of the more trying times in America's history—the Great Depression, World War II, and the Korean War (technically called a United Nations' Police Action). School of Law enrollment during these years ranged from a low of four in 1943 to a high of 157 in 1949. Despite the challenges for survival caused by breakdowns both in the economy and in world order, the School of Law not only survived, it moved forward during Morland's years. The move forward began with the strategic approval of the School of Law by the ABA in 1929, followed by its gaining membership in the AALS in 1930. During the 1930s and 1940s, the School of Law's academic standards were raised, both as to admission requirements, and as to the duration and number of credit hours required for graduation.

During Morland's years, the law faculty was greatly strengthened. He hired several new members, notably Marshall Jox, James Savage, Walter Moll, and Albert Wehling, each of whom would contribute to the School of Law's progress. He relied heavily on his colleague, Professor Virgil Berry, who served as acting dean of the School of Law during the 1940-1941 academic year.

---

973 ld.
974 ld.
975 ld. at 218.
Morland expanded the curriculum into new areas, including patent law and legal writing. Skills courses were emphasized from the outset, especially trial practice. Perhaps of most significance, however, and in response to the Lutheran influence, courses in legal ethics were required and made available every year to the students. Outside lecturers—judges and practitioners—would come to the School of Law to discuss ethical problems in lawyering. Then, in 1952, for the first time, Morland and the faculty instituted a required course in jurisprudence, one which was designed to "critically examine philosophies of law in the light of Christianity."976

Throughout the Morland period, women continued to be admitted and graduate from the School of Law at Valparaiso. Although still representing a small fraction of the student body, some women would be pioneers, like Frances Tilton Weaver, pushing the envelope for women in the law to new heights. Most importantly, it was during Morland's era that the "color" barrier was finally broken because of the courage of African American Hilbert Bradley and the vision of President O.P. Kretzmann and Morland's full support and encouragement.

Of less significance, but still important, for the first time in the history of the School of Law, Dean Morland and members of the faculty from the late 1920s onward became involved in both state and national bar and legal education organizations, including the ABA, AALS, and the Indiana State Bar Association. One year, Dean Morland was a member of an ABA law school inspection team and wrote the ABA official report of the Mercer University Law School in Georgia. He rarely missed attending the annual meetings of the AALS, typically held between Christmas and New Year's Day, usually, but not always, in Chicago. Professors Savage, Jox, Moll, Wehling, Berry and Bartelt on occasion also went to these meetings. Morland also attended meetings of the ALI. By doing so, Morland kept abreast of the latest resolutions of the ABA and AALS regarding accreditation and of the states' requirements for admission to the bar, as well as of the ALI's latest restatement projects and other undertakings.

At these annual gatherings, Morland would have opportunity to meet and hear addresses by prominent members of the bench, bar, and legal academic communities. These included: Chief Justice of the United

976 University Will Offer New Courses, VIDETTE MESSENGER (Valparaiso, Ind.), Aug. 28, 1952.
States Supreme Court, Charles Hughes; Felix Frankfurter, later to be appointed United States Supreme Court Associate Justice; Secretary of Labor Frances Perkins; president of the ALI, George Wickersham; the ALI Director William Draper Lewis; Dean Roscoe Pound of Harvard Law School; Dean Charles Clark of Yale Law School; AALS President George Bogert of the University of Chicago; and Dean Albert Harno of the University of Illinois College of Law. Morland reported back to the School of Law the speakers he had heard and those with whom he had contact at the meetings. Summaries of his reports were usually published in The Torch. One item said that Morland had attended the AALS meetings for eight consecutive years which, given the 1933 date of the news item, meant that he began his attendance in December of 1925, only four months after the new Lutheran administration had been installed at VU.

Besides attending national conferences, Morland became active in committee work of the Indiana State Bar Association, notably its Committee on Legal Education. He also was appointed to be a member of a special advisory committee in 1935 to make recommendations to the Indiana Supreme Court regarding the administration of the State’s bar examination. Moreover, he became aware of what other law schools were doing in part due to his inspection role for the ABA and also as a result of his visitorships at the University of Kentucky in the academic year 1940-1941, and the University of Oregon School of Law during the summer of 1941.

Morland’s era also represents the beginning of a shift by the School of Law and its faculty from a model of a law school concerned primarily and almost exclusively with teaching, to one which began to include research and publication. Morland himself had revised a treatise in wide use. The 1,400-page edition included 300 pages that Morland had

---

979 Dean Morland Attends Legal Education Meet, THE TORCH (VU), June 7, 1935, at 1; see also Morland Attends Meeting of Law Advisory Body, THE TORCH (VU), Sept. 21, 1939, at 4; Morland on State Board, Dean of Valparaiso Univ. Law School Named to Bar Examiners, VIDETTE MESSENGER (Valparaiso, Ind.), July 20, 1939.
980 Item, VIDETTE MESSENGER (Valparaiso, Ind.), Oct. 22, 1941.
added to Keezer’s earlier editions. The book consisted of fifty-six chapters. Morland understood the significance of research and publishing as part of the intellectual process of becoming an expert in one’s field of teaching. His hiring of Professors Moll and Jox contributed to the new importance accorded scholarly research. This is not to say that the majority of the faculty engaged in research and writing, but the new fork in the road had been seen, and a few had started down it.

In 1953, a banquet was held in Morland’s honor in celebration of his twenty-fifth anniversary as dean of the School of Law. Reportedly, seventy were in attendance. Third-year law student Robert Hamann served as toastmaster for the occasion. Professor Berry was the principal speaker along with Porter County Bar president Mox Ruge.

Upon his retirement as dean in 1954, Morland was given a standing ovation at the University’s commencement exercises. Dean Morland had steered the School of Law the longest of any dean in its history. Quiet, soft-spoken, non-confrontational, he was methodic and, somewhat like his colleague Marshall Jox, a plodder. Not as organized as Jox, Morland nonetheless saw what needed to be done and acted. Moreover, he went out of his way to help students who were struggling academically, often providing individual tutoring.

In the fall of 1949, Dean Morland instituted monthly faculty meetings at the School of Law. Morland appointed the newest and youngest member of the faculty, Lou Bartelt, to be faculty secretary. Bartelt’s minutes of the first meeting in part read: “It was moved, seconded, and passed that the faculty meet regularly on the second Wednesday of each month at 4 p.m. . . . [and] that the meetings not last longer than one hour in length.” As evidenced by the minutes, faculty meetings during the year 1949-1950 were well under an hour’s length.

---

983 Quarter Century as V.U. Dean, VIDETTE MESSENGER (Valparaiso, Ind.), Nov. 9, 1953, at 1.
985 210 Receive Degrees at VU Rites, VIDETTE MESSENGER (Valparaiso, Ind.), June 1, 1954, at 1.
986 See, e.g., Interview by Jay Conison, Dean, VUSL, with Jack Meilahn, VUSL alumnus (Mar. 21, 2003).
987 VUSL Faculty Minutes (Sept. 28, 1949).
988 Id.
Rarely were actions taken. The dean for the most part made a few announcements. The faculty did take action in the fall of 1950 when it passed a motion moving the starting time of meetings up one hour to 3 p.m. in the future. In time, faculty meetings at VUSL, like those at most schools, became lengthy, often combative, and sometimes divisive affairs, where issues over tenure and promotion, faculty appointments, academic standards, and student concerns would be debated endlessly and sometimes decided.

Morland's contributions to the School of Law also include his encouragement and assistance in establishing a Lawyers' Alumni Association in the 1930s. He found a way to recognize the accomplishments of alumni. In 1943, Morland met with VUSL grads Harold Hector, E.J. Reynolds, and Joseph R. Orico at the Chicago Bar Association headquarters to establish a list of eminent graduates of the School of Law, known as the law school's "Hall of Fame." The first three alumni selected for inclusion and approved by President O.P. Kretzmann were George W. Norris, United States Senator from Nebraska; D.N. Straub, Chief Justice of the Utah Supreme Court; and Louden L. Bomberger, president of the Indiana State Bar Association. It seems curious, however, that former Wisconsin Governor and United States Senator John J. Blaine was not included. Blaine had a distinguished career and had spoken at the 1931 VU commencement. Among other alumni selected for this honor were Floyd Draper, former justice of the Indiana Supreme Court, Harold L. Strickland, Lake County, Indiana, superior court judge, and Robert H. Moore, a 1911 graduate. By 1956, reportedly twenty-three alumni had been selected for the Hall of Fame, but the list has not been found, and the Hall of Fame apparently vanished.

In 1938, upon Morland's tenth anniversary as dean of the School of Law, Professor Walter G. Friedrich, on behalf of President O.C. Kreinheder, praised Morland's leadership and pledged continued support.

---

989 See VUSL Faculty Minutes (Oct. 10, 1950).
991 Id. Louden Bomberger's presidency of the Indiana State Bar Association became a family tradition, as years later his son and grandson would both serve as ISBA presidents.
992 Sen. Blaine Speaks at Commencement, THE TORCH (VU), June 6, 1931, at 1; University to Graduate 84 on June 17th, Senator Blaine Will Be Orator, VIDETTE MESSENGER (Valparaiso, Ind.), June 5, 1931, at 1.
994 Id.
University support for the School of Law, declaring that "in the future as in the past, the School of Law is to be first in the hearts of university management." Professor Virgil E. Berry served as toastmaster, and VUSL alumnus Robert H. Moore was the principal speaker. Moore praised Morland for his "ceaseless and untiring efforts to improve the Law School," and "for the tremendous interest he takes in the personal welfare of every law student."

Although Professor Morland retired from the deanship in 1954, he remained on the School of Law's faculty until he retired fully in 1963, at that point having given a record at the time of forty years of service to the School of Law and to the University. President Kretzmann noted that Morland had "carried the Law School through the dark days of World War II and did a fine job of holding it together."

After retiring as dean, Morland remained in Valparaiso, returning to teach at the School of Law for several years. He died at the age of eighty-seven on January 25, 1974, holding the title Dean Emeritus of the Valparaiso University School of Law. His service was held at the First United Methodist Church of Valparaiso. He was buried in Graceland Cemetery adjacent to the University's campus.

A historical assessment of Morland's influence on the development of the School of Law should note that he did everything that was expected of him and probably more: to seek and gain ABA approval as well as membership in the AALS; to hire new faculty members who were strong teachers and, in a few instances, scholars; to keep the curriculum current and in line with what most other law schools were doing; to attend meetings of the AALS and ALI; to be active in the Indiana State Bar Association; to build alumni support for the School of Law; to maintain it through the depression and war years; and to recruit African American law students never welcomed before. All of these are credited to Morland, as is the care he showed for his students' welfare.

995 Law School Pays Honor to Morland, VIDETTE MESSENGER (Valparaiso, Ind.), Nov. 11, 1938, at 1.
996 Lawyers Fete Dean Morland Tonight at 7, Dean Heads Law School for Ten Years, THE TORCH (VU), Nov. 10, 1938, at 1.
997 Earl Dewald, Morland Banquet Proves Success, THE TORCH (VU), Nov. 16, 1938, at 1.
998 Dean Morland Retires After 40 Years at Valpo, THE TORCH (VU), Sept. 20, 1963, at 1.
999 Id.
On the other hand, Morland, in his quarter century as dean, did not push the School of Law forward to a higher intellectual level as a more aggressive and savvy dean might have. The important areas of law reform, faculty research and publication, the integration of social sciences and law, and the development and refinement of new legal theories, were de-emphasized. What might be called the intellectual treading of water, however, was about to change, as a new dean, a new era, and an intellectual awakening would continue the on-going maturation of the School of Law.


A. An Intellectual Awakening

Although Dean Morland throughout his twenty-six year deanship kept abreast of the latest ABA regulations, there is little evidence that he or the faculty were aware of intellectual developments taking place at certain law schools, notably Columbia, Harvard, Yale, and Chicago. For one thing, a new jurisprudence of law and legal decision-making called "Legal Realism" was coming into its own, primarily at Yale. The "realists" offered an alternative explanation of law, one which incorporated elements of psychology and decision theory, and which de-emphasized the presumed analytic rationality of the law, while elevating the importance of the instrumental and intuitive function as a more appropriate construct in which to understand how and toward what objectives courts decide cases. Realism also emphasized the uncertainty of legal rules and of facts, as well as the relative insignificance of courts’ articulated rationalizations of their decisions. In a reductionist sense, and for the sake of simplicity, Legal Realism might be described as a theory of law encapsulated in the cliche "actions speak louder than words"—it is not what the courts say that is the law, it is what they do and why they do it.

Other cutting-edge intellectual movements occurring during Morland’s years included those which focused on law as an embodiment of asserted “neutral principles,” theories espoused by Professors Henry Hart and Albert Sacks of Harvard Law School and, in another manner, by Herbert Wechsler of Columbia Law School. In future decades these movements would give birth to post modernism—critical legal studies, critical race theory, critical feminism, and law and economics, among others.
The intellectualization of law in America’s law schools had its roots at Columbia University beginning around 1916, the year Underhill Moore joined that school’s law faculty. Moore “believed the study of law should be integrated with the social sciences, particularly the psychology of human behavior,” and foresaw the applicability of principles of sociology and psychology to the law. Harlan Fiske Stone, Dean of Columbia’s Law School, said that Moore’s goal was “to free legal doctrine from . . . meaningless formalism, and to make the law itself a more useful and efficient instrument of social control.” Subsequently, Columbia law professor Herman Oliphant attempted to transform the Columbia Law School into a research institution, again emphasizing the interrelation of law to the social sciences. Also focusing on sociology and law during this period was Dean Roscoe Pound of Harvard Law School, who advanced an appreciation of the law’s connections to sociology and anthropology.

The importance of economics as providing rational explanations (and justifications) for evolved and evolving legal doctrine sprang up first—not at the University of Chicago, as law students today might likely assume given the dominance of the “Chicago school” in law and economics—at Columbia University, where in the early 1920s courses in law and economics began to be offered. Columbia’s Dean Stone directed a faculty committee headed by political scientist Leon Marshall of the University of Chicago to prepare a series of studies on broadening the intellectual dimensions of the study of law. The studies were published in 1928, and Professor Oliphant wrote the introduction. In it he declared that “the time has come for at least one school to become a community of scholars,” requiring “critical, constructive, creative work by both faculty and students rather than a regime devoted primarily to the acquisition of information.”

Years later, these broader dimensions of law were introduced into courses at VUSL, not by those who had taught there for years—Moll, Berry, Jox, or Morland—but by recently-hired faculty members who

1001 Id. at 11-12.
1002 Id.
1003 STEVENS, supra note 90, at 137.
1004 See HERMAN OLIPHANT, SUMMARY OF THE STUDIES ON LEGAL EDUCATION BY THE FACULTY OF LAW OF COLUMBIA UNIVERSITY (1928).
1005 STEVENS, supra note 90, at 137-39.
were knowledgeable of important intellectual developments in legal theory. Beginning in the 1950s and then into the 1960s and 1970s, four professors in particular addressed the more profound dimensions of legal theory in their classes: Louis F. Bartelt, Jack A. Hiller, Alfred W. Meyer, and Richard Stevenson.

Of the four, the most important in bringing new jurisprudential ideas to Valparaiso was Professor Hiller. He was well versed in the natural law versus legal positivism debates, and he had studied the tenets of American Legal Realism at its epicenter, Yale Law School. While there, Hiller also became familiar with a new system known as "Law, Science, and Policy" ("L.S.P."), a jurisprudence establishing a detailed and comprehensive construct for the resolution of public-policy issues involving the integration of all the social sciences into a model for authoritative decision-making. The innovative L.S.P. jurisprudence system had been created by two brilliant Yale Law School professors, legal academic Myres McDougal and political scientist Harold Lasswell. Despite its innovative analytic construct, L.S.P. never went far beyond New Haven.

After VUSL Professor Richard Stevenson spent a year in graduate law study at Harvard, he returned to VU, where for several years he taught a course called "Legal Process." Stevenson used the massive unpublished materials of Professors Henry Hart and Albert Sacks. Although many students found the course elusive and somewhat inaccessible, Stevenson took those students who would make the effort into an insightful world, questioning accepted assumptions underlying adjudicatory, administrative, and legislative processes of making, interpreting, and applying law.

Meanwhile, young, energetic Professor Louis F. Bartelt, was beginning to influence VUSL students as to the significance of appreciating the historical bases of law. Bartelt himself had been influenced by one of the giants in the history of American law, one who spent his entire career on the University of Wisconsin Law School faculty, but who had been extended invitations, it was said, to join the most prestigious law faculties in the country. His name was Willard J. Hurst, one of the great pioneers of American legal history. Professor Bartelt had the good fortune of spending a year working under Hurst’s guidance at the University of Wisconsin Law School. Returning to VUSL, Bartelt taught a seminar in legal history whenever his schedule permitted.
Professor Alfred W. Meyer, who had been a student of Mark Dewolfe Howe, renowned professor of legal history at the Harvard University School of Law, also taught legal history at VUSL. Meyer, before coming to the VUSL faculty, had been a law professor for several years at Indiana University School of Law at Bloomington. A VUSL graduate, Meyer later earned an LL.M. degree at Harvard and held a fellowship at Columbia University Law School.

The above discussion highlighting the intellectual awakening taking place in the 1950s at the School of Law does not imply that law students of the 1930s and 1940s did not receive a good, albeit traditional, law school education; it does suggest, however, that students of that era received scant exposure to the deeper and more philosophical foundations of law and legal process. In this regard, the School of Law was in the mainstream of American legal education, which generally viewed law as a closed system of traditional legal "sources"—constitutions, court opinions, statutes, and promulgated regulations. Little else had to be studied in law school, it was thought. For many within the law teaching profession today, this still is their prevalent view of the law. As for the majority of law professors, to the extent they researched and wrote, their scholarship was within this closed construct.

Harvard Law School Dean Derek Bok wrote: "Other faculties often look askance at law professors for devoting themselves to pedestrian forms of research, endlessly pecking at legal puzzles within a narrow framework of [legal] principles and precedent." Bok's declaration served as a basis for American legal historian James Ely's comment: "Other units of the university doubt the scholarly nature of legal education."

Although traditional legal scholarship and formalistic teaching, as characterized by a narrow focus and limited sources, typified the large majority of law schools, a widening of the intellectual framework for studying law was taking place at a few schools. According to law school historian Robert Stevens, from 1920 through the 1940s, an intellectual gap widened between a group of national law schools on the one hand, and the large majority of schools on the other. Certain national schools focused students' attention more toward the law's broader intellectual

---

1006 Derek Bok, A Flawed System, HARV. MAG., May-June 1983, at 38, 70.
connections, while at the majority of law schools a narrower and traditional classroom emphasis on doctrinal learning continued to take place. A few national schools, including the University of Chicago and Northwestern University, began to advocate a four-year required J.D. curriculum, believed necessary in order to incorporate the broader intellectual interconnections of law with the social sciences.1008 Certain law schools, including the University of Minnesota, did expand their required curriculum to four years, but they soon retrenched due to pressures of the competitive market.1009 Stevens observes that the development of broader theoretical dimensions of law were restricted to "two dozen of the leading schools at most, while the atmosphere elsewhere was quite different."1010

In time, the broader intellectual perspectives of the law came to the small law school at Valparaiso, and the insights of social sciences eventually were incorporated into the School of Law's curriculum. New "perspective" courses in legal history, jurisprudence, law and economics, law and literature, comparative law, and legal process were offered. More significantly, in the decades to come, the School of Law hired law professors who earned advanced degrees beyond a J.D., including LL.M., S.J.D., or Ph.D. degrees. Many of the new faculty earned either J.D. or LL.M. degrees from leading law schools including Chicago, Michigan, Oxford, Georgetown, UCLA, Harvard, Yale, Cornell, and Columbia. A few sought the S.J.D. degree at institutions including Harvard, Yale, Columbia, Chicago, and Wisconsin. One attained the honor from Columbia University. Nonetheless, many still had acquired their initial J.D. degree from Valparaiso. Inbreeding had been a phenomenon at many law schools, even at Harvard.1011

Notwithstanding inbreeding, men and women eventually joined the law faculty at Valparaiso with perspectives and insights about law and its interconnections with the social sciences. They then shared these perspectives and insights with their students. Consequently, commencing during the last decade of the Morland era (1945-1955), then accelerating throughout the Stalland decade (1955-1965) and beyond, the

1008 STEVENS, supra note 90, at 158-59.
1009 Id.
1010 Id. at 163.
1011 David Sawyer, Dean Griswold Attacks Faculty Inbreeding, HARV. L. REC., Oct. 5, 1967, at 3 (quoting Dean Griswold, who reportedly said: "Our faculties tend to reproduce themselves; and in the process may be the continual inbreeding that is involved by producing even narrower law students than they were themselves.").
School of Law has experienced an intellectual awakening, slow in coming and arguably slow in developing, but nonetheless, a genuine awakening that eventually would be reflected in the increased intellectual perspectives of the students and, to a somewhat lesser degree, in additional and more diverse scholarship by the faculty.  

B. Knute D. Stalland Answers the Call

When Dean Morland announced his retirement as dean in April 1954 due to ill health, insufficient time existed for an outside dean search since the upcoming academic year would commence in only four months. President O.P. Kretzmann, therefore, took the title of acting dean and appointed three faculty members to serve as an Administrative Committee of the School of Law to oversee its operations—Professors Marshall Jox, James Savage, and Louis Bartelt. The Committee dutifully performed, periodically issuing reports to the President. The rather bland messages from the Committee reveal essentially that the School of Law maintained the status quo for the 1954-1955 academic year.

During the “Year of the Triumvirate,” as the Committee was called, President Kretzmann and the law faculty interviewed several decanal candidates. He was especially drawn to a Lutheran from St. Paul, Minnesota—Knute D. Stalland—who was serving as an Assistant Attorney General for the state. Convinced he had found the right person, Kretzmann asked Stalland to accept the deanship. The latter did so, and the announcement of Stalland’s appointment effective July 1st as the fourth dean in the history of the School of Law came in April 1955 from O.P.’s office.

Stalland was from Midwest Lutheran stock. His father, M.C. Stalland, was a pioneer St. Paul dentist. His mother, Hannah Preus Stalland, was originally from Decorah, Iowa. Knute Stalland was born in 1897 in St. Paul and was educated in the city’s public schools. In 1918, he earned his B.A. degree from Luther College, where he was both valedictorian and president of his graduating class. Stalland then served in World War I as a Naval aviator, for a time stationed in France after its liberation. After the war, he entered law school at the St. Paul College of Law, receiving his LL.B. degree in 1922. In 1955, in recognition of his
outstanding legal career and contributions to state government, Stalland was awarded an honorary doctor of laws degree from Luther College.\textsuperscript{1014}

Upon graduating from law school, Stalland began law practice with St. Paul attorney D.L. Grannis. After ten years, he left in 1933 to go into solo practice in St. Paul. In 1943, he was appointed Assistant Attorney General for Minnesota and assigned as Chief Counsel to the State’s Department of Employment Security. After serving in public office for eleven years, he resigned and returned to private practice in 1954, only to be called back into service a few months later as a Special Assistant Attorney General of Minnesota to handle cases before the Minnesota Supreme Court. Stalland was serving in this capacity when he accepted the call from President Kretzmann in 1955 to become Valparaiso School of Law’s fourth dean.\textsuperscript{1015}

Although Kretzmann knew that Stalland had no experience in legal education, O.P. was aware that the St. Paul native had for years served as a lecturer on the legal aspects of veterinary medicine at the University of Minnesota Veterinary Medical College. O.P. was also aware that Stalland had written and published. When working as Assistant Attorney General, in 1930, Stalland authored an index and syllabus titled “Stalland’s Minnesota Curator Acts,” covering 800 special laws for the use of Minnesota lawyers involved in title examinations. He also authored a number of articles on governmental structures in Minnesota as well as an essay in the \textit{Minnesota University Law Review}, titled \textit{I Want to Be a Lawyer}.\textsuperscript{1016} Also certainly significant to O.P. was that Stalland was an active Lutheran, having served as president of the congregation at St. Paul’s Pilgrim Lutheran Church, and his wife came from “the influential Lutheran Preus family.”\textsuperscript{1017}

In November 1955, the new dean was introduced to the alumni of the School of Law at a banquet jointly arranged by President Kretzmann, the law faculty, and the Valparaiso University Lawyers’ Alumni Association. Although more than 700 alumni had been invited, how

\textsuperscript{1014} The biographical material on Dean Stalland comes from various sources including issues of \textit{The Torch} and \textit{The Vidette Messenger} in addition to the article noted in the previous footnote, as well as his personal biographical statement filed in 1956 and on file with the VU Archives.

\textsuperscript{1015} \textit{Id.}

\textsuperscript{1016} \textit{Id.}

\textsuperscript{1017} BAEPLER, supra note 4, at 219.
many came to the banquet is unknown. Significantly, John G. Hervey, Advisor to the ABA Section on Legal Education and Admissions to the Bar, and Dean of the University of Oklahoma Law School, was the principal speaker. The Honorable W. Lynn Parkinson, U.S. District Judge for the Northern District of Indiana, was toastmaster. Elmer Wilson, VUSL class of 1911, officially welcomed Dean Stalland on behalf of the Law Alumni Association. Dean Hervey’s talk was a bit of a surprise. Although complimenting the School of Law and its new dean, he was critical of its physical facilities, adding that church-related law schools like Valparaiso’s tended to be sub-standard in that respect. In contrast to Dean Hervey’s unofficial assessment, in an announcement of the banquet published in the student newspaper, it was claimed that the School of Law was the only Lutheran law school in America and one “of the more prominent church-related law schools in Protestantism.”

Sometimes the dichotomy between an outsider’s and an insider’s assessments is instructive. Stalland, in any event, had a challenge from the commencement of his deanship: to reconcile a somewhat self-serving narrow vision that certain VU insiders had of the School of Law with a wider more objective view of the School of Law’s limitations offered by the most powerful outside person in the country at the time responsible for the accreditation of law schools.

C. To Remain Static Is to Fall Behind

More than his predecessors, Dean Stalland understood that to remain static is to fall behind other law schools and jeopardize the School of Law’s future ABA approval. Shortly after assuming the deanship in the fall of 1955, Stalland met with President O.P. Kretzmann. In Stalland’s notes of that meeting, he emphasized what ABA Advisor John Hervey had earlier said—that the School of Law needed to acquire or build expansive new facilities, to raise law faculty salaries, to increase the number of full-time faculty positions, and to provide additional support for the future growth of the law library collection. After discussing

---

1020 See infra notes 1492-94 and accompanying text.
1022 Knute D. Stalland, Valparaiso University School of Law: Present and Future 1 (Nov. 11, 1955) (unpublished manuscript) [hereinafter Stalland, Present and Future of VUSL].
1023 Minutes of Meeting between Dr. O.P. Kretzmann, President, VU, and K.D. Stalland, Dean, VUSL 1 (Nov. 17, 1955) [hereinafter Meeting with O.P.].
how the existing cramped facility constrained growth, was unattractive to prospective law students, had no lounge for commuting students, and was inefficient in many other respects, the seasoned President and the new Dean turned to the subject of funding the needed projects. It was clear to both that it would not be easy.\textsuperscript{1024}

Stalland, in a follow-up report to the President, wrote that the existing VU law school facility in DeMotte Hall was becoming "increasingly conspicuous for its antiquity," urging that "we get a building program underway at a reasonably early date."\textsuperscript{1025} Expanding on Dean Hervey's criticisms made earlier, Stalland noted that even when comparing church-related law schools, the School of Law in 1955 stood near the bottom of the list when it came to physical facilities, faculty salaries, and a library collection.\textsuperscript{1026} Stalland concluded his report once again with his observation that for the School of Law "to remain static would be, in fact, to decline," given the "energetic programs" being adopted by so many other "private and church-related schools, to say nothing of state law schools."\textsuperscript{1027} O.P.'s 1940 inaugural address comes to mind—a church-related school must provide everything that a secular institution provides plus more. At this point, the School of Law was not keeping up with the "everything" mandate, let alone, the "more." To his credit, Stalland also was very concerned about the "more."

D. What Justifies a Church-Related Law School?

Stalland was the first of three successive deans who seriously considered the question of what justifies a church-related law school, the others being Louis F. Bartelt, Jr. and Alfred W. Meyer. All three were practicing Lutherans who had come to the law school at Valparaiso because of its Lutheran affiliation. A fourth Lutheran law school dean, Charles Ehren, during his deanship did not center his attention on the question of what justifies a church-related law school, at least not to the extent that Stalland, Bartelt, and Meyer had done, probably because during Ehren's administration the School of Law's continued existence became uncertain.\textsuperscript{1028}

\begin{thebibliography}{1}
\bibitem{1024} Id. at 1-3.
\bibitem{1025} Stalland, Present and Future of VUSL, \textit{supra} note 1022, at 2.
\bibitem{1026} Id. at 1.
\bibitem{1027} Id. at 5.
\bibitem{1028} \textit{See infra} notes 1498-1501 and accompanying text.
\end{thebibliography}
In his November 1955 report to President Kretzmann, Dean Stalland addressed the church-relatedness issue directly:

There is a problem in which I am intensely interested. It is note-worthy that Dr. Hervey ... asked what it was that justified the existence of a church-related law school. He implied that up until that time he had not seen any great evidence of such justification, then he asked the rhetorical question,—"Is it too much to expect that . . . teachers in church-related institutions give the students something more than an external gloss? Should not the graduates of church-related law schools be ministers of something more than man-made justice?"1029

Stalland opined that the School of Law “should aim very positively in this area,” but added a cautionary note: “It is a delicate subject, however, and especially so in view of the fact that we have such a large proportion of our students that are non-Lutheran.”1030 At the present time, Stalland concluded, the School of Law would respond to its church-related mission by developing its “special lectures on Ethics.”1031 In a few years, Stalland and the School of Law would try harder.

1. Consultation on Law and Theology

One answer to what justifies a church-related law school is the continuing opportunity for such a school to bring together recognized legal scholars, theologians, church leaders, and philosophers to explore foundational questions of law and theology. Under Dean Stalland, the School of Law fulfilled this opportunity, and thereby in part its church-related mission in the fall of 1960. Stalland later would describe the two-day “Consultation on Law and Theology” the “highlight for the School year.”1032 Four principal themes were explored at the conference: “A

1029 Id. at 7.
1030 Id. at 8.
1031 Id. Stalland’s lectures-on-ethics idea was not a new one. Recall Dean Morland’s similar emphasis on bringing in lecturers to raise ethical dimensions to practicing law during his first years as Dean of the School of Law. See supra text accompanying notes 786-90.
1032 Annual Report of the Dean of the School of Law for the Academic Year 1960-1961 from Knute D. Stalland to O.P. Kretzmann, President, VU 2 (June 22, 1961).

In commenting on the significance of the two-day conference, Stalland described it as the first law and theology program ever offered at a Lutheran University in the United States.\textsuperscript{1034} The papers presented at the conference were published by VU in 1963 under the title \textit{Colloquy on Law and Theology}.\textsuperscript{1035} The conference was funded through the Aid Valparaiso University Program for Consultation on Law and Theology (Oct. 21, 1960).

The principal speakers and discussants were Dr. Richard R. Caemmerer, a noted Theologian at Concordia Seminary (St. Louis); Dr. Jerald C. Brauer, Dean of the Divinity School at the University of Chicago; VU President O.P. Kretzmann; VUSL Dean Knute D. Stalland; Dr. Martin Marty, Associate Editor of \textit{Christian Century} magazine, Lutheran Pastor, and later Theologian at the University of Chicago; Dr. Robert V. Schnabel, then Professor of Philosophy, Concordia Senior College (Ft. Wayne), later President of VU; James S. Savage, VUSL Professor of Law; Dr. A.G. Huegli, then Academic Dean, Concordia Teachers College (River Forest), later President of VU; Dr. Paul G. Kauper, Professor of Constitutional Law at the University of Michigan; Professor Richard W. Duesenberg, Professor of Law at New York University (and VU and VUSL alumnus); Dr. Arthur Carl Piepkorn, Theologian at Concordia Seminary (St. Louis); and Professor Robert W. Bertram of the VU Department of Religion.

The other participants were also impressive. They included Dr. Edgar M. Carlson, President of Gustavus Adolphus College; Dr. Anton-Herman C. Chroust, Professor of Law and Theology at the University of Notre Dame; Dr. George J. Beto, President of Concordia Seminary (Springfield); Professor Wilber G. Katz of the University of Chicago Law School; Mr. William Stringfellow, activist and attorney, New York City; Dr. Samuel Enoch Stumpf, Professor of Philosophy, Vanderbilt University; Dr. Edmund T. Smits, Theologian at Lutheran Theological Seminary (St. Paul); Dr. Alfred P. Klausler, Editor, \textit{Walther League Messenger}; Dr. Paul M. Bretscher, Theologian, Concordia Seminary (St. Louis); Dr. W.A. Poehler, President, Concordia College (St. Paul); Mr. Walter L. Rugland, President, Aid Association for Lutherans; Rev. Wayne Saffen, Campus Pastor, University of Chicago; Dr. Walter F. Wolbrecht, Executive Secretary, Board for Higher Education, The Lutheran Church-Missouri Synod; Dr. Sidney A. Rand, Executive Director, Department of Christian Education, The Evangelical Lutheran Church; and Dr. Thomas H. Langevin, Historian, Concordia Teachers College (Seward).

Participating from VU besides President Kretzmann, Dean Stalland, and Professor Savage, were Professors Bartelt, Jones and Jox from the School of Law. Coming from Indiana University School of Law was Professor Alfred W. Meyer, who would join the VUSL faculty in three years. Also in attendance were VUSL alumni Robert H. Duesenberg, Walter A. Christopher, and Judge Joseph V. Stodola, Jr. Other VU professors participating were Dr. Walter E. Bauer, Dean of Faculty, and Professor Richard W. Scheimann of the Department of Philosophy.\textsuperscript{1034} \textit{Conference Studies Theo-Law Relations,} \textit{THE TORCH} (VU), Oct. 20, 1960, at 1. Stalland added that similar programs had been held at the University of Chicago, Southern Methodist University, and the University of Notre Dame, but never before at a Lutheran university. \textit{Id.} \textsuperscript{1035} \textit{Papers Published from Law and Theology Colloquy,} \textit{THE TORCH} (VU), Sept. 24, 1963, at 2.

\textsuperscript{1033} Valparaiso University Program for Consultation on Law and Theology (Oct. 21, 1960). The principal speakers and discussants were Dr. Richard R. Caemmerer, a noted Theologian at Concordia Seminary (St. Louis); Dr. Jerald C. Brauer, Dean of the Divinity School at the University of Chicago; VU President O.P. Kretzmann; VUSL Dean Knute D. Stalland; Dr. Martin Marty, Associate Editor of \textit{Christian Century} magazine, Lutheran Pastor, and later Theologian at the University of Chicago; Dr. Robert V. Schnabel, then Professor of Philosophy, Concordia Senior College (Ft. Wayne), later President of VU; James S. Savage, VUSL Professor of Law; Dr. A.G. Huegli, then Academic Dean, Concordia Teachers College (River Forest), later President of VU; Dr. Paul G. Kauper, Professor of Constitutional Law at the University of Michigan; Professor Richard W. Duesenberg, Professor of Law at New York University (and VU and VUSL alumnus); Dr. Arthur Carl Piepkorn, Theologian at Concordia Seminary (St. Louis); and Professor Robert W. Bertram of the VU Department of Religion.

\textsuperscript{1034} Conference Studies Theo-Law Relations, \textit{THE TORCH} (VU), Oct. 20, 1960, at 1. Stalland added that similar programs had been held at the University of Chicago, Southern Methodist University, and the University of Notre Dame, but never before at a Lutheran university. \textit{Id.}

\textsuperscript{1035} Papers Published from Law and Theology Colloquy, \textit{THE TORCH} (VU), Sept. 24, 1963, at 2.
Association of Lutherans and in cooperation with the Lutheran Academy for Scholarship.

Historian Baepler writes that the law and theology conference was one of many factors that contributed to a "sense of change" that was occurring on campus and in the nation at the beginning of the 1960s.\textsuperscript{1036} Also contributing to this sense of change was the election, two weeks following the VU law and theology conference, of a youthful new President of the United States, John Fitzgerald Kennedy.

Throughout Stalland’s nine years as Dean of the School of Law, he found opportunities to stress law and religion in one manner or another. One example has a twist ending. In 1958, Stalland invited the former dean of the University of Chicago Law School, Professor Wilber G. Katz, to present a lecture related to law and religion. Katz accepted and was scheduled to talk on the topic “The Professor as a Churchman” in the Chapel-Auditorium.\textsuperscript{1037} Although Dean Katz showed up, his original topic did not. His new topic, nonetheless, addressed a critical moral and religious issue as relevant today as it was in 1958, the moral justification—if any—for state-sponsored, capital punishment.\textsuperscript{1038}

2. Natural Law Jurisprudence

Returning to the question of what it means for the School of Law to be a church-related law school, Dean Stalland commented in \textit{The Torch} that law students should understand that “behind all man-made law is the fundamental law of God.”\textsuperscript{1039} All man-made laws to be justified, Stalland continued, “must conform to the basic God-given law.”\textsuperscript{1040} It is the job of the School of Law, he implied, to instill in its students this Christian understanding of law so as to become “a better counselor, judge and interpreter of the law.” Interestingly, a Lutheran law school dean was suggesting natural law as the intellectual foundation of a Christian law school’s mission, a theological theory apparently in line with the writings of St. Thomas Aquinas, the author of \textit{Summa Theologica}, written during the period 1265-1273. The Thomistic view of natural law, as Aquinas’s philosophy of law is called, consists of those principles of

\textsuperscript{1036} BAEPLER, \textit{supra} note 4, at 257.
\textsuperscript{1037} Press Release, VU Information Services, University of Chicago Professor Presents Lecture at VU (Sept. 23, 1958).
\textsuperscript{1038} \textit{U. of C. Lawyer Addresses Convos on Moral Topic}, \textit{The Torch} (VU), Sept. 25, 1958, at 3.
\textsuperscript{1039} \textit{Dean Stalland Explains Christian Law Values}, \textit{The Torch} (VU), Apr. 6, 1961, at 3.
\textsuperscript{1040} Id.
morality called the *justum*, which allow persons to regulate their own lives in conformity with divine law. In the end, Aquinas espoused, one practices natural law by participating in right reason (*recta ratio*) in accordance with God's eternal and divine law.¹⁰⁴¹

Subsequently, Protestant thought broke into two groups. The first would have nothing to do with natural law for a variety of reasons, preferring to develop the legal implications of a Christian humanism based on the revelation of Jesus Christ. The second, Lutherans tending to be prominent among them, rejected Thomistic ideas of natural law but tried to develop another version of natural law, which they claimed to find in Reformation theology, featuring the idea of "orders of creation and preservation." Here there was much emphasis on continuities throughout history which were, however, dynamic and changing. In Lutheran theology, they found the notion of "the neighbor's need and the common good" to be the guiding spirit of this dynamic version of natural law.¹⁰⁴²

3. Seeking Lutheran Students

The message Dean Stalland gave *The Torch* editors in his 1961 interview about the strategic importance of natural law theology to a church-related school was undoubtedly shared by many Lutherans. Still, as Stalland had said at the outset of his deanship in 1955—when it comes to the School of Law's church-related mission, VU must proceed cautiously. Throughout Stalland's years, Lutherans comprised about fifty percent of the law students. In many years the percentages were significantly lower. As regards the faculty, Stalland, Bartelt, Savage, Jones, Jox, and later Al Meyer were Lutheran, but Professors Hiller, Gromley, and Stevenson were not.

Yet, there never was what might be considered an overwhelming number of Lutheran students at the law school at Valparaiso. In the


early and mid-1960s, the percentage of law students who were Lutheran for a few years held at around fifty percent.\textsuperscript{1043}

Deans Stalland, Bartelt, and Meyer clearly favored a greater integration of the religious values of the University into the School of Law, especially by working toward the attainment of additional Lutheran faculty and students. To that end, Stalland worked tirelessly for nearly a decade, visiting virtually every Lutheran college in America, speaking with their pre-law advisors and offering scholarships, but with little success. Dean Bartelt, during his tenure as dean, continued Stalland’s efforts to recruit Lutheran law students but at one point realized he was not successful. In a candidly honest assessment of the School of Law’s efforts to recruit Lutheran law students, Dean Bartelt in 1966 wrote President Kretzmann:

(1) Our procurement trips to Lutheran colleges ... have not been successful.... The number of students we gained has been disproportionate to the time, effort, and money expended. (2) High caliber students at Lutheran colleges do not seriously consider Valpo for their legal education.... I am of the opinion that [pre-law] advisors suggest Valpo only to mediocre or less-than-mediocre students.... (3) We hoped that [recruited Lutheran] students would act as our "ambassadors" when they returned to their colleges .... [But] we did not get [Lutheran] students in sufficient numbers, and there is no evidence whatsoever that those who did come ever took the word back, ... or even returned to their colleges for any reason....\textsuperscript{1044}

Conceding that the “ambassadorial idea” had failed, Bartelt added, “I am forced to the conclusion that ... the [Lutheran] procurement program should be abandoned.”\textsuperscript{1045}

Dean Bartelt lamented that he regretted being “so negative about our relations with Lutheran colleges and our ability to attract their students,

\textsuperscript{1043} See Annual Reports of the Dean of the School of Law for the Academic Years 1956-1968 from Knute D. Stalland and Louis F. Bartelt, Jr., to O.P. Kretzmann, President, VU.
\textsuperscript{1044} Annual Report of the Dean of the School of Law for the Academic Year 1965-1966 from Louis F. Bartelt, Jr., to O.P. Kretzmann, President, VU 10 (July 15, 1966) [hereinafter 1966 Annual Report].
\textsuperscript{1045} Id.
but I am afraid circumstances to do not permit a more positive outlook.”  

Under Dean Alfred Meyer’s subsequent administration, a new Lutheran Scholarship Program was instituted, allowing Lutheran colleges to select any student of their choice to go to the VUSL, which would grant that student a full-tuition scholarship. That, too, failed in spite of the effort Kathleen Wehling, VUSL Admissions Director, put into it.

One of the reasons why more Lutherans from small colleges around the country did not flock to the only Lutheran-affiliated law school in the nation at that time was that VUSL was neither widely known nor highly rated. Lutheran applicants were also deterred by the distance and cost. The School of Law from the 1950s onward had to charge tuition at the going rate for private schools. Why would prospective Lutheran law students in California, Nebraska, and New York choose to go to a small, relatively unknown law school in a small town in Indiana, even if it was Lutheran-affiliated, where there would be few networking prospects, especially when better known, less expensive state law schools were located nearby?

E. What Does the Lutheran Character of the School of Law Mean?

The large majority of the 4,000 plus law graduates of the Valparaiso University School of Law attended the School during the Lutheran segment of its history which continues today. Consideration of the question “what does the Lutheran character of the School of Law mean?” is significant for all alumni, students, faculty, and staff of the institution regardless of their own religious beliefs. It allows all to better understand and appreciate the School of Law’s special attributes and potential.

Although learned men and women for nearly eighty years have grappled with this question of what the Lutheran character of the University means, one person who has considered the question in depth is the VU historian, Lutheran minister, and dean emeritus of Christ College, Richard P. Baepler. With his permission, his short but insightful essay written in response to the author’s asking the above question follows:

1046 Id. at 11.
1047 Interview with Alfred W. Meyer (July 9, 2003).
Even though there is no such thing as Lutheran law, Lutheran engineering, Lutheran economics, Lutheran chemistry, there is such a thing as a Lutheran university and each component part is Lutheran, even though many faculty and students would not apply this name to themselves. When analyzing a university, there are three areas to be considered: 1) its general orientation; 2) the learning community—faculty and students; and, 3) the body of studies.

Under-girding the orientation of a church-related university is its theology of culture. The Lutheran view sees the world as two domains. In one domain, the realm of creation or culture, God creates and sustains the world through institutions we commonly denote as secular, institutions such as law, education, science, government, family, the arts, etc. In this dynamic realm reason and experience dominate. Christianity has no monopoly on the skills and virtues which make this realm work. Hence Lutheranism exalts the secular realm, and seeks to promote for the good of humanity the learning which enables the secular realm to function well. Christianity has therefore been creative in the area of education, creating the university and supporting it because of its secular achievements.

Accordingly, a Lutheran law school in the first place must be a school of secular excellence, no matter the faith or lack of faith of its members. Secular excellence alone would justify calling the law school at a Lutheran university a Lutheran law school. The VU School of Law has a long tradition of emphasizing the importance of producing well-trained, thoughtful lawyers, fit to be advocates, and therefore, contributors to the health of the secular realm.

The central task of the church is not to run society (which God does through the secular realm), but to proclaim God’s justice and forgiveness, shaping people to live for others out of love. This is the second realm, the realm of redemption, in which the Gospel is the operative power. The two realms come together in the
theology of vocation in which Christians, supported by the Gospel, see themselves called to humanize the world with the competence of their professional or occupational activities and the humanism of their vision and the realism required by an imperfect world.

It follows from the above that members admitted to the community of the Law School—faculty and students—should manifest qualities of competence and humane concern. There should be a Lutheran presence on the faculty and among the students, though the main concern should be quality, rather than quantity. Intellectually the theology of the two realms means that there is a preponderantly common ground regarding the content of law among all scholars. Moreover, the singularities of motivation and understanding of their work are largely shared by people of Jewish or Christian faith.

Within the standard law curriculum there may be places where Lutheran theology can make a contribution, but very few. Efforts in the law school to step back and ask perspective questions, to engage in cross-disciplinary work, although not Lutheran per se, are consistent with the orientation of the whole university to push questions out from small scope studies to issues raised by other disciplines.

An outstanding example of curricular development consistent with the University’s orientation, is the VU Law School’s clinic/legal aid program. The leaders in this area were and are driven by a sense of justice which undoubtedly has a religious base. Lutherans probably would not have done it. But Lutherans welcomed it, promoted it, and the School of Law is more Lutheran as a result. Now there is a long way to go to maximize the potential of a distinctively Lutheran VU Law School. As the Lutheran movement, born in a university, reformed the late medieval church, so its legal scholars attempted to restructure society through a reformed legal sytem
emphasizing the neighbor's need and the common good, a model of thought and action worth studying today.\textsuperscript{1048}

Another response to the question of what the Lutheran connection to the Valparaiso University School of Law means was suggested by Louis F. Bartelt, Jr. in an annual report to President O.P. Kretzmann on the School of Law. Bartelt wrote:

> Even if we have difficulty ... in articulating our philosophy and the value of a legal education in the context of Christian principles, there is some evidence that [VU's Christian] philosophy \textit{permeates the atmosphere, settles on, and affects our students whether they or we realize it or not}.\textsuperscript{1049}

What was the evidence? Professor Charles Gromley, who conducted a state-wide Indiana bar review course, commented for years to Dean Bartelt how VUSL students always seemed more courteous, respectful, and considerate in their interactions with the bar review faculty than the students from all other law schools, with the exception of Notre Dame, whose students, like VUSL's, also displayed good manners and respect.\textsuperscript{1050} Gromley told Bartelt that students from several law schools exhibited disrespectful and discourteous behavior during the review course, describing a few as even being "gross."\textsuperscript{1051} Gromley's observations as reported by Bartelt are reflective of the reported experiences of many employers and others who have dealt with VUSL graduates. Perhaps it is the religious environment. Bartelt may have been right when he wrote O.P. that the Christian principles of VU permeat the School of Law atmosphere, settle on, and affect VUSL students whether they or we realize it or not. On the other hand, particular instances serve as a weak ground for such generalizations.

\section*{F. Dean Roscoe Pound Speaks at VU}

A highly visible structure, reflective of the University atmosphere is the cathedral-like Chapel of the Resurrection. With its magnificent

\textsuperscript{1048} Memorandum from Richard Baepler to Michael Swygert (Aug. 7, 2003).
\textsuperscript{1049} Annual Report of the Dean of the School of Law for the Academic Year 1966-1967 from Louis F. Bartelt, Jr., to O.P. Kretzmann, President, VU, Dr. Huegli, and Dr. Scribner 27 (June 30, 1967) (emphasis added).
\textsuperscript{1050} Id. at 26-27.
\textsuperscript{1051} Id.
German imported custom-designed and crafted stained-glass windows and other symbols of the heavenly kingdom, the Chapel has often served as the stage for important events bringing together all segments of the University. One such event was the celebration of the University's 100th anniversary in 1959. The noted Dean Emeritus of the Harvard Law School was among those who spoke that year to the Valparaiso University community in the Chapel.

Professor John Strietelmeier commented in an article that 1959 was "a great year for Valparaiso University, the largest Lutheran university in America."1052 It may have been the high point for Lutheranism at the University given the critical mass of nearly 2,000 Lutheran students, if not for the School of Law with its thirty-one Lutheran students out of seventy-nine. Strietelmeier stated that nearly ninety percent of VU's undergraduate students were Lutheran, commenting that despite the worst depression and greatest war in history, "God has been good to Valparaiso."1053

He noted that many famous speakers had been brought to the campus in 1959 on the occasion of the 100th anniversary of the University.1054 These high-profile dignitaries and scholars included Lord Clement Attlee, former Prime Minister of Great Britain; Dr. Arthur H. Compton, Nobel prize winner in physics; H. Richard Niebuhr, Sterling Professor of Christian Ethics at Yale University; Christian A. Herter, the United States Undersecretary of State; Robert Maynard Hutchins, former President and Chancellor of the University of Chicago; and Roscoe Pound, Dean Emeritus of the Harvard Law School.1055

1052 John Strietelmeier, Valpo: A College with a Christian Ideal Observing the First Century of its Rise from "Poor Man's Harvard" to Top Lutheran College, VAL. U. MAG., June 1959, at 37.
1053 Id. at 38.
1054 Technically, it was not the centennial anniversary of the institution named Valparaiso University, which had commenced in 1873 under the name Northern Indiana Normal School and Business Institute. Rather, 1979 was the 100th anniversary of the first institution of higher learning located at the site of VU. In 1879, one hundred years earlier, the Methodist-affiliated Valparaiso Male and Female College opened. That institution lasted twelve years before having to close down in 1871. The Normal School owned by Henry Baker Brown purchased the assets of the defunct college and began operation in 1873. Still, the fact that a college operated on the site for 100 years, save three, was a sufficient reason to call 1979 a centennial year.
1055 Baepler describes the high point of the centennial celebration as the dedication of the inspiring new chapel on the University's east campus, described by trustee W.C. Dickmeyer as a "cathedral embodying the highest art for the glory of God." BAEPLER, supra note 4, at 250. O.P. Kretzmann, Baepler added, considered the new chapel (later named the
Of all the renowned speakers at the centennial convocations, Baepler writes that the most remarkable may have been Dean Pound. What was remarkable concerned what transpired in the new Memorial Chapel at 11 a.m. on February 18, 1959. Pound spoke on "The Case for Law" and gave the University permission to publish his address. Publication did not occur until the spring of 1967, eighteen years later, appearing in full as the lead article in the second issue of the first volume of the *Valparaiso University Law Review*. The Review's "Editors' Comments," which introduced his paper, described the uniqueness of the occasion.

For the many present in Memorial Chapel that morning, these were anxious moments. Standing at the podium, the eighty-nine-year old former dean of the Harvard Law School attempted to hold his text in such a position as to lessen the distracting glare of the sun's rays, which having passed through the chancel windows, were reflecting off the manuscript's white paper. The 2,000 plus witnesses—students, faculty, administrators and friends of the University—observed the speaker's difficulty. Fortunately, however, the anxiety felt by the many that luminous day was not shared by the day's luminous focal-point; Roscoe Pound, unable to read his over-lit manuscript, looked out at his sympathetic audience. Smiling reassuringly, he began to speak. [At least seventy-five] minutes later he sat down. His "spontaneous" address deviated only slightly from his prepared text.

A Harvard Law School professor for thirty-one years at the time, Roscoe Pound had served as President of the Association of American Law Schools and of the International Society of Comparative Law, and was the recipient of seventeen honorary degrees. He had also served on the law faculties of Chicago, Northwestern, and the University of California. He was an expert of what became known as sociological jurisprudence. In commenting on Pound's Valparaiso University Chapel of the Resurrection) as symbolizing "the centrality of the living Christ in the University and the life of learning." *Id.* at 251.

---

1056 *Id.* at 249.
address, American legal philosopher Ronald Dworkin, after paying respects to Pound as the "captain of American legal philosophy for decades," described Pound's Valparaiso address as, in his opinion, not a strong piece, but one that illustrated the main features of Pound's intellectual profile.\textsuperscript{1060}

His exuberant erudition sweeps us from Babylon through Rome and ... England to Colonial America [and] Imperial France. ... His philosophical sense is deployed ... opening up lines of analysis with logical distinctions between law and laws, rules and principles, justice and utopia.\textsuperscript{1061}

After his address, several articles dealing with Pound's philosophy of law and background were printed in a special "Centennial Insert" of The Torch.\textsuperscript{1062} The section included lengthy excerpts of his address, "The Case for Law."\textsuperscript{1063}

G. The Law Faculty During Stalland's Decade and Beyond

Stalland hired several new faculty members, three during his first year as dean: Jack Hiller and Richard Stevenson, full-time, and Burton Wechsler, part-time. In the coming years, Flavius Hutchinson, Erwin Jones, Erich Markel, Charles Gromley, Margaret Brown, Frederick Harris and Alfred Meyer were added, along with a professional law librarian, Stephen Czike. New part-time faculty hired under Stalland's deanship besides Wechlsr included Russell Nixon and David McCain. Some additions were due to retirements, including those of Moreland, Moll, and Berry. Others were due to the expansion of the School of Law's faculty. Each of the new additions deserves comment.

1. Jack A. Hiller

Jack Arthur Hiller has been associated with Valparaiso University since the fall of 1949 either as a student or as a member of the law faculty. Presently Professor Emeritus of Law and, until recently, involved with the University's Brauer Museum of Art, Hiller, since enrolling at VU as a twenty-year-old freshman in 1949, has fifty-five

\textsuperscript{1061} Id.
\textsuperscript{1062} Excerpts from Dean Roscoe Pound’s Talk, THE TORCH (VU), Feb. 19, 1959, at 5-8.
\textsuperscript{1063} Id. at 5.

http://scholar.valpo.edu/vulr/vol38/iss3/1
years of linkage with the University, not that he has been on campus all that time. Professor Hiller spent several years away, first studying jurisprudence at the University of London, then earning a graduate degree in law, followed by serving as a tutor at Yale Law School where he was a Sterling Fellow. He also served on law faculties for six years at universities located in three countries, two in Africa—Tanzania and Nairobi—and one in the southeast Pacific country of Malaysia. In total, Hiller spent at least ten years studying or teaching off campus.

A student of the Chicago Institute of Design before coming to VU, Jack Hiller graduated with honors from VU’s undergraduate school in 1953, then graduated at the top of his class from the School of Law in 1955. Upon receiving his LL.B. degree, he accepted Dean Stalland’s offer to become law librarian and instructor in law that fall, only three months after graduating. Over the years, Hiller taught a wide range of courses including constitutional law, federal income tax, legal research and writing, legal process, trial advocacy, appellate advocacy, jurisprudence, agency, admiralty, civil and political rights, equity, insurance, international law, law and development, and law and the arts. In the mid-1960s it was not uncommon for VUSL students before graduating to take from Hiller five courses: legal research and writing, constitutional law, federal taxation, equity, and jurisprudence.

Professor Hiller has contributed to the School of Law in several areas, international law, jurisprudence, multi-disciplinary studies, and perhaps, most of all, in his continually stressing the importance of imagination and creativity. In addressing law students at a VUSL-sponsored Careers Day Program, Hiller talked about the necessity for lawyers not only to undergo “rigorous analytical training, but [to] have imagination as well.” He added:

I would suspect that the same imaginative spark that makes great poets, great novelists, and great authors also produces truly great lawyers. [I call upon] sensitive people to assume the role of value tormenters to become lawyers.1065

1065 Id. (quotation marks omitted).
In furtherance of his own thesis, Hiller has written and published poetry. In 1990, Hiller established Chimney Hill Press for the purpose of publishing the works of promising poets not yet "discovered." Besides teaching traditional law courses, Hiller also has taught innovative courses in the University's undergraduate honors program—Christ College—on "The Future" and on "World Problems of Population and Hunger." A talented artist himself, he has taught a course in the Art Department on silver smithing for those undergraduate students who wished to use more creatively their spare time. Hiller has authored numerous articles as well as poems for the University's Cresset magazine, including *The Right to Read*, *Very, Very Good and Horrid*, and *The Makonde and Their Sculpture*.

The Makonde article was based on his four years teaching in Africa, first for two years as SAILER Professor of Law at University College, Dar es Salaam, Tanzania, under the auspices of the Ford Foundation SAILER Program, and later for two years as visiting Fulbright Professor of Law at the University of Nairobi, Kenya. After returning to VUSL, Hiller kept up his interest in emerging countries by becoming associate editor of the School of Law-supported periodical, *The Journal of Third World Legal Studies*, to which, besides editing, he also contributed several articles.

His major area of scholarship has been third-world legal studies; he authored case books and materials on East African Income Tax in 1968 and on Income Tax in Kenya in 1975. Other books include *The Doctrine of Precedent in the Court of Appeals for East Africa* (with G.P.A. Sawyerr in 1971); and an unpublished monolith titled, *A Life in the Law of East Africa: The Life and Work of Sir Charles Newbold*. In addition, Hiller has authored a score of articles and book reviews on subjects ranging from *The House of Lords as a Judicial Body*,1066 to one of the more intriguing titles ever seen, let alone understood: *Language, Law, Sports and Culture: The Transferability or Non-Transferability of Words and Lifestyles Through Law*, based on a paper Professor Hiller delivered to a Symposium of Law and Language, held at the University of Windsor, Ontario, in March 1978.1067 For several years, he also served on the editorial board of the journal, *Modern Uses of Logic in Law*, or M.U.L.L., published at Yale.


During his years on the sub-continent, Hiller collected African sculpture pursuant to his life-long interest in art. Soon after returning from his first stay in Africa, Hiller began to organize art exhibitions at the School of Law, claiming only half-jokingly, "to civilize the lawyers." Early exhibits in the hallways of Wesemann Hall included the sculptures "machines that go nowhere" by then little-known Chicago artist Joseph Burlini, who has since become well known in art circles. Hiller also assisted law students who organized a display of artifacts of the Hopewell Indians—an early mound-building people who survived for an estimated 1,000 years beginning around 500 B.C. in the eastern half of the United States. Students, faculty, and visitors have reacted favorably to the displayed art which Hiller has brought to the School of Law for over twenty years.

In furtherance of his international interests, Professor Hiller served on a study tour of Senegal, Kenya, and Malawi conducted by the Indiana Consortium for International Programs; he also serves as a consultant to Stamford College Law School in Malaysia, and he directed the Valparaiso University School of Law summer program in Ningbo, China. By doing so, Hiller set the example for two later VUSL law professors who would also teach and consult in far corners of the world: Professors Richard Stith and Paul Brietzke. Moreover, for many of his students over the years, Jack Hiller not only taught law in the analytic fashion expected of a law professor, he also worked to develop his students’ creative and imaginative potential. It is not by accident that he would often recommend to students that they read the well-known book about the creative coupling of left and right brain powers, Herrigel’s Zen in the Art of Archery.

In short, Jack Arthur Hiller has been, and continues to be, adept at combining analytic and creative elements of law, lawyering, and living the cultural life. If an award could be given to the professor in the history of the School of Law who may have been the most undervalued teacher by students when they were in school, but who in time came to be understood and appreciated as the role model who had affected their professional and cultural lives in a most profound manner, Professor Jack Hiller would be the most-likely recipient. He retired from the law faculty and became professor of law emeritus in 1966.

---

Richard H. Stevenson

The same year Jack Hiller joined the VUSL faculty, 1955, was the same year Richard H. Stevenson joined. Born in Rock Island, Illinois, Stevenson earned his A.B. degree from St. Ambrose College in 1952, majoring in philosophy, after having served two years as Captain in the United States Army during the Korean conflict. In the fall of 1952, he entered the State University of Iowa Law School from which he graduated in 1955. Like Hiller, Stevenson went immediately into teaching law. In 1959 he received the LL.M. degree from Harvard University School of Law.

In 1985, in his thirty-first year on the VUSL faculty, Professor Stevenson suffered a stroke which left him disabled for the remainder of his life. During his three decades on the faculty, he taught trial practice, evidence, conflicts of laws, creditor’s rights, bankruptcy, legal process, and legal reasoning. His primary teaching areas, however, were in the trial practice and evidence areas. As noted earlier, for a few years after returning from Harvard he taught a legal process course modeled after the one he had taken from Professors Henry Hart and Albert Sacks at the Harvard Law School. Stevenson authored one work with Judge Russell Willis, titled Indiana Trial Lawyers Guide.

One reason Stevenson did not publish more may be due to the amount of time he routinely and annually devoted to students in addition to regular classes. For years he was coach of the School of Law’s Mock Trial Teams, and it was not uncommon for him to spend numerous evenings from 7:00 p.m. until midnight or later working with the team members.

Many of Stevenson’s students remember him for his demanding and seemingly unending streams of questions. He rarely was satisfied with a student’s response and would turn whatever the student had said back with a follow-up question. In doing so, Stevenson stretched, sometimes painfully stretched, the students’ minds. Professor Alfred Meyer after Stevenson’s death wrote that the classroom dialogs with Stevenson could be “merciless. Not infrequently it would culminate with Richard doing his version of a legendary Harvard professor who offered a student a

---

1071 Judge Willis was a highly-regarded Porter County Circuit Court jurist who served several years as an adjunct professor at VUSL.
1072 Memorandum from Robert V. Schnabel, President, VU, to VU Faculty and Staff (Apr. 8, 1988) [hereinafter Schnabel Memo].
dime to call his mother to come and get him to save the money being needlessly spent on law school tuition." This intentional "put-down" style of law teaching was well on its way out of legal education (thankfully) by 1970, but Richard still tended to use the style much to the displeasure of students in the 1970s and early 1980s.1074

Following Stevenson’s death in April 1988, then VU President Robert V. Schnabel commented that Stevenson was "relentlessly uncompromising, driving himself and his students as nearly to perfection as possible." The VU president added that Stevenson’s style of teaching, which he took with him to faculty meetings, "would sometimes create tense situations, . . . [noting that] his mind was on the issue, however narrowly focused it might become."1076

Among the many contributions Stevenson made to the School of Law and to the University was his active involvement in the creation and supervision of the first Valparaiso Law Clinic. During the 1965-1966 academic year, in cooperation with the United States District Court for the Northern District of Indiana, the School of Law commenced a legal-aid program. Students participating in the program assisted counsel representing indigent defendants in federal criminal cases in Lake County, Indiana. Involving the Lake County, Hammond, and Gary Bar Legal Aid Offices, Stevenson established the program with federal funding under the Office of Economic Opportunity. Stevenson and Hiller initially served as co-advisors to the program, but in time Stevenson became the sole advisor.

In the fall of 1966, Professor Stevenson along with Robert F. Bennett, Executive Director of the Legal Aid Society of Gary, Indiana, Inc., worked out a program which allowed VUSL students to work at the Gary Center on behalf of indigent residents of Lake County, Indiana. The student coordinator was Robert Miertschin, who later became corporation counsel for the City of Gary. Other students working at the Gary Legal Aid Clinic included Tom Cockerill, Woodrow Evans, Jon

1074 Id. at 3.
1075 Schnabel Memo, supra note 1072.
1076 Id.
1077 Annual Report of the Dean of the School of Law from Louis F. Bartelt, Jr., to the VU Bd. of Trs. 3 (July 19, 1966).
882 VALPARAISO UNIVERSITY LAW REVIEW [Vol. 38

Gramhofer, Robert Harper (later a circuit court judge), Mark Holtan, Duncan McDonell, Ken Meeker, Nils Olsen, Dick Treichel, Dave Hubert, and Don Martin.1079 The students assisted by interviewing applicants for legal aid, questioning witnesses, investigating facts, and researching possible defenses and claims for the Clinic's clients.

In 1970, Stevenson was responsible for bringing to the School of Law a day-long mock trial put on by the American Trial Lawyers Association ("ATLA").1080 The trial emphasized issues regarding the use of expert witnesses in personal injury litigation. The Honorable Felix A. Kaul, Judge of the Lake County Circuit Court, presided. Also on the committee arranging the event was VUSL alumnus Robert Lee of South Bend, who was Director of the Seventh Circuit Young Lawyers Section of ATLA.1081 The mock trial was staged for the benefit of area attorneys as well as for VUSL students.

As noted above, Stevenson could be a difficult conversationalist. If a speaker would utter a statement of purported fact, it was not uncommon for the logician to interject that the speaker's declaration was only an opinion based on unproven or unprovable assumptions. To those who did not know him, that could be annoying. For those who did know him, they knew it was a sign Stevenson was a true friend and wanted the speaker to be more exacting in the use of language.

On one occasion, Dick Stevenson did not say a word in a vigorous debate involving four of his colleagues, but he sat silently listening to the others make claims and counter-claims. The location was a restaurant/bar in downtown Valparaiso known as the Old Style Inn. The participants were Professors Meyer, Bartelt, Thomforde, Stevenson, and the author. The debate was over a recently best-selling book on how to avoid probate, more precisely, whether the publishing of the book, which included legal forms for the general populous, constituted unauthorized practice of law, and, moreover, whether it was morally irresponsible to publish such a book, the First Amendment to the Constitution notwithstanding. After two hours (and a few beers), the discussants realized they could not convince each other of the supremacy of their respective views regarding these issues. Looking

1079 Id.
1081 Id.
over to Stevenson, one said: "Richard, you have been mighty quiet. Are you not feeling well?" "Oh no," replied Stevenson, "I have nothing to say because I haven't read the book." Silence, then the discussants burst out laughing, confessing none of them had either. It was vintage Stevenson.

While Richard Stevenson was a staunch supporter of advocacy, he had a greater passion for fairness and truth. Sometimes, apparently because he did not want a position to be lost merely because it was not adequately put forth, at faculty meetings he would argue the merits of a position opposite his own. "At first [the faculty] were surprised, but later [they] became accustomed to it."1082

Following Professor Stevenson's untimely death at the age of fifty-nine, tributes came in from numerous former students. His faculty colleagues were deeply affected. In a tribute to his dearly admired late colleague, Al Meyer wrote: "Despite what had to be a waning satisfaction in the later years from his professional career, Richard never betrayed a downcast attitude toward the school or his students. Cheerful to the end, he epitomized that quality of character which puts the best construction on everything."1083

3. Burton D. Wechsler

Burton Wechsler (he preferred everyone—students, colleagues, staff—call him "Burt"), first served as a part-time member of the law faculty for ten years from 1956 through 1966, then was appointed in the fall of 1967 to a full-time professorial post near the outset of Dean Bartelt's administration. A 1947 graduate of the University of Michigan earning a B.A. in history, Wechsler went on to acquire his legal education at the Harvard Law School, graduating with the LL.B. degree in 1949.1084 During World War II, he served for three years in the United States Navy with the rank of ensign. Born in 1924 in Gary, Indiana, he remained in the city for fifty years before leaving the Midwest and moving to Washington, D.C. in 1974 to associate with the Antioch College of Law.

As a lawyer, it might be said Burt Wechsler led two lives. On one hand he was a specialist in estate planning and practiced that specialty in Gary for well-to-do clients for the most part. On the other hand, during

1083 Meyer, supra note 1077, at 2.
1084 Burton David Wechsler, Biographical Information Questionnaire 1 (Sept. 1967).
evenings and weekends he was an activist and lawyer pursuing social injustices whenever and wherever he could, working for poor and disadvantaged people.

A volunteer attorney for the Indiana and American Civil Liberties Union, Burt Wechsler for over twenty years also represented unpopular clients who had been denied their constitutional rights of equal protection and due process under the law as guaranteed under the Constitution. These included African-Americans, women, the elderly, people on welfare, the disabled, Communists, men and women in jail, male teenagers expelled from high school for wearing long hair, and female teenagers disciplined or expelled for not wearing bras or for becoming pregnant.

On occasion Wechsler's clients included Valparaiso University students. In one instance, an African-American had been told by a Valparaiso landlord of a multi-unit rental building that there was no apartment for rent. Burton "sandwiched" the landlord, that is, had white students seek to rent an apartment on either side of the black student who had been turned aside. When the landlord told the white students that an apartment was presently available, while telling the black student that no apartment was available, Wechsler had his case. Wechsler quickly filed a civil rights action pursuant to 28 U.S.C. § 1983 in the Federal District Court for the Northern District of Indiana in Hammond to teach the racially-discriminating landlord about the law of the land, noting that it applied to those who reside in Valparaiso as well as to the rest of the country's population. The court ruled in favor of the VU students.

In another case involving a VU student, Wechsler represented the editor of the student newspaper, The Torch. During the Vietnam War era, a student stood on the square in downtown Valparaiso next to the Porter County courthouse and distributed anti-war leaflets. Many who were handed a leaflet upon seeing what it was tossed it on the ground. The student was arrested—under a directive issued by the town's Mayor and carried out by the police—for littering and for passing out leaflets without a city license, despite the fact that the United States Supreme Court decades earlier had held that political leafleting, even when advocating unpopular views, was permissible under the First Amendment of the United States Constitution. After bailing the student out of jail, Wechsler along with VU Law School faculty member Michael Swygert, again filed a § 1983 action, this time against the town and its
officials. Quickly the dispute was settled, and the town released a statement published in *The Torch* and in the town’s paper, *The Vidette Messenger*, that it would observe the Constitutional right of free speech regarding political leafleting in the town’s public environs.  

By bringing these suits it might be said that Professor Wechsler extended his Constitutional Law class to the community as a whole and in particular to certain public officials, who became better educated in the limitations imposed upon governmental action under the Federal Constitution. Regardless of how one felt about the war in Vietnam, there was a greater lesson not lost upon the hundreds of VUSL students who witnessed Burton Wechsler’s activist pursuit of social justice—the law can be used to right wrongs and can be a peaceful instrument to challenge practices and conditions thought to be oppressive and in abrogation of fundamental human rights. Wechsler thus served as a role model of an alternative law practice, practice for the public interest. It was the beginning of another defining trend in the history of the School of Law.

Some might say that the noblest struggle for social justice Burt Wechsler led was within the School of Law itself, and it involved the School of Law’s beloved cleaning lady, Lucile “Lucy” Hubbard. Her story will be told subsequently.  

Suffice it to say, the students present during this fight for justice will never forget it.

Despite deep friendships and appreciative students, Burt Wechsler never felt entirely comfortable at VUSL, perhaps because he may have perceived that not everybody in the institution accepted him, being a Jew in an overwhelmingly Christian university. Whether that was fact or only his perception is difficult to tell. On occasion he would say, “How about having lunch in Moses’s Hall,” when he was referring to VU’s Christ College. It was funny, but perhaps telling. During the ten years he taught on a part-time basis and then during his first two years as a full-time member of the faculty, Wechsler was the only Jewish member. Only two years after his appointment as a full-time law professor, however, another Jewish member joined the faculty, Professor Seymour Moskowitz who began to teach in the fall of 1969.

---

1085  These events are remembered well by the author, as he was co-counsel in this case.
1086  See infra Part IV.V.
Wechsler was also aware that during the politically divisive 1960s, certain people in the university community were not pleased with his civil and political rights litigation, especially when he took action against established people and institutions of the region. Although this in no way affected his willingness to vigorously pursue social justice, he was aware that probably some within the University were not altogether comfortable with his litigiousness. Wechsler never contended that there was any anti-semitism at VU, and certainly there were always Jewish members of the student body, but still, he finally decided it was time to consider other teaching alternatives, especially when an opportunity came along he could not ignore. But before leaving, he also engaged in scholarship.

During his last two years on the VUSL faculty, Wechsler engaged in extensive research in preparing a scholarly article in response to the Supreme Court's decision in *Younger v. Harris*.

He set out to demonstrate that *Younger*, which held that federal equity was not available to enjoin ongoing state criminal proceedings that threatened violation of a defendant's constitutional rights, was historically, morally, and constitutionally wrong. The final article, 166 pages in length and containing 718 footnotes, was published in the *New York University Law Review* in 1974. This article, which has been cited scores of times according to LEXIS, although essentially researched and written while Weschler at VU, was published the first year he served on the Antioch law faculty.

In 1973 he left VUSL to join the faculty of the Antioch School of Law in Washington, D.C., a new, innovative school based almost exclusively on a clinical model. Having few sit-down classes per se, students and "faculty-lawyers" worked together on litigation in behalf of the poor and otherwise disenfranchised people residing within the District of Columbia. Antioch described itself as "a law school-law clinic-public interest law firm." It was Wechsler's ideal of what a law school should be and potentially, at least, what it would be capable of working in furtherance of social justice. It might have succeeded but for the cost. Within six years the Antioch Law School was forced to close, not being

1090 STEVENS, supra note 90, at 241.
able to afford the high costs necessitated by a student-faculty ratio impossible to fund given that most students required financial aid.

Wechsler then moved over to the Washington School of Law of American University, where he remained in law teaching until his retirement in 1998. Before he retired in 1998, and after having served twenty years on the faculty of the Washington School of Law of American University, Wechsler amazingly won the best teacher award thirteen times.\textsuperscript{1091} Sadly, the always robust and enthusiastic law teacher in recent years experienced ill health. He died in 2004. Burt’s old friend from his VUSL days, Professor Sy Moskowitz, often went to Washington to see his mentor and to convey best wishes to “a one of a kind.”

Professor Moskowitz in 2002 authored a tribute to Burt Wechsler, his “friend of more than thirty-five years,” published in the American University Law Review. He wrote:

My life has been deeply touched by his idealism, his willingness to work indefatigably for those ideals, his willingness to take risks, his creativity and his wisdom. As the consummate teacher, he taught me, and I am sure countless others, lessons we continue to learn today.\textsuperscript{1092}

4. **Erwin A. Jones**

Erwin A. Jones, a retired United States Army Colonel, was appointed to the VUSL faculty in 1958. Born in Seward, Nebraska in 1903, he earned both his A.B. and J.D. degrees from the University of Nebraska in 1926 and 1928, respectively.\textsuperscript{1093} Col. Jones served eighteen years in the military, enlisting in 1940, then served in the South Pacific during World War II as Inspector General of the 93rd Infantry Division, first in the States then at Headquarters of VI Island Command in Northern Solomon. Following the war, he was appointed a Regular Army officer in the Judge Advocate General’s Corps. There he served as Chief of the Military Claims Branch in the Office of the Judge Advocate General. He was next assigned as Judge Advocate General of Headquarters, Far East Command, early in the Korean War. Later he became Chairman of the Army Board of Review. He was responsible for the review of court-martial cases by the Army. Jones next served as Chief of Army Legal

\textsuperscript{1092} \textit{Id.}
\textsuperscript{1093} See Erwin A. Jones, Biographical Information Questionnaire (Sept. 1967).
Assistance, in which he supervised an Army-wide liaison on legal matters with the Air Force and Navy.\textsuperscript{1094}

Following Jones' retirement with the rank of Colonel, his commanding officer, General Maxwell D. Taylor, United States Army Chief of Staff, wrote him a letter which stated in part: "Throughout your career, culminating in your performance as Staff Judge Advocate of the United States Army Infantry Center at Fort Benning, your efforts have consistently advanced the ability of the Army to promote the security of our country."\textsuperscript{1095} The Columbus, Georgia Lawyers Club's members, who took cases involving troops at Fort Benning, unanimously passed a resolution declaring in part: "Greatness is not exhibited, but felt. We sense it [in Col. Jones] .... Unfortunately, Colonel Jones will retire shortly and leave us to assume an Assistant Professorship [in law] at Valparaiso University in Indiana."\textsuperscript{1096}

Standing well over six feet tall and having a deep, commanding voice, when Col. Jones taught it seemed that he was still in the military and the law students were inductees meeting their drill Sargent for the first time. In fact, he always required students to stand up in class when responding to his questions, or in asking their own. Initially, students found the classroom tense, but most became used to it and often had great laughs when Jones told "war" stories. His apparent gruffness was only superficial and beneath he had a warm and truly caring personality.

He did have, however, one serious fault. When he came to the School of Law he brought his male chauvinistic Army attitudes with him. Apparently uncomfortable having women law students in class, he would typically call on them to report on cases involving sexual crimes, especially rape, then pepper them with questions concerning intimate hypothetical situations. In the 1960s and early 1970s, only a few women law students were enrolled. The entering class of 1964, for example, had one woman and sixty-three males. The comparatively few women of that era not only had to endure characteristic sexism of the time, they had to endure Jones' efforts to embarrass them.

\textsuperscript{1094} Letter from General Maxwell D. Taylor, United States Army Chief of Staff, to Colonel Erwin A. Jones (Sept. 24, 1958) (regarding Col. Jones' retirement from active service in the summer of 1958, just prior to his joining the VUSL faculty).

\textsuperscript{1095} Id. at 2.

\textsuperscript{1096} Resolution Commending Colonel Erwin A. Jones, attached to a letter from Attorney William J. Schloth to the President of VU (May 13, 1958).
On at least one occasion a woman law student turned the tables. Witnesses report that the Colonel asked the student whether she would be criminally assaulted if a man started to grope her in the back seat of an automobile, each time, taking the man’s hypothetical actions a little further. The student at one point looked straight at Col. Jones and said, “Let me understand the situation Colonel, you and I are sitting in the back seat of your car, Lord knows why, and you put your hand on my leg?” The entire room burst with laughter as the Colonel’s face reddened. A speechless Jones turned to another male student to continue the questioning. The male student responded: “Ok, Colonel, you and I are in the back seat and you are putting your hand on my leg.” There was more laughter.

Notwithstanding the Colonel’s difficulty in treating women professionally, most VUSL students ended up admiring Jones, not for his treatment of women, but for his teaching and otherwise genuine comradery. He thoroughly taught the elements of criminal law and procedure, although some may have felt they were on a forced march, as a minimum of five cases had to be covered in each class. He taught other subjects as well, including a seminar in his true specialty—the Uniform Code of Military Justice.

He also helped the School of Law by serving as executive secretary of the Lutheran Lawyers Association. The Association was organized in the early 1960s by a group of attorneys of the Lutheran Church-Missouri Synod. Membership was open to any communicant members of a Lutheran church, regardless of synodical affiliation, according to Milwaukee attorney Harry E. Bertram. Officers of the group besides Bertram included Oscar T. Doerr of Nebraska, Burton Bosch of Montana, and Lowell E. Enslen of Indiana.

Colonel Jones had good organizing skills. Under his direction, the Lutheran Lawyers Association in 1968 put on a dual-topic conference at the School of Law covering first, “The Church Looks at Civil Disobedience,” and second, “Law and Civil Disobedience.” Participants included sociologist Dr. Jeff Johnson, the University’s first

---

1097 This story is confirmed by Associate Dean Bruce Berner of the School of Law, who talked with the now graduate who was involved in this incident, as reported to the author.
1099 Id.
African-American professor; Professor William Cunningham of the Loyola University School of Law, Chicago; Professor Harry Pratter of the Indiana University School of Law, Bloomington; the Rev. William Eggers, Milwaukee; Professor Dale Lasky, chairman of the VU Department of Theology; Professors James Savage and Alfred Meyer of VUSL; attorney William Ellis of the New York City law firm of Ellis, Stringfellow, and Patton; and Professor Fred E. Inbau, of the Northwestern University School of Law faculty and an expert in criminal law. Despite the success of this conference, the Lutheran Lawyers Association disbanded in 1974.

Interestingly, Col. Jones once opened up his criminal procedure class to regional police officers. Although the idea apparently was his, its implementation was supported jointly by the School of Law and the Tri-County Law Enforcement Council of Northwest Indiana. Police officers from Lake, Porter, and LaPorte counties come to School of Law, fully attired in their uniforms, weapons at their sides. There was one condition, however: the police officers had to leave their weapons either in their vehicles or drop them off at the Dean’s office before proceeding to class.\footnote{Press Release, VU, Police Invited to Attend Law School Classes (July 2, 1970).}

Col. Jones on occasion would show movies of the Nuremberg War Trials and would introduce the films in the School of Law’s courtroom.\footnote{Press Release, VU, VU 1970 Law Day Program (Apr. 22, 1970).} He clearly was a military man through and through and one committed to the rule of law and the basic norms of human decency and justice. Col. Jones was not, however, a scholar. He published nothing that has been found. His being hired by the University may have had a lot to do with his being Lutheran. In any event, during his fifteen years on the law faculty, Col. Jones contributed to the School of Law, the University, and the Valparaiso community. He will not be forgotten. He retired in 1973 and died on March 30, 1988.\footnote{Colonel Erwin A. Jones Dies, THE AMICUS (VUSL), 1988, at 24.}

5. Erich H. Markel

Erich H. Markel was hired by Stalland to be a full-time law teacher at the School of Law starting in the academic year 1958-1959. Markel earned an S.J.D. degree from Alexandrine University in Germany and
then came to the United States in the late 1940s. In the U.S., he earned a LL.M. degree from George Washington University and afterward served as special counselor in international law to the United States Department of Justice. He then practiced law for three years in Washington, D.C., with the firm of Markel and Hill. Subsequently, he taught concurrently at two colleges in Ohio—international law at Western College in Oxford, Ohio, and business law in the graduate school of Miami University, also located in Oxford. Called “Dr. Markel” by students and colleagues alike, he taught courses in property and in credit transactions.

While practicing law in Washington, D.C. before coming to Valparaiso, Markel represented a client named Max Kade, inventor and holder of a patent on a well-known medicine. Not long after Professor Markel came to teach at the School of Law, a problem arose regarding infringement of the patent. The Max Kade Foundation phoned Markel for assistance. While in Washington resolving the matter, and immediately after his return to Valparaiso, Markel was wooed by an offer he would not refuse—to leave VU and become Executive Director of the Max Kade Foundation.

Years later, VUSL graduate Richard Duesenberg, and his wife, Phyllis, a VU undergraduate, with Markel, funded the Kade-Duesenberg House, a cultural center and residence hall for students studying German on the VU campus. Markel died before the dedication of the building.

6. Charles R. Gromley

In 1960, the law faculty and Dean Stalland hired a young man teaching law near Portland, Oregon, who would turn out to be the most popular and admired law teacher in the history of the School of Law—Charles R. Gromley. Soft-spoken, gentle, laid back, with a quick and witty mind, Charles Gromley always kept his office door open. Few law teachers are so committed to having all their students learn as was “Charlie.”

1105 Id.
He was not the most intellectual member of the faculty, and like Jones, he was not a research scholar, as he only co-authored one book for practitioners. Indeed, by today’s standards, Charles Gromley would struggle to gain tenure at many AALS member schools in America. But then again, by today’s standards, it would be next to impossible to find a full-time law teacher so totally committed to his students and to their learning the fundamentals of the law and legal analysis as Charles Gromley.\(^{1107}\)

Although Gromley did not in his teaching bring in sciences or the latest conceptualizations and academic theories of law, he was never apologetic about what he saw as the mission of a law teacher—simply to teach as plainly as possible the complexity of the law. And he knew how to teach law in an easy-going, relaxed style. He neither lectured nor gave long-discourses on the historical development of law, and he rarely offered his own opinions of what he thought the law should be. Rather, he believed his mission was to teach the law and its application to everyday business and personal transactions, and in that process, to teach legal reasoning. He continuously demonstrated how changing the facts ever so slightly could make all the difference in the legal analysis of a transaction. He was a Socratic-style teacher of sorts who in discussing a case would often set out a related hypothetical, usually a fairly simple one to begin with, and then would build layers of complexity by adding and changing facts, thereby causing the student to perceive the analytical and relational structure of law and real world situations.

It might be said that Gromley was a traditionalist by utilizing a rather formalistic and classic structure of legal reasoning, but that is exactly what many first-year law students needed. Of course, traditional deductive, syllogistic legal reasoning can be criticized and often deconstructed, exposing often erroneous or unproven assumptions which underlie many arguments. But before a lawyer can see the possible holes in a given legal argument, he or she needs to learn how to construct basic traditional legal arguments in the first place, and Gromley was a master of traditional formalism. He would walk the class through a problem, calling on students to come up with the next—not always obvious—step.

\(^{1107}\) The assessment of Professor Gromley’s teaching is based on the author’s own experience as a student of Gromley’s as well as on countless discussions with then fellow students and later alumni who shared a unified view that Gromley was either the best or among the best law teachers they had experienced at the School of Law.
Slowly but surely students came to see the logic of the process and could see in what situations the principle of law would be applicable.

His teaching style was never one of spoon-feeding (except when giving bar-review lectures), that is, where a professor either lectures outright or sets up a problem and then goes through all the steps of its solution, letting students merely write down the professor’s own analysis. Not at all. In contrast, learning was never passive in Charlie’s (as students fondly called him) classes. He had students at the edges of their seats. They knew that they could be called on to apply a principle of law to a set of facts posited by Gromley at any time.

A student would certainly be called upon if he or she showed even the slightest sign of being distracted from the class discourse, as revealed by glancing out a window, looking at a watch, or slightly closing one’s eyes to daydream about lunch or that evening’s prospective date. Somehow Gromley could instantly detect such misdirected attention and with a broad smile would look at the distracted student and politely say, “Ms. (or Mr.) Jones, how about it? Where do we go from here?”

Who was this incredible teacher who cared so much about students? His resume was not unusual. Gromley received his B.A. degree from Kent State University in 1948 and his LL.B. from the University of Kentucky Law School in 1951, where he was Note Editor of the Kentucky Law Journal. After law school, he served in the Solicitor’s Office of the U.S. Department of Agriculture in Washington, D.C. In 1955, Gromley earned the LL.M. degree from Georgetown Law School.

At VUSL Professor Gromley dutifully and ably served for two decades as coach of the School of Law’s National Moot Court Teams, spending inordinate time working with the students. He co-authored a Workbook for Indiana Estate Planners, his only publication, and participated in CLE seminars on property law and estate planning. Gromley started up and was the sole owner, and for years the sole lecturer, of the Indiana Bar Review Course. Thus, a generation of Indiana lawyers—regardless of where they had earned their law degrees—experienced the relaxed no-nonsense teaching style of Professor Gromley, their last teacher before taking the State’s bar examination.

The biographical material regarding Professor Gromley comes from various sources, including “Faculty Profiles” annually published in various VUSL booklets since 1983.
Prior to coming to VU, Gromley taught one year at the University of Nebraska Law School and five years at the Willamette School of Law in Oregon. At VU his teaching proficiency quickly became known. He was the first VUSL faculty member to be the recipient of the Valparaiso University-wide Outstanding Teacher Award.\footnote{Greg Deck, Gromley Wins Award, THE FORUM (VUSL), Sept. 1973, at 1. He was the fourth recipient in the University’s history to win the Alumni Association’s Distinguished Teaching Award. \textit{Id.}} Gromley was considered by a majority of students at the School of Law their favorite or best teacher year after year.

His sudden death from cardiac failure in 1992 was a shock to the entire campus, as he always appeared to be in top physical shape, loved to play baseball (had in fact played for a minor league team owned by the Pittsburgh Pirates), and was slim his entire life.\footnote{Paul Cook, Law School Professor Dies Suddenly, THE TORCH (VU), Dec. 11, 1992, at 3.} He did have one vice many students remember, his cigars. Combined with his open-door policy, the smoke permeated the entire Wesemann Hall. Of far greater significance, Professor Charles R. Gromley’s teaching in the grand manner produced knowledge and insights, which permeated the brains of three decades of Valparaiso law students.

7. Alfred W. Meyer

In 1963, Alfred W. Meyer left a professorship at Indiana University School of Law and joined the law faculty on the campus where he had literally been raised, Valparaiso University. His father was the renowned VU geographer Alfred H. Meyer, who had earned his Ph.D. degree from the University of Michigan and had come to VU in the 1930s. The son, Alfred W. Meyer, earned his A.B. degree from VU in 1948, followed by his LL.B. from the School of Law in 1950. He then earned an LL.M. degree from the Harvard Law School in 1951. After graduating from Harvard, he entered the Army’s Judge Advocate General’s Corps, serving four years until his discharge in 1955. Being appointed that year to the Indiana University School of Law faculty in Bloomington, he taught contracts and commercial law courses until contacted by Dean Stalland with an offer of a lower paying job to join the faculty at VU. As a child of the University, Meyer had always hoped and planned to teach at VU. He therefore accepted the offer with his term to begin after spending a year at Columbia Law School, where he had been offered a graduate teaching fellowship.
While students would speak of Gromley's relaxed teaching style, no such accusations of that nature were ever directed at Meyer's teachings. "Tough," "like being in Hell," "boot camp," "what happened in there?" were typical reactions. Meyer was more in the Stevenson tradition of law teaching—stretch, stretch, stretch—the mind until it hurts, or to use the cliche, there is no gain without pain. Meyer was one of those teachers who also invoked the Socratic method, but unlike the easy going style of Gromley, who would offer assistance along the way, Meyer left you on your own. No answers, only questions were the essence of his teaching style.

In that regard, Meyer's approach was closer to the pedagogical mode of inquiry used by Socrates. Ask the right questions and keep asking them, and students will make the discoveries themselves. Well, not always. Although some students seemed to take this frightening pedagogy in stride, many during the first weeks and, in some cases, even months of law school were left in a daze. Just as in the case of Richard Stevenson, years later, however, many students would look back and appreciate the rigor of the thought training demanded in Meyer's classes. Learning to think and analyze in the manner Meyer demanded was never easy, but it was necessary to become a critical thinker.

The juxtaposition of the teaching styles of Gromley and Meyer reveals sharp contrasts: relaxed versus tense; constructing versus deconstructing arguments; seeking answers versus seeking questions; and pulling certainty out of apparent confusion versus pulling confusion out of apparent certainty. What may be difficult for any law student to understand at the time she or he is in law school is that both the Gromley and Meyer teaching methods when combined produce the better lawyer. After all, what do lawyers essentially do in their adversarial role but to construct and de-construct arguments?

Alfred Meyer contributed to the development (and folklore) of the School of Law in multiple ways. He taught both in the School of Law and in the University, at Christ College. Meyer has always been a strong supporter of integrating the School of Law more with the University academically, culturally, religiously, and socially. He also was an effective administrator (which will be discussed when his term as dean comes up) and an advocate for scholarship.

Alfred W. Meyer did his share of scholarly writing. Unlike most, he started at the top with the best possible placement—The Harvard Law Review. While a graduate student pursuing his LL.M. at Harvard, Meyer
authored an article, which was published in volume sixty-four of *The Harvard Law Review*, pertaining to the Blaine Amendment to the Constitution and its Bill of Rights. He authored several articles in other law reviews and legal periodicals and in the University's *Cresset* magazine. One of Meyer's articles dealing with the doctrine of adhesion contracts—a theory first set out by Professor Friedrich Kessler of Yale Law School—was notable not only because the topic was timely, but also because it was accepted for publication in volume fifty of the *University of Virginia Law Review*, one of the leading law reviews in the nation.

H. Mission of a Lutheran Church-Related Law School (Revisited)

Perhaps the publication that is dearest to Professor Alfred Meyer is a short, six-page essay he published in 1988 in the *Valparaiso University Law Review*. It was based on an address he had given at a special symposium focusing on the "Mission of a Church-Related Law School." The symposium was held at the School of Law in April 1987, at the dedication of the new (second) Wesemann Law Building. Meyer, like Baepler, was one of four speakers, each addressing the question of the mission of a church-related law school from his respective and differing religious backgrounds. Meyer spoke on the mission from "The Lutheran Tradition." Thomas L. Shafer, former Dean of the Notre Dame Law School, and professor of law at Washington and Lee School of Law, spoke from "The Catholic Tradition," while Howard Alan Glickstein discussed the mission from "The Jewish Tradition," and John Allen Eidsome, a former law professor at Oral Roberts School of Law, talked from "The Fundamentalist Tradition." In exploring the question of the mission of a church-related law school, Meyer, like Baepler, pointed to Martin Luther's theology of two kingdoms, a theology of love and one of law. According to Lutheran

1114 See infra note 1593 and accompanying text.
1115 See DEDICATION OF WESEMANN HALL, VALPARAISO UNIVERSITY SCHOOL OF LAW (Apr. 3-5, 1987).
biographer Heiko A. Oberman, Luther insisted "the Gospel teaches of a higher law, the Law of Love . . . which is to be directed to the unique needs of the 'neighbor,' who may well encounter dilemmas which no law can foresee." Basic to Luther's philosophy, Meyer observed, was freedom of investigation. All academic disciplines had to be pursued with integrity. It is in the university, Meyer suggested, where the theology of the two kingdoms could be understood in the conviction that God is "creator and Lord of the earthly as well as the heavenly kingdom—an understanding that is crucial in the support of . . . academic freedom." In the university setting, Meyer added, it is incumbent to love one's neighbor, but that itself will not bring peace. He said:

[W]e in the law schools need to welcome diversity as moral and legal ideas are tested in the crucible of academic debate. Loving one's neighbor as oneself can be a unifying theme for a normative discipline as long as we realize that we are bound to come up short in that peace which the world cannot give. Lifting high the cross can make it all seem worthwhile. We need a community to remind us of this. As one of those communities, the university where religion is taken seriously provides a hospitable environment for a law school to take law seriously.

Understanding Meyer's essay, law students were able to perceive an insight about the two kingdoms—take career, discipline, and indeed, the study of law seriously, but even more so, take religion seriously, for only in that kingdom is ultimate peace possible which sustains the struggle in the "earthly kingdom."

I. Academic Standards, LSAT, ABA/AALS Inspection

Historian Robert Stevens notes that the development of the Law School Admissions Test ("LSAT") in 1947 by the Education Testing Service came at the suggestion of officials at Columbia University,
adding that by 1948 a standard LSAT was ready for use.\textsuperscript{1120} The test enhanced the selectivity of prospective students in the law school admissions process by requiring all students who applied to schools which used the results to take a standardized test, allowing the applicants to be compared against each other and also against the national pool.\textsuperscript{1121} Although The Torch beginning in 1952 published notices about where students could take either the LSAT or Graduate Record Examination ("GRE"),\textsuperscript{1122} VUSL did not require that applicants take the LSAT until the fall of 1958, and then for students who would seek to enroll in fall of 1959 and beyond.\textsuperscript{1123} Previously, from 1956 until the fall of 1958, the School of Law had encouraged but had not required applicants take the test. After it was required, the LSAT was administered at least once a year on the VU campus.\textsuperscript{1124}

From the day Col. DeMotte opened the School of Law's doors in 1879 through 1956, law students could choose to enter mid-year although there was no mid-year starting class per se. That changed in the fall of 1956 when the law faculty adopted a rule that thereafter "no person will be admitted to the School of Law as a first-year student at a time other than at the start of the fall semester."\textsuperscript{1125}

In March 1960, the School of Law underwent another of the periodic inspections jointly conducted by the ABA Council on Legal Education and the AALS. Heading the inspection team was Dean William Lockhart of the University of Minnesota Law School, an acquaintance of Dean Stalland from the Minneapolis/St. Paul area. Lockhart had recently inspected the University of Michigan Law School and understandably, Stalland was a bit nervous.\textsuperscript{1126} Not to worry—it turned out the report overall was favorable, with the exception of the deplorable physical conditions of DeMotte Hall, where the School of Law was then located. What pleased Stalland was the praise contained in the report for both the students and faculty of the School of Law. Regarding the students, Dean Lockhart's inspection report concluded, "Their attendance is very good, and their participation in class discussion leaves nothing to be desired."

\begin{footnotes}
\item[1120] Stevens, supra note 90, at 221 n.38.
\item[1125] Law Faculty Adopts New Entrance Policy, THE TORCH (VU), Mar. 15, 1956.
\item[1126] Council to Inspect Valpo Law School, THE TORCH (VU), Mar. 17, 1960, at 5.
\end{footnotes}
As regards the faculty, Lockhart reported, "The Law School has a good faculty with some outstanding teachers." There remained, nonetheless, the serious problem of facilities. They were woefully inadequate. Stalland, however, since the day he had assumed the deanship, had been working on that problem, and a new building was in the works.

J. Stalland's Mission Accomplished: Wesemann Hall

From his lengthy meeting with President O.P. Kretzmann in November 1955 until his mission reached fruition in the dedication of the new Valparaiso University School of Law building on April 26, 1964, Dean Stalland worked for a suitable new facility for the law school at Valparaiso. He had felt the sting of ABA Legal Education Consultant John Hervey's sharp criticism of the VUSL facilities in 1955 and was certain that without a new spacious and efficient physical plant the ABA would not continue to give its approval to the School of Law. In the spring of 1956, Stalland wrote several letters to select alumni raising the possibility of a fund drive for a new building. He also wrote President Kretzmann suggesting that a sketch of a new building should accompany any solicitation letters. O.P. gave Stalland permission to contact a University architect by the name of Charles E. Stade of Park Ridge, Illinois. Stalland quickly did so.

Raising funds began immediately. The first significant gift came from alumnus Harry Niehaus of St. Louis, who earmarked a $40,000 gift to the new law building project. But Stalland quickly learned that in fundraising it is more difficult to raise immediate gifts than deferred ones. Several bequests were made for the new law school building, but they would not be payable in most cases for years. Although fundraising was a slow going process, Stalland made an all-out push for the University—sufficient-funds-not-yet-raised notwithstanding—to commit to the building and to a professionally organized and managed

---

1128 The details—some of which are reported in the text above—of the behind-the-scene efforts toward agreeing on a campaign building fund as well as the details of the proposed building are located in a file called "The Wesemann Hall Building File," kept in the VUSL Archives.
fund drive to commence in the fall of 1959. Stalland made his case before the University's Board of Directors and also to top officials of the Lutheran Church-Missouri Synod.\textsuperscript{1131} Stalland was a good advocate. The VU Board decided to act.

The official Board go-ahead took place on November 4, 1960, when it adopted a resolution supporting the project and a fund drive to raise funds for its estimated cost of $500,000. A short time later, a drawing of the planned facility was presented to University officials, and a campus announcement of the project was made.\textsuperscript{1132} The first general public announcement of VU's plans to erect a new law school building was made in December 1960 by the University Board of Directors, indicating it had employed William F. Fenske of the Lutheran Fund-Raising Service of Detroit to head a drive to raise $600,000.\textsuperscript{1133} Details of the plan were released in March, and the target goal was set at $550,000. The new building would have 25,000 square feet compared with the 5,500 square feet the School of Law occupied in the fifty-year-old DeMotte structure, which the School of Law shared with two departments of the University.\textsuperscript{1134} The Synod's Board, at the request of Synod President John W. Benken, passed a "resolution of encouragement" for the new law school fund drive.\textsuperscript{1135} Also verbally supporting the project were the boards of directors of the Synodical College of Presidents and the Lutheran Laymen's League.\textsuperscript{1136}

Momentum began to grow with the addition of two Fort Wayne, Indiana laymen as co-chairs of the fund drive: Dr. E.J. Gallmeyer and Dr. W.C. Dickmeyer.\textsuperscript{1137} Four Honorary Co-Chairs agreed to serve: Mrs. Walter N. Hoppe, Lakewood, Ohio, President of the Lutheran Women's Missionary League; Dr. Martin E. Streiter, Rock Island, Illinois, Treasurer of The Lutheran Church-Missouri Synod; the Rev. O.W. Harms, St. Louis, First Vice-President of the Missouri Synod; and O.P. Kretzmann,
President of Valparaiso University. A prominent Detroit pastor, the Rev. Dr. E.T. Bernthal, agreed to be associate director of the fund drive.\textsuperscript{1138}

The campaign held out high hopes for Sunday, June 18, 1961. As described in the \textit{Lutheran Brotherhood Bond} magazine, the day was called "Valparaiso Law School Day" at more than 5,000 congregations of The Lutheran Church-Missouri Synod.\textsuperscript{1139} "Congregations, groups, and individuals [were] asked to pledge financial support for the $550,000 project."\textsuperscript{1140} Lending strong encouragement was the "Voice of the Lutheran Hour" on national radio, Dr. Oswald C.J. Hoffman, who also served as director of public relations for the Missouri-Synod. Hoffman declared: "Construction of absolutely necessary facilities for the only Lutheran law school in America ... deserves the support of every Lutheran interested in the future of our church and of our country.\textsuperscript{1141} O.P. Kretzmann added: "The outstanding importance of the legal profession should be clear to every thinking Christian.... Good, reverent, honest lawyers are therefore, more than ever, a necessary part of our society. They work on the frontier between right and wrong. They hold high the light of freedom and justice for all men."\textsuperscript{1142}

Given the rhetoric of Dr. Oswald Hoffman and President O.P. Kretzmann, one might have expected major results from the Sunday "Valparaiso Law School Day," but it appears that little in the way of cash or pledges resulted, at least not immediately. In fact, not a word has been found about the success (or failure) of the effort. Stalland never mentioned it in his annual reports; nothing appeared in \textit{Lutheran Brotherhood Bond} magazine, nor in \textit{The Torch} or \textit{The Vidette Messenger} newspapers, leading to the conclusion in this instance that no news is not good news. Still, efforts to raise funds continued. In time they would prove successful.

In 1962, with only approximately half of the $550,000 reportedly raised, Phase II of the fundraising campaign kicked in, now directed by VU Vice President for Development, O.W. Toelke.\textsuperscript{1143} Toelke encouraged not only his staff but also prominent alumni to help raise the funds still needed to meet the goal. VU alumnus Robert Duesenberg, VUSL Class
of 1953, then an attorney for the Wabash Railroad, was one of the more active and successful in doing so.\footnote{Faculty Reviews Law School Plans with Architect, THE TORCH (VU), Dec. 14, 1961, at 1.}

One significant gift to the law building fund came in 1962 from a bequest in the will of Mrs. Otto Schweitzer of St. Louis, $25,000 to the School of Law for a memorial in the name of her husband, Charles L. Schweitzer.\footnote{Law School Establishes $25,000 Memorial Fund, THE TORCH (VU), Apr. 12, 1962, at 1 [hereinafter Memorial Fund].} Four years earlier in 1958, attorney Robert Duesenberg had counseled Mrs. Schweitzer on estate planning after Rev. Edmund W. Weber of the VU Department of Development had explained to her the possibilities of an annuity gift and on the need of the School of Law for funds to build a new building. In response, she gave an annuity gift to the School of Law valued at $44,500—then "one of the largest gifts" in VU's annuity program.\footnote{Press Release, VU, Law School Receives Annuity (Dec. 12, 1958).} Her Illinois farmland was sold and the University paid her an annuity for life after receiving the proceeds of the farm sale. Upon her death, the remaining value of the fund exceeded $25,000. The excess amount was used to fund current School of Law expenses.\footnote{Memorial Fund, supra note 1145, at 1.}

Despite the generous gift of Mrs. Schweitzer which Rev. Weber had precipitated, it turned out that the home run ball was hit by another of the University's fundraisers, the Rev. Karl H. Henrichs, who then had the title "special gifts consultant." Henrichs traveled around the country visiting with Lutheran clergy and prospective Lutheran donors. At one point, Henrichs was put in contact with a couple named Adolph A. and Janette G. Wesemann of LaGrange, Illinois, through their pastor, Rev. Theodore Gergen. Upon learning about Valparaiso University and later about the needs of its School of Law, the Wesemanns generously responded to a request for support. To quote Mrs. Wesemann:

"We have watched with a great deal of interest the tremendous progress which has been made at Valparaiso University under the splendid leadership of Pres. O. P. Kretzmann. When the needs of the Law School were brought to our attention by the Rev. Karl H. Henrichs, . . . we resolved to establish the Adolph A. and Janette G. Wesemann Law School Fund, and the Janette G. Wesemann Loan Fund for deserving students."

http://scholar.valpo.edu/vulr/vol38/iss3/1
preparing for the legal profession. It is our hope that these funds will help establish one of America’s strong schools of law.\textsuperscript{1148}

Mr. and Mrs. Wesemann were present on June 10, 1962, for the ground-breaking ceremonies at the site of the planned building that would eventually bear their names. Also participating were President O.P. Kretzmann, Rev. and Mrs. Karl Henrichs, Dean Knute Stalland, Dean Emeritus John Morland, and members of the law faculty.\textsuperscript{1149}

Adolph Wesemann was not an alumnus of VU, having attended Walther College in St. Louis, then transferring to the University of Illinois from which he graduated in 1900. He became a lawyer and for several years practiced law out of offices in Chicago. Janette Wesemann, born Janette Miller, grew up in Chicago, where as an adult she managed a highly successful and "prominent package delivery service."\textsuperscript{1150} The Wesemanns were very generous to VU and especially to the School of Law. They named the Valparaiso University School of Law the primary residuary legatee of their combined estates.\textsuperscript{1151} In response, the VU Board of Directors named the new home for the School of Law the Adolph A. and Janette G. Wesemann Law Building, usually shortened to "Wesemann Hall."\textsuperscript{1152}

In August 1962, the Board of Directors authorized a contract with Hagerman Construction Company of Fort Wayne to build the new law school quarters at a projected cost including furnishings of $550,000.\textsuperscript{1153} Construction of the new building began in the fall of 1962 with a planned completion before the beginning of the 1963-1964 academic year. Sadly and ironically, at the same time actual construction of the new building began, Adolph Wesemann died, on September 3, 1962. Learning of his death, Dean Stalland commented that Mr. Wesemann had been

\textsuperscript{1149} \textit{Id.}
\textsuperscript{1150} \textit{Id.}
\textsuperscript{1152} \textit{Id.}
convinced that it was necessary to maintain a good law school affiliated with the Lutheran Church.\(^{1154}\)

A cornerstone laying ceremony for the Wesemann building and related convocation in the Memorial Chapel took place in November 1962. Besides Mrs. Wesemann, guests included Rev. and Mrs. Theodore Gerkle and Judge and Mrs. Norman Korfist, all of LaGrange, Illinois, the Wesemann's home town. Mrs. Wesemann commented that although this was a very happy occasion, "it's too bad the judge couldn't be with us," referring to her late husband who had died only six weeks previously and whom she called "the judge."\(^{1155}\) Placed in the cornerstone was a Bible inscribed by President Kretzmann; a copy of his book, *The Pilgrim*; copies of stories from *The Torch* and *The Vidette Messenger*; various photographs; letters to the Rev. Karl Henrichs; and other mementoes related to the Wesemanns' decision to support the law school at Valparaiso.\(^{1156}\)

Beginning in the fall of 1962, Dean Stalland, President Kretzmann, and members of the School of Law faculty worked to put together a "grand dedication ceremony."\(^{1157}\) They decided to hold the event in the spring of 1964. By then, any kinks in the new building would have been discovered and fixed and, given the long lead time, prominent speakers could be persuaded to come to VU for the official dedication. The new law building was completed for the most part on schedule, and in September 1963, eighty-three law students found themselves for the first time in the spacious and modern Wesemann Hall. Years later, Louis F. Bartelt wrote about the significance of the new building:

Dean Stalland's primary objective during his tenure in office was a new building for the School of Law — and, of course, he succeeded. In the summer of 1963 we moved into the first Wesemann Hall. Its facilities were vastly superior to anything the law school had occupied during the first eight decades of its existence. . . . \[T\]he new building was Paradise found.\(^{1158}\)

\(^{1154}\) *Construction Underway*, supra note 1151, at 1.

\(^{1155}\) Steege, *supra* note 1148, at 1.

\(^{1156}\) *Id.*

\(^{1157}\) *See, e.g.*, Law Faculty Schedules Dedication Ceremonies, *THE TORCH* (VU), Oct. 11, 1962, at 2.

The sleek, comparatively low-lying building faced the towering Memorial Chapel located less than one hundred yards just to the northwest. Faculty offices (with the exception of the Dean's) all had windows facing the magnificent Chapel. It did not go unnoticed that it would be a very short walk to attend daily Chapel Services. And to those not so religiously inclined, the stately Chapel had to be a visible symbol of what the University stood for, a University under the Cross, always welcoming but never compelling. A tragic day in 1962 drove that lesson home.

On that day, students, faculty, and staff had gone to the Memorial Chapel regardless of their religious beliefs upon hearing the shocking news of the tragic death of President John F. Kennedy. The author of this work was among the throng who silently walked to the Chapel. For those of us on the VU campus, when we learned of Kennedy's assassination on November 22, 1962, the sanctuary of the Chapel seemed the only appropriate place to go. In retrospect, it seems everyone was shocked not only by the senseless death of the young president, but also by how casually we had all come to take that precious gift of life. Why did the President die at such a young age? What was the meaning? No answers were to be found in the University's classrooms, laboratories, or libraries, not in the School of Law nor the Engineering School, not even in the philosophy or even theology departments. No, the only hope for understanding would be found in the Chapel. It was a time for prayer. And, we knew O.P. would be there to help us pray.

As published in Baepler's history of Valparaiso University, President O.P. Kretzmann described the intensity of those solemn moments as follows:

It was exactly 1:25 p.m. CST on Friday, November 22, when the news hit campus: "President Kennedy is dead." Professors closed their books, and students filed dazedly out of classrooms. . . . Within twenty minutes, the University Chapel was crowded with three thousand students and instructors. . . . The organ began to play, and I read the only words that could matter at that moment: "I am the Resurrection and the Life." . . . We sang a few hymns and resolved to have a memorial
service four hours later. Soundlessly the students left the Chapel.  

K. Earl Warren Dedicates New Law Building

The Memorial Chapel of Valparaiso University would once again be the location where a huge throng of people gathered, this time for a happy occasion. The official dedication of the new home for the Valparaiso University School of Law, Wesemann Hall, occurred over three days filled with special events in April of 1964. More than 3,000 people attended the ceremonies, which began on Friday with the annual Indiana Supreme Court Day arguments presented by second-year law students; followed Saturday by a conference on the Professional Responsibility of a Christian Lawyer; followed Saturday evening by an Academic Convocation in the Chapel at which United States Secretary of State Dean Rusk gave the address; followed Sunday morning by an Ecclesiastical Convocation in the Chapel where Dr. Oliver Harms, President of The Lutheran Church-Missouri Synod, led the service and gave the sermon; followed Sunday afternoon by the official Dedicatory Convocation, where the principal speaker was the Chief Justice of the United States Supreme Court, Earl Warren.

Never in the history of the University, let alone the School of Law, had so many governmental dignitaries been in attendance. Besides the Chief Justice and the Secretary of State, others present included U.S. Senators Vance Hartke and Birch Bayh of Indiana; Congressman Charles A. Halleck of the Second Congressional District of Indiana; two judges of the United States Court of Appeals for the Seventh Circuit, including its Chief Judge John Hastings; U.S. District Court judges from Indiana; judges of both the Supreme and Appellate courts of Indiana; all the judges of the Circuit Court of Porter County; Indiana Governor Matthew Welsh; Indiana State Senator Earl Landgrebe; and Valparaiso Mayor Don Will. In addition, attorney William S. Hamilton of Pawhuska, Oklahoma, believed to be the then oldest living alumnus of VUSL (class of 1902); Mrs. Jannete G. Wesemann, the prime benefactor of the new building; and Judge Luther M. Swygert of the U.S. Seventh Circuit Court of Appeals were featured guests. Warren, Rusk, Hamilton, and Swygert were each awarded honorary Doctor of Laws degrees from the

---

1159 BAEPLER, supra note 4, at 263-64.
Representatives of thirty-seven colleges and universities attended, including the Rev. Theodore M. Hesburgh, President of the University of Notre Dame; Dr. Elvis J. Stahr, Jr., President of Indiana University; and Dr. Frederick L. Hovde, President of Purdue University.

And, there were more. Participating in the conference titled "The Professional Responsibility of a Christian Lawyer" were Professor Paul Kauper of the University of Michigan Law School and a leading expert on constitutional law; Fred Kuhlmann, a highly regarded St. Louis attorney; and Professor Jaroslav Pelican, a former VU faculty member and a noted theologian at the Yale University Divinity School. Rev. Oliver Harms, President of The Lutheran Church-Missouri Synod, at the Sunday morning Ecclesiastical Convocation, gave the sermon based on Psalm 33:12, "Blessed is the Nation whose God is the Lord; and the people whom He has chosen for His own inheritance."

The Saturday evening speech by Secretary Rusk included a declaration that the United States was going to remain in the Western Pacific until that part of the world was safe for freedom, speaking in reference to the Communist threat to South Vietnam. He noted that with the exception of France, the South East Asia Treaty Organization ("SEATO") nations were unified that "the defeat of the Communist campaign [in southeast Asia] is essential."

The highlight of the long weekend, however, was the address Sunday afternoon delivered by the Chief Justice of the United States Supreme Court, Earl Warren, before 3,200 people crowded into and some outside of the Memorial Chapel. Warren had been three-term Governor of California, where he had gained the support of both Democrats and Republicans, although he was a registered Republican. President Dwight David Eisenhower appointed Earl Warren Chief Justice on September 30, 1953, to fill a vacancy caused by the death of the former Chief Justice Fred Vinson. Less than a year after Warren's confirmation, he would author a unanimous Supreme Court opinion,
which many believe was and remains the most important decision handed down in the history of the United States Supreme Court, Brown v. School Board of Topeka, Kansas.\textsuperscript{164}

In his Valparaiso remarks (which were televised by NBC News and later shown on the network in portions),\textsuperscript{1165} Chief Justice Warren declared, "Justice for everyone in our land will come whenever those of us who are not injured by injustices become as outraged as those who do suffer from them."\textsuperscript{1166} He added that in this fast-changing world, "complacency and self-satisfaction [with the status quo] are not justified."\textsuperscript{1167} Nearly ten years had passed since his momentous decision in the Brown v. School Board case. The objective of that decision—equal education opportunity regardless of race—had not been achieved. Warren acknowledged as much when he declared to the 3,200 people in the Memorial Chapel that afternoon that the law does not change rapidly and that the "goal of every American, then, should be to achieve the standard of 'Equal Justice Under Law'."\textsuperscript{1168} The Chief Justice ended his remarks by saying America needs "people who will make the law their guiding star. We need buildings such as this [Wesemann Hall] you are dedicating today for their workshops."\textsuperscript{1169}

L. Students Keep Busy

1. Moot Court Competition

During Stalland's initial year as Dean of the School of Law, students entered the National Moot Court Competition sponsored by the Young Lawyers Committee of the Bar of the City of New York for the first time in the School of Law's history, the entry being overdue in Stalland's opinion.\textsuperscript{1170} This was the sixth year of the national competition. The regional competition took place in November at Chicago, and involved law school teams from schools located in Illinois, Wisconsin, and Indiana (the Seventh Federal Judicial Circuit). Although the VUSL students lost in the initial round, Stalland commented that for a team that had no

\textsuperscript{1164} 347 U.S. 483, 495 (1954) (holding that "separate educational facilities are inherently unequal").
\textsuperscript{1167} Id.
\textsuperscript{1168} Warren Urges Equity, supra note 1163.
\textsuperscript{1169} Id.
\textsuperscript{1170} 1956 Annual Report, supra note 1129, at 3.
coaching from previous years’ teams, and given the rules of the
competition prohibiting faculty to give any aid in the briefing of the case
or in the development of the legal theories, he was pleased.\textsuperscript{1171} The
following fall, VUSL again entered the competition with a team
composed of Nick Thiros, Bill Winterhoff, and Bill Theiss, going up
against the Indiana University-Indianapolis Law School. The first VUSL
moot court win came the following year, when a team composed of John
Lyons, Don Prevallet, and David McCain reached the semi-final round in
Chicago, having beaten the University of Wisconsin in the first round,
but eventually losing to the Loyola University of Chicago Law School
team in the third, or semi-final, round.\textsuperscript{1172}

In 1959, VUSL students Bruce Bloom, Ronald Jones, and James
Quinn faced a team from Northwestern University in round one of the
competition. An account in\textit{ The Torch} fails to mention who won.\textsuperscript{1173} Two
years later in 1961, a VUSL team of Larry Evans, Alan Morrisson, and
Sven Kirkegaard again went up against Northwestern, and again no later
announcement of the winner appears.\textsuperscript{1174} The principal coach of the
VUSL National Moot Court Teams was Professor Charles Gromley, who
had coached moot court at Willamette University School of Law before
joining the VUSL faculty. Also coaching the students was Professor Jack
Hiller.

In addition to the National Moot Court Competition, law students
annually argued a mock case before judges of the Indiana Supreme
Court on “Supreme Court Day.” This tradition began in 1954, Morland’s
last year as dean, at the seventy-fifth anniversary of the founding the
School of Law.\textsuperscript{1175} VUSL awarded alumnus Floyd Draper, Chief Justice
of the Indiana Supreme Court, an honorary doctor of laws degree.
Hammond, Indiana lawyer Richard Tinkham represented the ABA and
read a letter from ABA President William J. Jamison congratulating the
School of Law on its twenty-fifth anniversary of its ABA approval.\textsuperscript{1176}
Given that it was Morland’s final year as dean, his twenty-fifth as well,
President O.P. Kretzmann told those gathered that Morland had always been loyal to the principles of the University.\textsuperscript{1177}

The following year, VUSL students Bob Cox, Don Gray, Ned Myers, Jack Koepke, Ron Gother, and Dick Kippen presented moot court arguments before members of the Indiana Supreme Court.\textsuperscript{1178} In 1956, law students Sharon King, William Winterhoff, James Perbix, Robert Gascoyne, Douglas Seltz, Nick Thiros, William Theiss, and William Wagner argued before the Court.\textsuperscript{1179}

In 1964, Supreme Court Day was held on April 24th in connection with the dedication of the new Wesemann Hall law school building. The Supreme Court of Indiana members included Chief Justice Frederick Landis and Justices Harold E. Achor, Norman F. Arterburn, Amos W. Jackson and Walter Myers. The students who argued a moot court case in the new, packed courtroom that day were James Hills, Jack Burgan, Richard Heimberg, and Paul Lacy.\textsuperscript{1180}

2. Awards, Chair, Law Review, Haircuts, and Amici Curiae

The American Society of Composers, Authors, and Publishers ("ASCAP") in the 1950s began sponsorship of the Nathan Burkan Memorial Competition among participating law schools to stimulate student interest in the field of copyright law. Dean Stalland instituted the competition at the School of Law in 1959. Bruce Bloom submitted the

\textsuperscript{1177} Id.

\textsuperscript{1178} Observe Supreme Court Day Here, \textit{THE TORCH} (VU), May 6, 1955, at 1.


\textsuperscript{1180} DEDICATION, supra note 1161.
winning paper. In 1961, Gale Saint won the top prize in the School of Law’s competition for his paper, “The Value and Use of Preliminary Injunctions in Copyright Protection.” In 1957, Dean Stalland announced that senior law student Sharon King, the only woman in the School of Law, had been appointed to the United States Attorney General’s staff in Washington, D.C. Stalland emphasized how King, a School of Law honors student, had been one of forty-five law students selected in the entire country for what was called the Attorney General’s Honor Program, instituted by U.S. Attorney General Herbert Brownell. That same year, 1957, the University received a special gift from River Forest, Illinois attorney Edward Seegers in the memory of his parents, Louis and Anna Seegers, which in time would endow the first chair in law at the Law School at Valparaiso University.

Also in 1957, some enterprising students joined together to start an intramural law review. The students were Bill Theiss, Bill Winterhoff, Dave McCain, and Earl Doering. An editorial in The Torch praised the plan as “a significant step forward” for the School of Law, but then hedged its enthusiasm by noting that “[b]ecause this is a virgin undertaking, obstacles in the path of publishing . . . may be insurmountable.” They were. The first issue of the Valparaiso University Law Review would not appear for nine years.

The Law Fraternities, however, were making progress. In 1963, the Delta Theta Phi’s Rentner Senate was awarded “The Outstanding Student Senate” out of more than fifty chapters in the country. The award was based on a submission by the VUSL students of a paper summarizing their year’s activities. A “Supreme Court” of Delta Theta Phi consisting of three attorneys judged the entries.

Turning to the lighter side, the VUSL Student Bar Association began a new tradition in the fall of 1959 by holding a semi-formal dance which concluded with satirical skits about the School of Law, staged by

---

1181 Knute D. Stalland, Dean’ Notes, VAL. U. ALUMNI NEWS, Oct. 1959.
1184 Stalland, Law Notes, supra note 1183.
1187 See infra notes 1221-24 and accompanying text.
1188 Lawyers Win Award from National Group, THE TORCH (VU), Sept. 20, 1963, at 3.
members of the law faculty and students. "[T]here was sufficient evidence that the faculty and these embryonic lawyers have a refreshing sense of humor."\textsuperscript{1189}

Then there was the really big issue sweeping the campus in 1962, one involving President Kretzmann, Dean Stalland, a regulatory Board of the State of Indiana, and students who did the unthinkable—they had cut each other’s hair. The crisis was precipitated by a letter, one of the more unusual ones found in the VU Archives. It was from Richard J. Devine, President of the Indiana State Board of Barber Examiners ("ISBBE"), to President O.P. Kretzmann.\textsuperscript{1190} The tone of the letter was blunt.

It has been called to the attention of the Barber Board that male students at Valparaiso University are cutting hair in their rooms. . . . It cannot be permitted. . . . The law states that anyone cutting hair must be a holder of an apprentice or a registered barber license.

I feel sure that with the reputation of your school at stake, we can rely on you to put a stop to this practice. Please do not make it necessary for us to investigate this complaint any further.

Never again would the University’s president and the School of Law’s dean fear inspectors from the NCA, ABA, or AALS, not when the ISBBE was loose in Indiana, threatening to ruin the reputation of the University over a few clips here, and a few clips there. Upon receipt of the letter, O.P. had to realize that the University was in a hairy snarl. In a letter to Vice-President Huegli and Deans Stalland, Tuttle, Koepke, Hesse and Dr. Friedrich, President Kretzmann seemed to be responding tongue-in-cheek when he wrote: "I am sure you will understand the significance and importance of this [out of control promiscuous hair cutting] for the entire program and progress of the University. It constitutes a major problem . . . ."\textsuperscript{1191}

\textsuperscript{1189} Student Bar Association Sponsors New Event for Law School Calendar, THE TORCH (VU), Nov. 5, 1959, at 9.

\textsuperscript{1190} Letter from Richard J. Devine, President, Ind. State Bd. of Barber Examiners, to Dr. O.P. Kretzmann, President, VU (May 21, 1962).

\textsuperscript{1191} Letter from O.P. Kretzmann, President, VU, to A.G. Huegli et al. (May 31, 1962).
The President, however, was seriously worried by the threat of the ruination of VU's reputation (at a minimum, a lawsuit) if haircuts on campus continued. O.P. requested Dean Stalland to prepare a legal analysis of the issue. Stalland did so in a typed, three-page legal analytic discussion of relevant federal constitutional and Indiana law, in which he cited cases of the U.S., Indiana, and Illinois supreme courts.

The issue Stalland pointed out was a constitutional one that involved the wording of an Indiana statute, which explicitly provided that "no person may trim the beard of or hair of another person whether or not there is a charge for the service unless such person has been duly licensed as a barber under the laws of the State of Indiana," citing Indiana Burns Statutes sections 63-301 et seq. Stalland argued in his "brief" that the statute as applied to student hair cutting would be like applying it to a wife who trims her husband's beard, or a father who trims his child's hair. The issue was, Stalland opined, whether the State's prohibition of the trading of haircuts by students had a reasonable relationship to the protection of and health, safety, and welfare of the residents of Indiana. The power of a state to regulate must, of course, be reasonably related to such ends and then narrowly exercised. This statute, Stalland suggested, went beyond such legitimate state interests. The strongest and most analogous case he cited suggesting that the Indiana barber statute would not stand constitutional scrutiny was State Board of Barber Examiners v. Cloud, where the Supreme Court of Indiana held that the police power of the state should not be used for the financial benefit of a relatively small group (barbers) in the guise of legislation for the "public welfare."

In 1960, another humorous event took place. The story is told by VUSL Director of Alumni, Marilyn Otis:

Today I spoke with a '61 grad, John DeLaurenti. He entered the U. of Illinois School of Law and became disenchanted with their style of teaching, so he transferred to VU School of Law after a friend of his had begun his law school career here. He met a woman...
(DePauw grad), fell in love and decided to get married. He was a second year law student, 27 years old. Somewhere he read that all VU students who wished to get married were REQUIRED to ask/inform President O.P. Kretzmann of their intentions. Being new to Valpo and wanting to do everything correctly, he made an appointment with O.P.

A tad intimidated by O.P.'s size, DaLaurenti sat down in O.P.'s office. O.P. asked him the nature of his appointment. John said he wanted to get married and was seeking O.P.'s approval. For a moment, O.P.'s eyes got big, his mouth dropped... then he said he appreciated John making the overture to inform him of his good news and he wished him well. John found out later that NO ONE seriously followed that rule. He said O.P. must have laughed after their appointment. John felt foolish; here he was 27 years old and having served in the military asking O.P. for his blessing."

In 1961, a new organization was formed at the School of Law, or at least that is when the group adopted a formal constitution. The organization was called Amicae Curiae, otherwise known as the "Law Wives." In the fall of 1961, eighteen female spouses of then current VUSL students were eligible for membership. Activities planned for the academic year included a reception for professors' wives, a floral arrangement demonstration, Christmas caroling, playing bridge, and a family picnic. The membership fee was one dollar and fifty cents a year. The group's constitution was adopted on November 8, 1961, after its presentment by a Constitutional Committee consisting of Barbara Aungst and Carolyn Morrisson, whose husbands first names were Ronald and Alan respectively. In later years, detailed hand-written minutes of the meetings of the Law Wives were kept, in many ways surpassing less than detailed minutes of the law faculty. Time, of course, would make the Law Wives a relatively short-lived but historically interesting phenomenon.

---

1195 E-mail from Marilyn Otis, Director of Alumni Relations, VUSL, to Michael Swygert (Oct. 1, 2001).
1196 All of the information in this paragraph was found in a file denoted "Law Wives Association," located in the VUSL archives.
Among the great strengths of Dean Knute Stalland were his organizational and planning skills. His records reveal that he compiled lists of goals he hoped to accomplish as dean. Foremost were: (1) convincing the University administration of the critical need for a new School of Law building and then (2) raising the requisite funds to build the facility. His list also included: (3) recruitment of many more Lutheran law students; (4) expansion of the student body; (5) focusing the School of Law more on its Lutheran mission; (6) retaining and recruiting good faculty, preferably Lutheran; (7) promoting opportunities for students to participate in inter-school moot court competitions; (8) being supportive of and offering assistance to the University in any way requested; (9) working with the alumni to strengthen the School of Law; and (10) encouraging and assisting faculty in their professional development.

He accomplished most of these objectives, but not all, during his nine-year deanship. His biggest disappointment had to be his lack of success in recruiting the number of Lutheran law students that he had hoped to bring to the School of Law. Similarly, he could not have been pleased with the lack of growth in size of the student body, which remained at about the same number throughout his years as dean. And although he never was able to create that critical mass of Lutheran faculty and students to create a largely Lutheran law school, he did help put together a successful two-day national program of leading theologians, ministers, and philosophers to consider the issues of the relationship of law and religion.

Certainly, Stalland accomplished his major goals—the persuading of the powers that be that an entirely new and much larger modern law school building was a necessity, not a luxury, and then, with the invaluable aid of alumni and the development department of the University, raising sufficient funds for the project. He also had to be gladdened by the participation of the moot court teams both in the National Moot Court yearly competitions and at the annual Indiana Supreme Court Day appearances.

His greatest legacy, however, has to be the over-all high caliber of several faculty members he hired: Jack Hiller, Richard Stevenson, Burton Wechsler, Erwin Jones, Charles Gromley, and Alfred Meyer. Of these, Hiller, Stevenson, and Meyer, together with Bartelt and Savage who had been hired by Morland, contributed to the intellectual
awakening of the law school at Valparaiso. Many of the new faculty were excellent teachers, notably Professors Gromley, Wechsler, Savage, and Meyer. In short, under Dean Stalland—the first Lutheran dean of the School of Law—significant changes took place, including a new era of increased intellectualism and teaching proficiency. Stalland left VUSL in 1966 in failing health to return to the Twin Cities. He died in Minneapolis two years later in April 1968.\footnote{The Century Club Salutes Knute D. Stalland, VAL. U. ALUMNI NEWS, Apr. 1968, at 7.}

N. Louis F. Bartelt, Jr. Becomes Dean

Following Dean Stalland’s retirement as Dean of the School of Law in 1964, Louis F. Bartelt, Jr. was appointed Acting Dean. Stalland remained on the faculty but went on leave during the 1964-1965 academic year.\footnote{Bartelt Named Law School Dean, THE TORCH (VU), Sept. 25, 1964, at 3.} Bartelt had taught the three previous summers at Indiana University and was nearing completion on his 1,200 page dissertation for his J.S.D. thesis, titled “A Legal-Economic History of the Highway Department in Wisconsin.”\footnote{Louis Bartelt Acting Law Dean While Stalland Is Overseas, THE TORCH (VU), Oct. 27, 1964, at 3.} He had one final chapter to complete when he was asked to assume the acting dean’s position. What was to be a temporary nine-month acting deanship turned into a five-year tour of duty, as President Kretzmann with the law faculty’s concurrence appointed Bartelt to be Dean of the School of Law for the additional period of 1965 through 1969. A man of unsurpassable integrity, Dean Bartelt put aside his never-to-be completed thesis.

In his first annual report to President Kretzmann, Dean Bartelt reported that the School of Law opened in the fall of 1964 with 112 students: 111 men and one woman.\footnote{Annual Report of the Dean of the School of Law for the Academic Year 1964-1965 from Louis F. Bartelt, Jr., to O.P. Kretzmann, President, VU 1, 3-4 (June 1965) [hereinafter 1965 Annual Report].} Sixty-one were Lutheran, forty-three came from Indiana, twenty-five from Illinois, sixteen from Michigan, and the rest from fourteen other states. In his report, he wrote his concerns about the high academic attrition rate at the School of Law, noting that one-fourth of the first-year class and one-third of the second-year class had been excluded during the year.\footnote{Id. at 2.} The high attrition rate, he said, was due to two factors: first, the faculty’s unwillingness to raise admissions standards significantly, and second, the faculty’s demand...
that the students' level of academic performance increase. The faculty was unanimous on the issue of high academic standards, but it was divided over the admission standards issue. The high academic attrition rate continued for the next few years, averaging about fifty percent of each entering class by the time of graduation.\textsuperscript{1202} By the end of the decade, however, the academic attrition rate began to fall as a larger group of applicants allowed the School of Law to raise its minimum admission standards.

Bartelt became concerned about another trend, increasing aloofness between the law students and the VU undergraduate student body.\textsuperscript{1203} He commented that even though in the past several years VUSL students had served in the role of student body president, after moving into the new Wesemann Hall on the then new east campus, law students became separated from the undergraduates, who had most of their classes on the old west campus, about one-half mile away. He also noted that half of the entering law students were married and lived off campus and that the stiffer competition caused law students to be less involved in campus-wide student activities.\textsuperscript{1204}

Bartelt had concerns not only about the academic attrition and aloofness of the law students vis-a-vis the undergraduate students, he also expressed to O.P. concerns about the faculty. Two areas that "can stand improvement," he wrote, are "faculty publications and greater participation in the affairs of the Association [of American Law Schools]."\textsuperscript{1205} He ended his report with a plea for greater financial resources for the School of Law, quoting Winston Churchill's reply to President Roosevelt's inquiry (made prior to U.S. entry into World War II) of how the United States could help Britain in its struggle with Nazi Germany. Churchill said, "Give us the tools and we will finish the job." Bartelt then added, "Perhaps the School of Law is the seed which, if properly nourished and cultivated, can come to the full flower of greatness that will redound to the benefit of the entire University."\textsuperscript{1206} Finally, during Bartelt's deanship, two significant faculty additions were made.

\begin{itemize}
\item \textsuperscript{1202} One-Half of Entering Law Students Survive Three-Year VU Program, THE TORCH (VU), Mar. 1, 1968, at 6.
\item \textsuperscript{1203} Id.
\item \textsuperscript{1204} Id.
\item \textsuperscript{1205} 1965 Annual Report, supra note 1200, at 22.
\item \textsuperscript{1206} Id. at 23-24.
\end{itemize}
1. Alan S. Morrisson (1966)

In 1966 Dean Bartelt and the law faculty invited VUSL alumnus Alan Morrisson, class of 1962, to join the faculty to fill the vacancy created by the retirement of Dean Stalland at the end of the 1965-1966 academic year. After graduating from the School of Law, Morrisson joined an insurance and investment firm in Fort Wayne Indiana, where he practiced corporate law for four years. Having earned both his A.B. and LL.B. degrees from VU, Morrisson was fond of the University and accepted the offer to become a law professor, thereby cutting his professional compensation considerably (but perhaps the difference was more than made up by having the likes of Stevenson, Bartelt, Savage, Hiller, and Meyer around him on a daily basis). Morrisson recalls his years on the law faculty:

I learned the true meaning of the term "Junior Faculty Member" when I was given the "opportunity" to teach eight different courses in the span of four years. I taught Federal Income Tax, Legal Ethics, Personal Property, Municipal Corporations, Appellate Advocacy, Natural Resources, Corporations and Labor Law. The course in Natural Resources was a seminar that was requested by a number of students who planned to go to Colorado and take the bar exam that included a number of questions in that field. After a few weeks they began to refer to the course (with affection, I think) as a "Natural Gas."

Morrisson eventually returned to law practice at Chester, Clifford, Hoepner and Horan in Valparaiso. For several years he served as legal counsel to Valparaiso University. He later became general counsel and vice president of one of the world's largest contracting firms headquartered in St. Louis. After retiring, he and his wife Carey, one of the founders of the VU Law Wives organization in 1961, moved back to Valparaiso, and Al Morrisson returned to the VUSL faculty as Distinguished Professor of Law. Today he teaches in the same enthusiastic and competent manner as he did thirty years earlier, characterized by a mutually respectful relationship with his students.

Alan and Carey Morrisson (a world-class musician) have supported Valparaiso University and the School of Law in countless ways since their graduations in the 1960s.

2. Dr. Herman Wing, M.D., J.D. (1967)

Dr. Herman Wing was appointed by Bartelt to an adjunct professorship at the School of Law in 1967. He was an honors graduate of the University of Texas Law School as well as its Medical School, after having earned his A.B. degree at the University of Maine in 1943, where he was a member of Phi Beta Kappa. Dr. Wing had a unique perspective in teaching, given his dual professions. He had been on the medical school teaching faculty at Baylor University and later served as professor and chairman of the University of Louisville School of Medicine for four years. When he accepted the adjunct law teaching position at VUSL, he was also Clinical Professor of Medicine at Loyola University’s Stritch School of Medicine in Chicago.

Dr. Wing taught an interdisciplinary course in law and medicine. Because of Wing’s appointment, the School of Law was on the forefront in offering a course in law and medicine for law students. Medical doctors by this time had been hired on several high-visibility law schools including Yale, Michigan, and Chicago, among others. Having a professor who was teaching concurrently at both a law school and a school of medicine, however, and who had professional degrees in both law and medicine, was rare.

O. Faculty Salaries Hit Bottom

The problem of inadequate resources was critical especially in the matter of faculty salaries. In a detailed letter to Kretzmann sent in February 1966, Dean Bartelt first presented the dismal facts that of 110 of the AALS member law schools in the country, the School of Law’s salaries were third from the bottom, noting that VUSL’s position on the country’s scale of salaries had worsened over the past several years. Then, in characteristic candor, he told the president what the effect of being one of the three lowest paid AALS law schools was:

In legal education (and perhaps in other fields as well) salaries are often viewed as the measure of a man’s worth. Most of my colleagues are worth a great deal more than they are paid, and yet the stigma will attach. More important, however, is the fact that the low salary
scale marks the law school as a marginal, or submarginal operation. ... [L]egal education, in general, will judge us—and the University—by what the data reflect. I would like ours to be a good law school—and have legal education recognize it as such.\textsuperscript{1208}

Bartelt’s letter clearly caught the attention of O.P. Later correspondence between the two reveals that they had met in O.P.'s office, and that O.P. had orally made a proposal to Bartelt to raise significantly the law faculty salaries. To this oral offer, Bartelt responded to O.P. as follows:

After mulling over our conversation of yesterday, it occurred to me that I had come out of your office with considerably more than I had anticipated ... [regarding] faculty salaries. Quite frankly, after thinking about your generous offer I have twinges of conscience. ... I am no less concerned now than I was before our meeting about the stigma [low salaries] attach[] to the School—and therefore, to the University—and to my colleagues.... However, I am disturbed by the thought of substantial salary increases for comparatively well-paid members of the law faculty when some of our younger colleagues in other divisions of the University have difficulty properly feeding, clothing and housing their families.\textsuperscript{1209}

Bartelt went on in effect to make a counter offer of smaller raises for the faculty, limiting the increase to “at most” $1,000 per full-time faculty member, noting that since one faculty member would be on leave for the following year, and his spot would not be filled by a full-time visitor, the savings effected would in fact be enough to pay the six remaining faculty members the total of $6,000, therefore, costing the University nothing for the first year the raises would be in effect. Bartelt’s arithmetic revealed a lot about what VUSL professors were paid in the mid-1960s.

Bartelt’s counter proposal was apparently acceptable to the President. Months later, however, Bartelt again wrote O.P. after receiving the latest salary data from ABA Consultant Dean Hervey.

\textsuperscript{1208} Letter from Louis F. Bartelt, Jr., Dean, VUSL, to O.P. Kretzmann, President, VU 2-3 (Feb. 15, 1966).
\textsuperscript{1209} Letter from Louis F. Bartelt, Jr., Dean, VUSL, to O.P. Kretzmann, President, VU 1 (Feb. 22, 1966).
They revealed that the VUSL salary scale ranked even below the year-earlier figures, third from the bottom in AALS schools, and sixth from the bottom of all 135 ABA-approved schools, compared with tenth from the bottom the previous year.\footnote{Letter from Louis F. Bartelt, Jr., Dean, VUSL, to O.P. Kretzmann, President, VU 1-2 (Dec. 9, 1966).} In a typed seven-page, single-spaced letter, Bartelt laid out in detail all the data supplied him from the ABA. He observed that although the School of Law for many years had been a financial drain on the University, it was so no longer, indicating that the law school was making at least a $15,000 “profit” for the University in the current year.\footnote{Id. at 6.} Ending his letter to O.P., Bartelt wrote, “I am suggesting an increase in staff, salaries, and library budget. . . . We must have help!”\footnote{Id. at 6-7.}

The problem of law faculty salaries well below the mean and median in legal education would remain one of the most persistent issues confronting the University and its relationship with its School of Law for the next forty years. The salary situation still has not been fully rectified and continues to cause concerns. Several faculty members over the last four decades have left due to the low salaries, some going into practice and others going to other law schools. In one case, a professor increased his salary by over fifty percent by going to another law school’s faculty. One thing that Dean Bartelt was clearly right about when he wrote the letters above to President Kretzmann back in 1966 was that salaries are viewed as a measure of a professor’s worth, not only by those looking in, but often by the professor himself or herself. Salaries do matter and, of course, so does productivity.

In 1967, Dean Bartelt established the School of Law “Board of Visitors.”\footnote{Board of Visitors, THE AMICUS (VUSL), 1990, at 8.} The Board was to advance the School of Law’s “development in its broadest context.”\footnote{Id.} The Board was succeeded in 1979 by the School of Law’s “National Council” under Dean Jay Conison.\footnote{See infra note 1914 and accompanying text.}
P. Birth of the Valparaiso University Law Review

1. Volume One

Chief Justice of the United States Supreme Court Earl Warren once described the student-edited law review as "the most remarkable institution of the law school world."\textsuperscript{1216} By publishing the initial issue of the Valparaiso University Law Review ("VULR") in the fall of 1966, the seven founding VUSL student editors carried on that "remarkable institution." In an introduction titled "Editors' Comments," they pointed out that "yesterday, . . . there were 107 student-edited legal periodicals in the United States. Today, there are 108."\textsuperscript{1217} The students consisted of one third-year student, Robert D. Lee from Indiana, and six second-year students: Bruce G. Berner from New Jersey; Alan L. Landmeier from Illinois; Michael I. Swygert from Indiana; George W. Valsa, Jr. from Michigan; Peter K. Wilson from Illinois; and Michael S. Virgil, also from Illinois. In the spring of 1967, an eighth student editor, second-year student John W. Yakimow from Indiana, joined the board.

For the previous few years, students had been urging the faculty to authorize a student-edited law review at the School of Law.\textsuperscript{1218} Finally, in the 1964-1965 academic year the faculty gave eight second-year students who had requested permission to start up a review an opportunity to write student notes to "prove their worth."\textsuperscript{1219} Each of the students was to research and write a substantial note on a particular legal topic. Each student was assigned a faculty reviewer familiar with the subject matter. Subsequently, a three-person faculty committee read and evaluated each submission. The purpose of this procedure, Dean Bartelt wrote President Kretzmann, was to determine the students' abilities to "edit and publish a law review." The project, Bartelt reported, was not successful. The quality of the student work was very mixed, and some of the students involved had marginal grades.\textsuperscript{1220}

The faculty, Dean Bartelt noted, had decided that when the School of Law published a law review, "it must be a respectable periodical." He added, however, that the then current first-year class was a much larger

\textsuperscript{1216} Messages of Greeting to the U.C.L.A. Law Review, 1 UCLA. L. REV. 1 (1953) (offered by the Chief Justice of the U.S. Supreme Court).
\textsuperscript{1217} Editors' Comments, Number 108, 1 VAL. U. L. REV., at v (1966).
\textsuperscript{1218} 1965 Annual Report, supra note 1200, at 18.
\textsuperscript{1219} Id. at 19.
\textsuperscript{1220} Id.
class and had several students who had performed very well in their law school examinations and, therefore, had the potential to be law review editors. "We should be in a position to publish a law review within the next eighteen months," he told President Kretzmann.1221

In the fall of 1965, Dean Bartelt along with Professor Alfred Meyer individually contacted each of the seven original members of the Board of Editors, inviting them to become members of an editorial board with the mission of editing a law review which the School of Law would publish. The faculty, in the fall of 1964, had decided who to invite based primarily on the grades the seven students had earned during their first year of law school, although other factors were also considered. They even assigned the specific editorial positions each student was to occupy. Bob Lee, the third-year student, was Business Director, responsible for subscriptions, printing and distribution arrangements, and the procurement of necessary equipment and supplies; assisting him was George Valsa as Business Manager. On the editorial side of the operation, Alan Landmeier and Bruce Berner each were Note Editors; Pete Wilson was Articles and Book Review Editor; Mike Virgil was the Executive Editor; and Mike Swygert was Editor-in-Chief.

The editors were charged with the tasks of drafting, redrafting, and editing analytic scope-length notes on worthy legal topics, while soliciting and editing scholarly lead articles authored by respected jurists, academics, and practitioners.1222 The VULR would be published semi-annually, and the first issue was to come out in the fall of 1966 and the second issue in the spring of 1967. The editors shared the faculty's hope that volume one of the VULR would be a scholarly, credible, and useful journal," one in which alumni, students, faculty, and administrators could take pride."1223 After selection by the faculty, the editors worked from November 1965 onward toward the School of Law's goal of having the first issue of the VULR published in the fall of 1966. The goal was achieved as issue one was published on schedule. Meanwhile, the editors selected the candidates for their successors, the editorial board for volume two: Ray Nimmer, Editor-in-Chief, along with Dave Petersen, George Hass, Andy Baker, and Bob Harper.

1221 Id.
1223 Id.
Anticipation and hopes had been high as the publication of issue one drew closer. Dean Bartelt wrote to the University Board of Directors: “I can say without qualification that . . . the publication of a law review will be one of the most significant events in the history of the school.”

But so too would be the development of the legal clinics, the inclusion of more African-American and other minority students, and the commencement of more serious scholarship on the part of the faculty.

Upon publication, issue one was representative of a more scholarly treatment of law at VUSL. The issue led off with a short essay by U.S. Supreme Court Justice Tom C. Clark, titled *The American Jury: A Justification*. The next article was authored by an assistant Librarian to the U.S. Supreme Court, Edward G. Hudon, titled *Freedom of the Press versus Fair Trial*, dealing with the clash of fundamental rights guaranteed under the Constitution as involved in the recent U.S. Supreme Court decision of *Sheppard v. Maxwell*. This work was subsequently commented upon in a column appearing in over fifty major newspapers in the country.

The third article was an outgrowth of the Chicago Jury Project, an empirical study under the direction of Professor Harry Kalven, Jr., of jury decision-making undertaken a few years earlier at the University of Chicago Law School. Titled *The Impact of the Lawyers: An Informal Appraisal*, the derivative article was authored by Dale W. Broeder, who had been one of Professor Kalven’s researchers on the Project. The fourth lead article in issue one, *Second Generation Condominium Problems*, was authored by Patrick J. Rohan, co-author of an early authoritative treatise on condominium law in America, who later became professor of law at St. John’s University.

The fifth and final lead article in issue one was very timely and was titled *Divorce: Canterbury Style*, and dealt with the then-emerging new principle of irreconcilable difference as a ground for divorce, recommended for adoption in Britain by what was called “The Mortimer Report,” but not yet in America. The author, Monrad G. Paulsen, was

1224 Memorandum from Louis F. Bartelt, Jr., Dean, VUSL, to the VU Bd. of Dirs., July 18, 1966, at 3.
1227 See HARRY KALVEN & HANS ZEISEL, AMERICAN JURY (1966).
1228 See PATRICK ROHAN & MELVIN RESHKIN, CONDOMINIUM LAW AND PRACTICE (1965).
a distinguished professor of law at Columbia University, and later became dean of the University of Virginia School of Law. The editors were pleased with the quality of the authors they had assembled for the first issue.

2. The Ronald Dworkin Incident

Volume one, issue two, published in the spring of 1967, contained works by two well-known legal scholars: Roscoe Pound and Ronald Dworkin. The lead piece—The Case for Law—was the address1230 that the Harvard Law School Dean Emeritus Roscoe Pound had delivered in 1959 at the 100th Valparaiso University Anniversary Convocation.1231 Although Pound had given the University permission to publish the address, not until the VULR came into existence was there an appropriate University journal in which to do so.1232

As the lead article, the Pound piece was followed by a response authored by the distinguished scholar and professor of jurisprudence, Ronald M. Dworkin. Dworkin was a professor of jurisprudence at Yale University, and in time would hold dual appointments in law and philosophy at Oxford University in England and at New York University. The Valparaiso editors were overjoyed, of course, when Dworkin accepted their invitation to write a response to Roscoe Pound.

The joy, however, subsided after the editor-in-chief, Swygert, without consulting Professor Dworkin in editing the manuscript, took the liberty to change Dworkin's phrasing in various sentences. Moreover, Swygert changed the title of the response, a change Dworkin never approved nor saw until after publication.1233 The Yale professor was not pleased. He sent a blistering letter to Swygert with a copy to Faculty Advisor Alfred Meyer.1234 In the letter the professor accused the editor of "carefully inserting barbarisms and non-words."1235 Dworkin was especially displeased by the insertion of the word "critique" in the title. With genuine shame, Swygert wrote Dworkin a profuse

1230 Pound, supra note 1057.
1231 See infra note 1279 and accompanying text.
1232 Swygert, supra note 1222, at 168.
1233 See Dworkin, supra note 1061.
1235 Id.
Dworkin wrote Swygert back: "It is my turn to apologize." Years later, Swygert wrote that he had used the ill-conceived word "critique" because Dworkin had written that Pound's Valparaiso thesis "was not a strong piece; it is more a restatement of old themes than a fresh adventure." It appeared to Swygert that Dworkin had critiqued Pound's address. Swygert added, however, "Still, I committed a very serious error in not having Mr. Dworkin approve my title. I am happy to point out, however, that now, some twenty-five years later, my transgressions in reference to Ronald Dworkin's essay do not appear to have unduly damaged his career."

The VULR's faculty advisor, Professor Meyer, always loving a bit of a battle, found the "misunderstanding" between the giant professor at Yale and the pipsqueak editor at Valparaiso entertaining. Entering the fray, Meyer wrote Dworkin, pointing out that there were no non-words or barbarisms that he, Meyer, could find in the edited piece, but gleefully informing the Yale professor that in less than two months he could directly confront the offending editor, the latter having been accepted into Yale's LL.M. program for the fall. Meyer years later wrote of the "Dworkin-Swygert Incident": "I thought it amusing at the time to visualize the first encounter between Dworkin and Swygert which would be taking place that fall at Yale . . . ." (actually, the encounter was very cordial). On a take off of Dworkin's popular book titled Taking Rights Seriously, Meyer with tongue in cheek had to add that Dworkin "was always one to take things seriously."

3. Reviews of the VULR

Despite this one unfortunate editing error, no other serious problems arose during the birth of the VULR. The faculty and dean were pleased.

1238 See Swygert, supra note 1222, at 168-69.
1239 Id. at 169.
1240 Letter from Alfred W. Meyer, Professor of Law, VUSL, to Ronald M. Dworkin, Professor of Law, Harvard Law School (July 7, 1967).
1242 RONALD M. DWORKIN, TAKING RIGHTS SERIOUSLY (1977).
1243 Meyer, supra note 1241, at xi.
In commenting on the first issue of the **VULR**, Dean Bartelt wrote President Kretzmann:

> The publication was very respectable—much better, I might add, than many first issues I have seen from schools of comparable size or larger. We received many favorable comments, not only from friends, but also from strangers from coast to coast ... and a substantial number of requests for reprints of articles, and one article [Hudson’s] formed the basis of a syndicated article which appeared in more than fifty newspapers.\(^{1244}\)

Faculty Advisor Meyer praised the result. He wrote,

> The class of '67 has just nailed down an honor for itself. ... Volume 1, No. 1 of the *Valparaiso University Law Review* is hot off the presses and over 6,000 copies are on their way to alumni, lawyers, law schools, and libraries throughout the country. ... The *Law Review* has made an auspicious debut.\(^{1245}\)

Congratulating the seven senior editors, Meyer also gave credit to the members of the class of 1966, “who agitated for and provided the initial impetus for the present publication.”\(^{1246}\)

The first issue also received a good review in the *American Bar Association Journal* ("ABAJ").\(^{1247}\) Regular *ABAJ* columnist Arthur John Keefe wrote that the “issue was very well done and a great credit to the editors.”\(^{1248}\) The reviewer was especially impressed with the four “scope note length” student works, but wished the authors had signed their names. Well, for the sake of history they will now be divulged. Mike Virgil wrote, *Restatement of Contracts (Second) — A Rejection of Nominal Consideration?* — a topic suggested by Professor Meyer. Mike Swygert wrote *The Future of Reciprocity: A Study in Antitrust Decisional Technique*, with many suggestions from Professor Stevenson. Pete Wilson wrote *Impostors and Fraudulent Procurement of Negotiable Instruments — Does the...*
UCC Resolve the Pre-Code Conflict?—also a topic suggested by Professor Meyer. Finally, Bruce Berner authored Federal Habeas Corpus—The Search for a Solution to the Prematurity Concept, with input from Professors Jones and Jox. The second issue included notes written by Allen Landmeier, John Yakimow, David Peterson, and Ray Nimmer.

4. Early Impact of the VULR

Other early articles and student notes would soon have an impact in addition to the Hudon article on free press versus fair trial. In volume three, issue two, Professor Robert Force of the Indiana University-Indianapolis School of Law published the lead article, titled State Bills of Rights: A Case of Neglect and the Need for a Renaissance.1249 Although the late Justice William Brennan1250 is often given credit for starting the movement to “breathe new life into state constitutions” because of a 1977 Harvard Law Review article, the Professor Force article published in the Valparaiso University Law Review was the first, or at least among the first, on the subject, according to Indiana Supreme Court Justice Frank Sullivan, Jr.1251

A student note written by David Peterson in volume one, UCC Section 2-305(1)(c): Open Price Terms and the Intention of the Parties in Sales Contracts,1252 was cited extensively in a leading commercial law casebook.1253 A student note published in Volume Four by student author Stephen W. Brenman, titled Protection of Civil Rights: Power of the Federal Judiciary to Enjoin State Court Proceedings Violative of Basic

1252 David Petersen, UCC Section 2-305(1)(c): Open Price Terms and the Intention of the Parties in Sales Contracts, 1 VAL. U. L. REV. 381 (1967).
Constitutional Rights,\textsuperscript{1254} won a national competition as one of the best student notes of the year.

A third student’s note came to the attention of Ralph Nader by way of Chicago interest lawyer, Marshall Patner, general counsel of Business Men for the Public-Interest, subsequently renamed Business and Professional People for the Public Interest. The student was Barry C. Bergstrom from Chicago. His recently published article in the \textit{VULR} dealt with how corporations engaging in illegal polluting activities could be sued by way of a shareholder’s derivative action.\textsuperscript{1255} Patner sent the article to Ralph Nader, who commented that Bergstrom’s research and article would be helpful to environmental lawyers throughout the United States. Nader requested as many reprints as were available to send them out from his Washington, D.C. headquarters, the Center for the Study of Responsive Law. The idea of using an old legal remedy—the derivative action—as a tool to stop pollution had never been used or written about before. The innovative idea and subsequent research were aided by Professors James Savage and Jack Hiller of the School of Law, according to a story published in the \textit{Gary Post Tribune}.\textsuperscript{1256}

Under the editorship of Steven Rathke, in 1971 the \textit{VULR} published its first symposium, an issue devoted entirely to the topic “Women and the Law.”\textsuperscript{1257} The issue—number three of volume five—represented the first time the \textit{VULR} published three issues in one year. More importantly, however, the issue’s topic was timely as 1971 was the year when women began to enroll in America’s law schools in greater numbers than ever before, a trend that intensified over the next several years, reaching the level today where at many of the country’s schools, including the School of Law, women law students outnumber men. On

\begin{footnotesize}
\begin{itemize}
  \item \textsuperscript{1255} See Berry C. Bergstrom, \textit{The Shareholder’s Derivative Suit—A Solution to the Pollution Problem?}, 5 \textit{VAL. U. L. REV.} 149 (1970).
  \item \textsuperscript{1256} This information comes from “Draws Nader’s Praise,” a cut-out article from the \textit{Gary Post Tribune} on file in the VUSL archives, which fails to give the page or the exact date, although it probably was published not long after the Bergstrom article in the \textit{Valparaiso University Law Review}.
\end{itemize}
\end{footnotesize}
a national basis, the split in 2003 at VUSL also was close to fifty percent women and fifty percent men.1258

In spite of one crusty Yale Law Professor who once wrote an article titled Goodbye to Law Reviews,1259 the institution of the student-edited law review has survived for over a century and is flourishing as never before. One commentator has declared that law reviews provide "an unparalleled service to the profession and an unquestioned educational service to their members."1260

As this work on the history of the School of Law progresses in the summer of 2003, student editors are working on Volume Thirty-Eight of the Valparaiso University Law Review. It is anticipated that this contextual history of the School of Law will be first published in that volume.

Q. The Vietnam War and the School of Law

The late 1960s and early 1970s was a time of turmoil and anxiety throughout America, especially on college and university campuses. A killing war of bombs and bullets was raging in Vietnam while an angry war of words over the war in Vietnam was raging in the United States.1261 Recent generations would find it hard to imagine just how divided and angry many in the country were during that period, let alone the violence on college campuses that eventually resulted. On the one hand, Communism had been spreading in many parts of the world, and the threat was particularly high in the far East, notably Southeast Asia. Starting with the administration of John F. Kennedy, fearing a "domino effect," then extending through the Johnson presidency, and finally escalating in the early years of the Nixon presidency, three successive U.S. presidents decided that the U.S. had to intervene militarily to stop the spread of Communism. Vietnam was a country under siege of Communist insurgents.

Not perceiving the threat to national interests in the same manner as these administrations perceived it, many Americans began actively to protest the war. They saw no vital U.S. interests at stake, but in their

1258 At numerous schools, the percentage of female students was, of course, higher than that of male students, a fact few in legal education could have imagined in the 1960s and 1970s.
view only a misguided, foolhardy, and suicidal American involvement in what they perceived to be an internal civil war in a distant land. The anti-war movement grew precipitously, especially after U.S. Military efforts in Vietnam bogged down and America’s dead body count began to rise. Yet, millions of Americans continued to back the presidents and their war efforts. Consequently, by the latter years of the 1960s, the entire country had taken sides in a domestic war of emotion and words over the involvement of America in a foreign war in Southeast Asia.

1. Thurman Arnold Defends Vietnam War

The School of Law and the University would not escape the absence of domestic tranquillity. The first hint of what was to come resulted from a Law Day speech given in 1967 by the then Attorney General of the United States, Thurman Arnold, who had been a prominent Washington, D.C. attorney and highly respected author, as well as personal friend of President Lyndon Johnson, who had appointed him attorney general.

Arnold gave a rather conventional talk for the most part, carefully setting out the Administration’s claimed legal basis under international law for U.S. involvement in the Vietnam conflict. Then, with more passion he spoke out vehemently against “dissenters” to the war. Arnold “witheringly attacked those who think it is their function to portray the U.S. to the world as a stupid and brutal power unnecessarily killing thousands of people and burning villages.”\footnote{Pres. Johnson Quotes V.U. Law Day Speaker, THE TORCH (VU), May 12, 1967, at 3.} A few days later, President Lyndon Johnson, at a news conference, quoted portions of Arnold’s V.U. Law Day address to reporters. The speech, moreover, was said to have been commented on at length in an edition of Time Magazine.\footnote{There is no copy of the article in the VU Archives.}

2. The Draft Impacts the Law School

The first significant impact of the Vietnam War hit the School of Law in 1968—the draft. In a statement to The Torch in May of that year, Dean Bartelt told of a recent poll of the VUSL students which indicated that the half of them expected to be drafted within a year’s time.\footnote{Law School Dean Bartelt Foresees Enrollment Decline Due to Draft, THE TORCH (VU), May 14, 1968, at 1.} First-year law student Jim Richardson reported that nearly all the students in
his class had been reclassified 1A, putting them in the top category for being drafted, rather than their previous deferred II-S status which had been allowed for graduate students. Richardson was right. Gen. Lewis B. Hershey, the Director of the U.S. Selective Service, had issued the directive changing the status of graduate law students in February 1968.

When the fall 1968 semester commenced, it was obvious that the draft did have an impact on the School of Law's enrollment, although not as great as had been feared. Reportedly, at least twenty-five students who had been enrolled the previous year had either been drafted or had dropped out of the School of Law to accept draft-deferrable jobs over the summer. Moreover, many enrolled students were "on the edge" of being drafted. Indeed, in the next several months, students did leave the School of Law in response to notices to report for induction. Still, the forecast that the School of Law might lose up to fifty percent of its students fortunately did not materialize.

Throughout the country a draft resistance movement had been growing, and there were a few individual law students who sought ways to evade the draft. The overwhelming majority of VUSL students, however, obeyed the law. The Student Bar Association ("SBA") set up a Draft Counseling Committee "to advise young men as to their available alternatives under the Selective Service Act," organized by the SBA president, Dennis Hoover. The SBA's announcement of its new committee indicated that the counseling service "[d]id not intend to serve the purpose of aiding or abetting draft evasion," but rather "to make available the information necessary for a young man to understand his rights and responsibilities under the Selective Service Act."

3. War Debate Intensifies

During the period from 1967 through 1972, The Torch was full of letters, comments, articles, and news stories pertaining to the Vietnam War and the anti-war movement across the country and on the VU campus. Guest opinions were often published. One, by a recent VUSL

1265 Id.
1267 Id.
1268 Student Bar Assoc. Forms Draft Counseling Committee, THE TORCH (VU), Nov. 8, 1968, at 3.
1269 Id.

http://scholar.valpo.edu/vulr/vol38/iss3/1
graduate, advised students who opposed the war not to burn their draft cards or break the law, but to write letters to President Johnson and Secretary of State Rusk as well as other politicians. The guest opinion concluded:

College students still retain some power of rational persuasion, if not on the policy formulating level, at least on the policy supporting level of public opinion. Let us try and change through rational persuasion a few minds [of those who support the war] . . . . It may make a little difference. A responsive Editorial to the guest opinion above was not so temperate:

Well and good baby, but don’t forget that when the politicians, generals and concerned citizens talk about things like “increasing troop commitments,” they’re messing around with your life. They’re talking about the possibility of sending you over there with a rifle to get shot and to try to kill somebody else.

The feelings would only intensify. National anti-war leaders called for a “Day of National Moratorium” on college campuses across the country for October 15, 1969, in effect calling for a national strike by students and faculty to show the extent of the country’s opposition to the war. Hundreds of colleges upon the pressure of students and faculty agreed to shut down for the day. Valparaiso University did not. The VU president at the time, Albert G. Huegli, would not dismiss classes, but stated that no students would be penalized if they chose not to attend classes. Huegli’s decision, although clearly reasonable and well intended, nonetheless contributed to a further polarization of opinion on campus.

In a letter addressed to the entire VU community, six members of the VUSL faculty asked students and faculty voluntarily to leave classes on October 15, 1969, “so that each member of the University community may according to his own religious, philosophical and political beliefs reflect upon this [Vietnam War] problem ... and participate in

---

1271 Id.
appropriate services, meetings, prayer and discussions . . . ." Signing the letter were Dean Alfred W. Meyer and professors Jack Hiller, Louis F. Bartelt, Jr., Seymour Moskowitz, Mike Swygert, and Burton Wechsler.1273 Professors Charles Gromley, Erwin Jones, Richard Stevenson, and Alan Morrisson did not sign the letter. The signing or not signing did not reveal necessarily whether one was for or against the war, but did reflect that the divisions over the war and what to do about it were becoming as politicized in the School of Law as they had on hundreds of campuses throughout the country.

Even the School of Law SBA at one point publicly issued a statement opposing the War, a statement which passed by a vote of fifty-two to thirty-seven, evidencing that students were certainly not of one mind on the issue.1274 Everywhere in the country the pro- and anti-war divisions were growing. Most protests were nonviolent, including sit-ins and marches. But some involved incidents of violence, and ominously these were increasing in frequency and intensity.

Student acts of violence in opposition to the war took various forms, from stone throwing to burnings and firebombing of college buildings and armories. The acts had begun in California as early as 1965, then had spread east, "paralyzing" college life at many universities.1275 The student antiwar movement also spread across Europe, and "nearly toppled the government of De Gaulle in France."1276 The main catalyst for increased violence was President Richard Nixon’s ordering of U.S. troops into Vietnam’s neighboring country of Cambodia on April 29, 1970. As Richard Baepler describes the consequences, waves of protest quickly followed; students firebombed ROTC buildings at Maryland, Michigan State, Washington, Wisconsin, and Yale universities.1277

Unfortunately, the worse was still to come for the nation. And, a tragedy was about to occur at Valparaiso University, one that had repercussions for the School of Law no one could have imagined.

1275 BARZUN, supra note 821, at 764.
1276 Id.
1277 BAEPLER, supra note 4, at 301.
4. VU Students Allegedly Torch Kinsey Hall After Students Killed at Kent State

The most violent action of the U.S. domestic war related to Vietnam occurred on the morning of May 4, 1970, on the campus of Kent State University in Ohio. Days earlier the University’s ROTC building had been firebombed. Anti-war students had then gone on a rampage hurling stones at police cars and smashing windows. Ohio Governor James Rhodes felt compelled to order the Ohio National Guard to move onto the Kent State campus to restore order.1278

On the infamous morning of May 4th, a few among the assembled protesters began to throw stones at the Guardsmen who were standing, rifles at the ready, some sixty feet away. As historian Baepler recounts what happened: “Several guardsmen opened fire, killing four students and wounding nine. Two of the victims were women who were simply walking to class.”1279 The news swept the nation and it seems everybody was outraged, many, of course, at the trigger-finger guardsmen for the student killings, but probably just as many at the protesting students, pointing out that the students’ violent protests had precipitated the tragedy.1280

Historian Baepler in detail relates in sequence the events which transpired on the Valparaiso University campus following the Kent State student killings, culminating, it has been claimed but never proven in a court of law, by a few VU undergraduate students setting fire to Kinsey Hall, the University’s administration building, during the early morning hours of May 7, 1970, coincidentally, Ascension Day.1281 Despite efforts of the Valparaiso Fire Department, Kinsey Hall—named after the vice president of the original Normal School and located on the original College Hill campus—was destroyed. The building housed the offices of President Huegli and Vice-President Donald Mundinger, among other officials.

The reaction of townspeople, faculty, students, alumni, and friends of the University to the student arson and destruction was first one of

1278 ld. at 302.
1279 Id.
1280 For an analysis and study of what happened at Kent State University that day and beyond, see William A. Gordon, The Fourth of May: Killings and Coverups at Kent State (1990).
1281 Baepler, supra note 4, at 301-06.
shock and confusion, and then, in a great many instances, one of dismay, anger, and fear. Students—all students—were perceived as out of control and as threats to the harmony and stability of the community. It was even rumored that gun sales to town residents skyrocketed, although no evidence of this has been found.

5. Third-Year Law Students and Finals

Amidst the atmosphere of mistrust and fear among town residents, the nineteen third-year law students at the School of Law petitioned the faculty to be excused from attending their few remaining classes, and, moreover, from taking their semester’s final examinations. Similar interruptions or requests for class moratoriums and examination suspensions were occurring at other law schools as well. In response, the Executive Committee of the AALS issued a statement on May 17, 1970. It read in part:

A considerable number of law schools have interrupted educational activities, and in some cases have abandoned such activities for the remainder of the current term, making widely varying provisions for award of academic credit. ... Faculties should make every possible effort to continue their educational programs, including examinations, in the scheduled manner. ... The law schools bear the inescapable responsibility of evaluating student performance through written examination or other appropriate means. Only by discharging this responsibility can law schools justly expect their degrees and certifications to be respected.

Third-year law students at several eastern schools, including those at New York University Law School, similarly petitioned their faculties to be excused from classes and final examinations. Thereupon, some of the schools involved applied to the New York Court of Appeals seeking to have the court determine whether holding final examinations for their graduating law students was a prerequisite to their taking the July 1970 New York State Bar Examination. The Court quickly issued a

1283 Press Release, Office of the Executive Director, AALS, Continuity of Programs of Legal Education in Times of Crisis (May 17, 1970).
unanimous order declaring that applicants for admission to the New York State Bar from law schools both within and without New York had to have all their examinations administered in the usual manner before they could sit for the State's bar examination.¹²⁸⁴

Unlike NYU law students who sought to be allowed to just quit law school two or three weeks early without examinations, the VU third-year law students proposed to do something constructive during the time they otherwise would be attending class and taking their last semester's final examinations. They would go out into the greater Valparaiso and Porter County communities and work to repair the badly torn relations between University students and Valparaiso residents. The students' petition to the faculty specified generally the various activities in which they would engage, including addressing the public on local and regional radio stations, seeking to speak before meetings of the service clubs, writing letters and opinion pieces to the regional newspapers, arranging to speak at veteran organizations, going to church groups, and so on.

The faculty may or may not have been aware of the order issued by the New York Court of Appeals, and in disregard of the directive from the executive committee of the AALS, they unanimously granted the students' petition and proposal for community interaction after lengthy discussion. The faculty believed the proposal for community interaction was innovative and, if effectively implemented, could contribute to a much needed community-wide education and healing process. A community-wide healing process was considered by many both within the University and within the community to be of the highest priority. As a result of granting the petition, senior law students would miss seven remaining class days, and even though they would not be taking final semester examinations, they still, of course, would have to study for and pass the state bar examination before they could be admitted to practice law.

The students went to work. In an open letter to the University community the third-year class wrote:

The purpose of our actions is to re-establish the lines of communication which in the fervor of these turbulent

¹²⁸⁴ See In re The Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law, 274 N.E.2d 440 (N.Y. 1970); see also STEVENS, supra note 90, at 288 n.96.
times have been severed. The dialogue must continue! It is with these thoughts in mind that we undertake a program to contact as many individuals and groups as possible in an effort to openly discuss the issues which confront our society.

To attain those ends we have contacted professional groups and church, civic and high school organizations, as well as unions, for the purpose of getting their responses to this proposed dialogue.... This is an opportunity [for all VU students] to get involved, for as Dante remarked, "The hottest places in Hell are reserved for those who, in times of moral crises, remain neutral."\(^{1285}\)

At the conclusion of the nearly three-week effort, the about-to-graduate VUSL students submitted a ten-page typed report of their activities to the School of Law faculty.\(^{1286}\) The report indicated that the students had met with twenty-nine different organizations from the American Legion to the Veterans of Foreign Wars. Eight churches were included and so was the Indiana State Prison at Michigan City. Not everybody was pleased, however.

6. Indiana Supreme Court Conducts Hearing on Whether VUSL Students Should Be Allowed to Sit for State Bar Examination

Valparaiso attorney Roger K. Claudon on May 20, 1970, wrote a letter to Miss Wilma Wood, of the Indiana State Board of Law Examiners, indicating an unwillingness to write a character and fitness letter for a VUSL third-year student because of the faculty's suspension of classes and exams for the graduating seniors.\(^{1287}\) On the same day, another Valparaiso attorney, Philip M. Cagen wrote the editor of The Vidette Messenger, suggesting that the eligibility of the class "for admission to practice law in this state should be considered by the

---


\(^{1286}\) Id.

A third Valparaiso attorney and VUSL alumnus, Robert W. Bornholt wrote a letter to the VU Board of Directors, protesting the actions by Dean Meyer and the law faculty, and calling for the immediate removal of "Mr. Meyer" from his position, and adding that he would withhold "any future financial support to the University" and that he would attempt to persuade others to do the same. Five weeks later, President Huegli responded to the Bornholt communication in a letter stating in detail the background and reasons for the law faculty's action, and noting sadly, "I regret your announced intention to withhold financial support."

Similar events were occurring within American law schools near the end of May. In a letter to deans of all ABA approved schools, the chairman of the Association wrote on May 25th: "What degree of unrest and disruption is present and what modifications in scheduled classes and examinations and in the evaluative process this requires can best be judged by the faculty and dean concerned as those who are closest to the problem."

Indiana's Attorney General Theodore Sendak, also a VUSL alumnus, upon learning of the VUSL faculty's action in excusing the nineteen third-year students from taking their May 1970 final examinations and nonetheless graduating and certifying them as ready to take the bar examination, called a press conference on May 27th in Indianapolis, and warned officials at VU, his alma mater, that suspension of the [law] classes may jeopardize the seniors' eligibility to take the bar exams. In response, Perry W. Cross of the State Board of Bar Examiners, a Muncie, Indiana attorney, initially indicated that there was no problem from his point of view, but that of course, it would be up to the Indiana Supreme Court to decide if there was an issue.

There was an issue. In a June 2nd letter, Cross notified Dean Meyer that the Supreme Court had requested from the State Bar numerous documents in reference to the actions that had occurred at the Valparaiso University School of Law, including the student's petition, the report of

1289 Letter from Robert W. Bornholt to VU Bd. of Trs. (May 27, 1970).
1291 Id.
1292 Clash on Valpo Class Suspensions, GARY POST TRIB. (Ind.), May 27, 1970, at 1.
the faculty suspension action, etc. The next day, June 3rd, Cross orally informed Meyer that the Supreme Court had set a hearing for June 11th with the Bar Examiners. In response, Meyer wrote Indiana Supreme Court Chief Justice Donald H. Hunter, requesting that Dean Meyer and University Counsel James Chester (also a University trustee) be permitted to appear and speak at the hearing. Meyer assisted Chester in preparing for the hearing, outlining the various arguments they hoped to be able to make involving Indiana Supreme Court Rules 3-12, dealing with character and fitness, and 3-13B, pertaining to the requirement that applicants be graduated of ABA approved schools and the requirements for approval.

On the day of the hearing, the VUSL representatives were allowed to participate. Only four of the Court’s five justices were present, Justice Norman F. Arterburn being absent. The four justices after hearing the arguments voted. The decision was a tie, two to permit the students to sit for the bar and two holding they were ineligible. Justices Amos Jackson and Roger DeBrueler sided with the University while Chief Justice Hunter and Justice Givan voted to deny eligibility. Justice Richard Givan from the bench said the failure was that of Dean Alfred Meyer, not the students. “You needed to hold out,” he told the dean, “You don’t stop in the middle of a trial to argue capital punishment.” For many the analogy was not clear. In contrast, Justice Jackson suggested that the court should not interfere with the affairs of the University. If it did, he said, “there would be no limit on how far judges might go.” The tie vote meant that no decision had yet been made by the court.

But within a week, the court announced a unanimous decision, allowing the VUSL students to sit for the bar examination. Chief Justice Hunter, however, admonished the faculty for its “failure” to insist upon strict compliance with predetermined and prescribed rules regarding

1293 Letter from Perry W. Cross, President, Indiana State Bd. of Bar Examiners, to Alfred W. Meyer, Dean, VUSL (June 2, 1970).
1294 Letter from Alfred W. Meyer, Dean, VUSL, to the Honorable Donald H. Hunter, Chief Justice, Supreme Court of Indiana (June 4, 1970).
1295 Points and Arguments for Indiana Supreme Court Hearing on Bar Exam Eligibility (n.d.) (unpublished manuscript).
1297 Id.
1298 Id. at 2.
class attendance and the requirement of final written examinations. Chief Justice Hunter noted that the VUSL students should not be faulted for the failure of the dean and faculty of the School of Law.

Relieved and grateful, Dean Meyer, back at Valparaiso, informed the recent law graduates that they could take the July Indiana bar examination, but pointedly added: "You men better pass that exam." They did, eighteen out of eighteen, on the first attempt no less, and were subsequently admitted to the Bar of the State of Indiana. Board President Cross wrote a letter of congratulations to Dean Meyer over VU's 100 percent bar passage rate.

As noted earlier, not so fortunate were the students who sought to be excused from their exams by certain prestigious eastern law schools. The New York Court of Appeals in an expedited hearing declared in May 1970 that students from New York University Law School could not be allowed to quit school early and not take their final examinations. If they were allowed to do so, they would not be eligible at any time to take the New York State Bar examination unless and until they went back to law school and passed the required examinations they had been allowed to skip. The Court of Appeals decision, of course, also applied to students from all the country's law schools who might not take required finals, and who might apply to take the bar in New York. Fortunately, none of the "Valpo-Eighteen" intended to practice in New York.

R. Beginning of the VUSL Law Clinic

Law school is tense enough in tranquil times, but, as the above discussion indicates, the 1960s and early 1970s were especially hectic. Then again, those also were the years in which the School of Law was able to take important steps forward, including the commencement of

1300 Id.
1301 Letter from Perry W. Cross, President, Indiana State Bd. of Bar Examiners, to Alfred W. Meyer, Dean, VUSL (Sept. 28, 1970) (written on Mr. Cross's business stationery, not on the official stationery of the State Board of Bar Examiners).
1302 In re Admission of Attorneys, supra note 1284; see also STEVENS, supra note 90, at 288 n.96 ("A sharp reminder of the ultimate control of law schools by the profession came in the spring of 1970 when the New York Court of Appeals made it clear to New York University Law School [and others] that if it curtailed its spring term to protest the invasion of Cambodia and the killings of Kent State, the students at that school [or others] would not be qualified to take the New York bar exams.").
the Valparaiso University Law Review, previously discussed. Another important step having real as well as symbolic importance was the beginning of the legal aid and the law clinics at the School of Law, which were at levels of sophistication and competency ahead of the times.

In the 1950s, clinical legal education was not a part of most law schools' curriculums. Only five out of 150 schools offered a practice or clinical course for credit. Then, in the late 1960s, the clinical movement in America's law schools began in earnest, primarily the result of the establishment in 1968 of the Council on Legal Education for Professional Responsibility.

The School of Law got a head start, however, setting up clinical programs on its own without outside financial assistance. First was a clinical legal-aid program assisting the representation of federal criminal defendants in the 1965-1966 academic year. The School of Law entered into a joint program with the United States District Court for the Northern District of Indiana, Hammond division. The School of Law provided students who would assist area attorneys assigned as pro bono counsel for indigent criminal defendants in federal criminal prosecutions. Federal Judge George Beamer of the Hammond division worked with VUSL Professor Richard Stevenson to put the details of the program into operation. Upon receiving from Judge Beamer the names of recently-appointed counsel for indigent criminal defendants, Professor Stevenson would phone the attorneys and offer a VUSL student to assist in research, interviewing of witnesses, investigation of facts, etc.

In 1959, The Ford Foundation funded a new agency called the Council on Legal Clinics, which supported field work by law students engaging in clinical activities while in school. In 1966, The Ford Foundation funded a successor agency, enabling the National Legal Aid and Defender Association together with the ABA and the AALS jointly to establish a Council on Education in Professional Responsibility. The

1303 See supra notes 1218-58 and accompanying text.
1304 See STEVENS, supra note 90, at 215-16.
1306 Report from Louis F. Bartelt, Jr., Dean, VUSL, to the VU Bd. of Dirs. 3 (July 18, 1966).
1307 Annual Report of the Dean of the School of Law for the Academic Year 1966-1967 from Louis F. Bartelt, Jr., to O.P. Kretzmann, President, VU 21 (June 30, 1967).
1308 Id.
Council was charged with the mission of helping law schools establish clinical training as part of the schools' curricula. The Council was succeeded in 1968 by a newly-created independent Council on Legal Education for Professional Responsibility ("CLEPR"). The Ford Foundation provided the funding, an initial five-year $6 million grant, renewable for a second five-year period. CLEPR was established to provide financial and consulting assistance to law schools anxious to set up clinical courses for academic credit at their schools. By schools doing so, the agency hoped to bring law students and faculty directly into the "life of the law in real roles, ... [and to] reinforce and broaden the existing social concerns of certain law students and professors through direct confrontation with injustice and misery." The CLEPR announcement also pointed out that the students' involvement in clinics would "yield direct benefits to society."

Within weeks of receipt of the CLEPR announcement, Dean Bartelt wrote the Council inquiring how the School of Law might apply so as to participate in the legal-clinic-assistance program. Five weeks later, the School of Law together with the Gary Legal Aid Society submitted an application seeking a $39,000 grant for a three-year program to commence with the 1969-1970 academic year. Attached were letters supporting VUSL's application from Gary, Indiana Mayor Richard Gordon Hatcher, an alumnus of the School of Law, and another from Julian B. Allen, President of the Legal Aid Society of Gary, Inc. Mayor Hatcher wrote CLEPR: "Gary is in dire need of the thoughtful program Valparaiso Law School has proposed."

On March 19, 1969, the School of Law was notified that its application had been approved, although the stipend was reduced from the requested $39,000 to $30,000 for the three-year program. The School of Law had to contribute in-kind support services as did the Gary Legal Aid Society. Dean Bartelt assigned Professor Richard Stevenson with the task of putting together the final details of the program and

1309 ANNOUNCEMENT OF COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC., Sept. 1968.
1310 Id.
1311 Letter from Louis F. Bartelt, Jr., Dean, VUSL, to Council on Legal Educ. for Professional Responsibility, Inc. (Nov. 8, 1968).
1313 Report from Richard Stevenson, Professor of Law, VUSL, to the VUSL Faculty 1 (May 6, 1969).
commencing its implementation. One result was that a new course for credit was established at the School of Law: "Clinical Program in Legal Problems of the Poor."

Gary Legal Aid Staff Attorney Sy Moskowitz, from New York City, a former VISTA lawyer following his graduation from Harvard Law School, was hired in the fall of 1969 as an adjunct professor at VUSL to implement along with Professor Stevenson the CLEPR-funded program at the School of Law. Professor Moskowitz noted that law students in addition to providing legal assistance on campus in the basement of Wesemann Hall also were placed at five different locations outside the School—the East Chicago and Gary legal aid offices, the Gary Buildings Department, the Gary Model Cities agency, and the Norman M. Beatty Memorial (mental) Hospital. Each student was expected to assist the attorneys and administrators of these agencies for an average of nine hours per week, in addition to participating in the classes of the newly-created course of Legal Problems of the Poor.

The cooperative project between the School of Law and Beatty Hospital was begun in late 1970. Five students were placed at the mental facility, which housed at the time over 300 male patients in the hospital's special care section. Third-year law student Peter Jeffer headed the student team. The students spent most of their time, Jeffer told The Vidette Messenger, explaining to inmates the legal procedures and implications of their commitments under Indiana law.

CLEPR required annual reports to be submitted to its New York headquarters. William Pincus, President of the Council, in 1970 wrote Dean Alfred Meyer, congratulating Professors Moskowitz and Stevenson for the School of Law's most recently submitted report. "The content of [their] report is most heartening. The quality of the report deserves special commendation."

A year later, however, after an on-site evaluation by CLEPR representative Gary Laser, the VUSL program was criticized for being under-staffed, especially in regard to supervising attorneys as required

---

1314 Id.
1315 Seymour Moskowitz, Grant Enables VU Law School to Offer Legal Education Program, THE TORCH (VU), Nov. 11, 1969, at 3.
1316 Id.
by the Indiana Supreme Court "Student Practice Rule."\textsuperscript{1318} Noting that
the director, Professor Moskowitz, "was overloaded with
responsibilities, which limits even his available time for supervision," the
Laser report suggested the greater problem was that many licensed
attorneys in the community were reluctant to supervise students and in
many instances, refused to do so.\textsuperscript{1319} Subsequent correspondence
between Dean Meyer and CLEPR representative Peter Swords reveals
that the problems had been resolved by the summer of 1971.\textsuperscript{1320}

Although not directly involving the law clinic, a Valparaiso
University law student, Peter Ault from Saginaw, Michigan, contributed
in a major way to the health and welfare of the local community about
the same time the initial CLEPR grant was awarded to the School of Law.
The student had himself been at work seeking a grant which would fund
the construction of a mental health center for Porter and Starke Counties,
Indiana. At the time, 1969, the counties had a combined population of
80,000 residents, but had no in-patient or continuity-of-care mental
health services. VUSL second-year law student Ault was hired by a new
public service corporation, Porter-Starke Services, Inc., to research the
obtaining of federal government and Indiana grants to permit the
corporation to build a community "Mental Health Center." After Ault
spent months of researching and working with the Corporation's
officials and assisting in putting together the grant applications, the
Indiana Department of Health announced that Porter-Starke Services,
Inc., was being awarded an $898,125 combined federal and state grant to
build the facility. After the announcement of the grant, the agency
through its president, Gale C. Corley, stated that Ault deserved "much of
the credit for the nearly $1 million grant."\textsuperscript{1321}

With legal services for the poor now established in Lake and Porter
Counties, and now mental health services made available for residents of
Porter and Starke Counties, public services via the School of Law had
arrived. In 1972, Ivan E. Bodensteiner, who had served as a legal
services lawyer in Fort Wayne, Indiana, and was a Notre Dame Law

\textsuperscript{1318} Gary Laser, Evaluation of Valparaisio Law School's Clinical Program, Grant No. 69-14,
\textsuperscript{1319} \textit{Id.} at 3.
\textsuperscript{1320} See Letter from Alfred W. Meyer, Dean, VUSL, to Peter Swords (July 14, 1971); Letter
from Peter Swords to Alfred W. Meyer, Dean, VUSL (July 19, 1971).
\textsuperscript{1321} Press Release, VU, VU Law Student Instrumental in Obtaining $900,000 grant for
Mental Health Center in Valparaiso (Jan. 14, 1970); see also VAL. U. FACULTY NEWSL. (Jan.
School graduate, joined the VUSL faculty and became Co-Director with Professor Moskowitz of VUSL's Law Clinic Programs. In 1974, Professors Bodensteiner and Moskowitz helped establish a "Federal Courts Clinic," an outgrowth of the Federal indigent-criminal-defendant legal aid service the School of Law started in 1965-1966 with the Federal District Court in Hammond. The clinic combined a course in Federal Practice with a legal assistance program involving third-year law students. A 1975 enrollment report by Dean Meyer shows that in the 1974-1975 academic year thirty-three students had enrolled in the Legal Clinic in the fall semester and twenty-eight in the spring, while thirty had enrolled in the Federal Practice course. Fifty-three enrolled in Introduction to Legal Aid, a second-year course that was a prerequisite for taking clinical courses as a third-year student.

Under the joint leadership of Moskowitz and Bodensteiner, the VUSL law clinics aggressively were expanded during the 1970s. Initially, the program accepted eight to ten students per year, but within a few years it was taking in twenty-five to thirty students per semester. In 1975, Hugo Martz, an Indiana University Law School graduate, joined the faculty and took over directorship of the Clinic. Professor Martz brought in two major new organizations: Project Justice & Equality ("PJ&E"), a Gary-based public-interest law firm, and the Indiana Center on Law and Poverty. In 1980, David Vandercoy left a position at the National Juvenile Law Center to assume directorship of the VUSL Legal Clinic. Under Vandercoy's direction, the Clinic's caseload shifted from a preponderance of federal litigation to a greater number of Indiana civil and criminal cases. In 1994, the VUSL Legal Clinic handled 574 cases.

In 1993, Professor Marcia Geinapp became head of the Clinic. She had been working with the VUSL Clinic since 1984. In 1995, the other new VUSL Clinic staff attorneys were Barbara Schmidt, who handles...
domestic violence cases and more recently, the mediation clinics, and Dave Welter, who was responsible for civil and criminal matters.\footnote{1330}

The School of Law continued to bring in substantial grant money to help underwrite the cost of the clinical program. Yet, it also started some other programs without any additional outside financial assistance to provide services for the poor. One example is the "Volunteer Income Tax Assistance" ("VITA") program started in 1981, which provides income tax preparation and filing help to "lower income, elderly, handicapped, and non-English speaking taxpayers who are unable to prepare their own returns or to pay for professional assistance."\footnote{1331}

When the initial clinics were established in 1965, Dean Bartelt wrote President O.P. Kretzmann:

These programs afford an excellent opportunity for our students to see and participate in the practical application of the theories they learn in law school. Moreover, it enables the students and, by indirection, the law school to be of service to the community, particularly that part which is socially and economically deprived. . . . I think that we have an obligation to serve the community wherever our time and talents can be used profitably.\footnote{1332}

The performance of the community-service obligation has continued ever since. Looking back a decade, the initial School of Law Clinic Director, Seymour Moskowitz, in 1975 observed:

The dreams of the Clinic's founders are carried on by today's staff and students as they continue Valpo's time-honored tradition of providing innovative outstanding educational opportunities integrated with a commitment to the community at large. This little law school in Indiana, day in and day out, helps change the world's axis for each client who walks through the Clinic's doors looking for a lawyer.\footnote{1333}
S. Alfred W. Meyer Becomes Dean

In April 1969, Lou Bartelt asked President Kretzmann if he might resign as dean and return to full-time law teaching. Reluctantly, O.P. agreed. Subsequently, Alfred W. Meyer, who had been on the VUSL faculty for six years following several years at the Indiana University-Bloomington School of Law, was appointed Bartelt's successor, assuming the deanship on August 1, 1969. Immediately prior to joining the VUSL faculty, Meyer was a Ford Fellow at Columbia University where he worked with Professor Walter Gellhorn. After Louis Bartelt resigned from the faculty in 1985, the University filled the Seeger's Chair by appointing Alfred Meyer to the prestigious position in 1987.1334

One of Meyer's (and many others') heroes, former President and Chancellor of the University—Dr. O.P. Kretzmann—died in September 1975, during Meyer's deanship. Dean Meyer wrote of President Kretzmann: “Without him, Valpo would have been doomed to a parochial existence protecting its students from the outside world. With him, Valpo was given the impetus to be a cutting edge Christian concern.”1335

1. Retroactive Conferral of J.D. Degree

Many happier events occurred during the eight years that Al Meyer served as dean. As part of Law Day celebration in May 1970, VUSL retroactively conferred the J.D., or jurist doctor, degree on LL.B. graduates of the School of Law.1336 Four years earlier the University had begun to confer the J.D. degree rather than the LL.B. on graduating law students, beginning with the 1966 commencement.1337 Close to 400 alumni had applied for the retroactive J.D. degree. Among them were the Honorable Charles R. Scott, U.S. District Judge for the Middle District of Florida, law class of 1924, who had been appointed in 1967 to the Federal Bench by President Lyndon Johnson.

Also among the 300 alumni who returned was Willard B. Van Horne, class of 1901, the oldest living alumnus of the School of Law. Astoundingly, he was still practicing law from his office in East Chicago,
Indiana, which he had been doing for sixty-eight continuous years.\textsuperscript{1338} Admitted to the U.S. Supreme Court in 1912, Van Horne became a prominent lawyer in Lake County, Indiana. He was elected three times to the Indiana House of Representatives. At the Law Day dinner for the returning alumni, Van Horne was bestowed the honor of “Dean of the Valparaiso University Law Alumni.”\textsuperscript{1339}

Other returning alumni included Gary Mayor Ritchard Hatcher (1959), Valparaso Mayor Bryce Billings (1952), Indiana Attorney General Theodore Sendak (1958), Chicago Circuit Court Judge Cecil Smith (1915), Indiana Circuit Court Judges Russell Nixon (1931), Alfred Pivarnik (1951), and Louis Bloom (1960); Indiana Appellate Court Judges Thomas Faulconer (1948) and Dewey Kelley (1922), Indiana State Senators James Gardner (1951) and Alan Bloom (1956), former Federal Power Commission Member John Scott (1916), and Alaskan Director of Insurance Wilfred Fritz (1941). Guests included Chief Judge Robert Grant and Judge George Beamer of the Norther Indiana Federal Court and Chief Judge Luther M. Swygert of the U.S. Court of Appeals for the Seventh Circuit.

At the banquet on May 2, 1970, Dean of the Columbia University Journalism School, Ellie Able, gave the address, interrupted by news that protesting anti-war Columbia students had just occupied that university’s library. Able shortened his address, announcing that he had to immediately return to New York City—a reminder of the solemn and divisive period of American history.

2. Expansion of Wesemann Hall

The enrollment in the School of Law shot upward from 1970 onward. In 1969-1970, 151 students enrolled. The following year, the number jumped to 231, a fifty percent increase. By 1974, the enrollment reached 352 students. A combination of reasons explains the rapid growth. For one thing, the interest among college students in attending law school after graduation was on the rise. Between 1969 and 1972, the number of students taking the LSAT across the country doubled from 60,000 to 120,000.\textsuperscript{1340} For another, the women’s movement was beginning to have an effect as women in greater numbers from around 1970 onward began

\textsuperscript{1340} STEVENS, supra note 90, at 235.
to enter law schools, including Valparaiso's. A third is that the School of Law under Dean Meyer's administration actively recruited law school students more aggressively than it had previously.1341

The down side of the rapid expansion was that the School of Law had quickly outgrown its facilities. Although dedicated in 1963, Wesemann Hall was not adequate for a student-body of 300-plus students and the larger faculty and staff necessary to accommodate them. Additional faculty offices, seminar and class rooms, and most of all, library space, both for students to study and for shelving the constantly expanding volume count were all needed.

In the early 1970s, the University announced a "Forward to the Eighties" campaign to raise funds for needed projects. VU alumnus Richard W. Duesenberg (A.B. 1950, J.D. 1953) became Chairman of the School of Law segment of the campaign. The School of Law's goal was to raise funds to pay for a much-needed addition to Wesemann Hall at a projected cost of $500,000, which was close to what the original building had cost ten years earlier.1342 Among those contributing to the expansion was Lutheran Brotherhood, the Lutheran fraternal insurance society headquartered in Minneapolis, which donated $25,000 through its general counsel, Russell Matthias.1343

In the fall of 1975, construction on the 7,236 square foot, two-level addition began.1344 Designed to accommodate a law school of 300 students, Wesemann Hall with its new addition when it opened a year later was arguably already too small for the 315 then enrolled students. Within three years, the need for additional space would precipitate a crisis for the School of Law and the University after the ABA in effect mandated that an entirely new structure be built.1345 The major gift for the 1976 addition—$500,000—came from the Clara and Spencer Werner Foundation. It resulted in the Wesemann Hall addition being named after the donors.1346

1341 BAEPLER, supra note 4, at 299. "A new assistant dean, alumnus Michael Swygert brought incredible vitality to the recruitment and retention of students . . . ." Id.
1344 Construction Begun for Two Level Law Addition, VAL. U. ALUMNI NEWS, Fall 1975.
1345 See infra notes 1492 et seq. and accompanying text.
The dedication took place in October 1976 during the University's homecoming celebrations. Speaking at a special dedication convocation was retired Associate Justice of the United States Supreme Court, Tom C. Clark, who had served on the nation's highest court from 1949 until 1967. He stepped down when his son, Ramsey Clark, was appointed United States Attorney General by President Lyndon Johnson, in order, Justice Clark said, to avoid any possible "tarnish to the Court" when his son would make arguments as U.S. Attorney General to the Court. In his address he argued that law schools should do away with the third year of formal classroom education, and "provide clinical experience in various sectors of the legal profession.

3. African-Americans Come to the School of Law

a. Hilbert L. Bradley

As noted previously, Dean John Morland together with President O.P. Kretzmann made the first efforts in the 1940s to recruit African-American students to the School of Law. Hilbert L. Bradley, following three years of undergraduate study at Indiana University, sought admission to law school. President O.P. Kretzmann and Dean John Morland met with him and were impressed not only by his academic record but also by his desire to earn a law degree. Upon O.P.'s recommendation, a full-tuition Presidential Scholarship was offered. Bradley accepted VUSL's offer and graduated in 1950 with his LL.B. degree, thereby becoming the School of Law's first African-American alumnus. Although several other African-Americans graduated from the School of Law in the 1950s—including Richard Gordon Hatcher, VUSL Class of 1959—Bradley clearly was "the bridge" for blacks to come to the law school at Valparaiso.

For over fifty years since receiving his law degree, Hilbert Bradley has worked persistently in the cause of integrating African-Americans into both public and private work forces. He has been a leader in Indiana in making it possible for larger numbers of minorities and women to become judges. Among the numerous awards he has received, one is

---

1348 Id.
1349 See infra notes 1490-1528 and accompanying text.
1350 Students Honor Alumnus Hilbert Bradley as the "Bridge Builder," VALPO LAW. (VUSL), Summer 2001, at 3 [hereinafter Students Honor Bradley].
the William Ming Award for his work in furthering civil rights of minorities, bestowed upon him by the National Association for the Advancement of Colored People ("NAACP"). In speaking at the School of Law where he was being honored by law students for his many accomplishments on behalf of minorities, Bradley in 1999 commented on his career and his memories of the Valparaiso University School of Law:

The fact I was the first Afro-American to graduate from Valpo Law brought back memories of University President O.P. Kretzmann and Law School Dean John Morland who were instrumental in my success. In fact, when it came time to prepare for exams, the dean and his wife invited me to stay at their house for a week so he could tutor me. It should be noted that they also had a vision toward diversity.

One of Bradley's old friends at this occasion was a second-year law student, Trent McCain, who had arranged for the students' honoring the African-American VUSL graduate. McCain was president of the Black American Law Students Association ("BALSA") at Valparaiso. When McCain was a middle-school student in Gary, Hilbert Bradley came to his school to talk about students considering a career in law. McCain never forgot the message and years later he would follow in Bradley's footsteps. An article in the VU Alumni Magazine tells how McCain found a poem by Will Allen Dromgoole, which described an old man besieged by obstacles. Instead of merely overcoming them for himself, the man builds a bridge across the obstacles for young people who might follow him to cross. The poem describes, McCain wrote, "how I feel about Attorney Bradley to a tee." McCain aptly described Bradley, his mentor, as a bridge builder.

b. Richard Gordon Hatcher

Another bridge builder, Richard Gordon Hatcher, only eight years after earning his law degree from VUSL was elected mayor of Gary, Indiana, the first African-American to be elected mayor of a major American city. He served as Gary's Mayor for an unprecedented five terms from 1967 through 1987. During his twenty years in office, Mayor

---

1352 Students Honor Bradley, supra note 1350, at 3.
1353 Id.
Hatcher became a national and international spokesperson for African-Americans. He has been active at the national level of the Democratic Party, serving as co-chairman of the Democratic National Convention in 1984 and, that same year, as chairman of the Rev. Jesse Jackson-for-President Campaign.1354

Mayor Hatcher has consistently promoted economic opportunities and development for the country’s Black citizens. He was the architect and convener of the National Summit Conference on Black Economic Development and Survival.1355 In 1990 he published one of his national addresses titled, The Minority Economic Community in an issue of the Valparaiso University Law Review. He also wrote an article in the Bulletin, a publication of the Kennedy School at Harvard University, titled, Winds of Change: South African-African American Cooperation.1356 In 1994, then VUSL Professor Hatcher was invited to the White House to honor President Nelson Mandela of South Africa. Hatcher previously had been chairman of “TransAfrica,” a lobbying group which had led efforts to free Mandela after his twenty-seven years of incarceration in South Africa.1357 Hatcher has received numerous honorary degrees from various institutions including the Doctor of Laws Degree from VUSL in 1970.

Mayor Hatcher’s political career began in 1967 when he defeated incumbent Gary Mayor Martin Katz in the May Democratic primary.1358 He went on to win easily the general mayoral election in the fall against Republican Joseph Radigan. For the first time in the country’s history, an African-American through the democratic process had become the leader of a major American city and, as such, would set the stage for scores of Black national leaders who followed.

After his mayorship, Richard Hatcher entered academia while still actively working in support of economic development for African-Americans. He was named a Fellow at the Harvard University John F. Kennedy School of Government where he taught a course titled, “The

1355 Id.
1356 Faculty and Staff Activities: Professor Richard Hatcher, THE AMICUS (VUSL), Winter 1995, at 10.
1357 Id.
Politics of America: Jackson Campaign and Beyond." He also served as an adjunct professor of minority studies at Indiana University. In 1988 Hatcher was appointed to the Harold Washington Professor of Political Science Chair at Roosevelt University. Then, in 1990 Hatcher was named the VUSL's "Distinguished Visitor-in-Residence." He joined VUSL as a full professor of law in the fall of 1992, instructing courses in local government, employment discrimination, and constitutional law, including one titled "Race Relations and the Constitution." At the same time he continued as senior partner in his law firm Hatcher, Coaxum, Hewitt, Grimes & Manning and as president of the consulting firm of R. Gordon Hatcher & Associates.

Despite the success stories of African-American VUSL graduates Hilbert Bradley and Richard Gordon Hatcher, the numbers of African-Americans entering the School of Law remained disappointingly low throughout the 1950s and 1960s. Many factors undoubtedly contributed to the relative paucity of Black applicants, but high on the list were the School of Law's increasingly high tuition and the relative scarcity of financial aid in amounts to fund full-tuition scholarships to deserving minority applicants. The University, nonetheless was making greater efforts to recruit minority students not only in the School of Law, but in all its departments.

c. Revs. Andrew Schulze, Karl Lutze, and the Lutheran Human Relations Association

After Louis F. Bartelt, Jr., became Dean of the School of Law in 1965, efforts to recruit prospective African-American law students intensified, not only at the School of Law, but also on the University level. President Kretzmann in 1967 wrote a letter to the academic deans of Valparaiso University announcing that Rev. Andrew Schulze of the Theology Department was being delegated responsibility to seek "potential faculty members and students of the minority races . . . for the good of our total program." The purpose of seeking more minority students, O.P. wrote, was "to help make the University more cosmopolitan, in keeping

1360 Harold Washington was the late African-American Mayor of Chicago, Illinois.
1361 Hatcher Faculty Profile, supra note 1359, at 12.
1362 Id.
1363 Letter from O.P. Kretzmann, President, VU, to the Academic Deans of VU (Sept. 27, 1967).
with the times in which we are living.” The word “minority” used in the context of O.P.’s letter was probably understood primarily, but certainly not exclusively, to mean “Black” students and faculty.

It was understandable that O.P. would delegate the primary responsibility for overseeing University-wide efforts to increase minority students and faculty to Rev. Schulze. Historian Baepler points out that in the 1940s, Andrew Schulze was a pastor of several “Negro” Lutheran congregations within the largely-segregated Lutheran Church Missouri Synod. Schulze, who Baepler describes as “a prophetic white pastor,” had instituted Lutheran race relations institutes in Chicago and St. Louis.

In recognition of his contributions to race relations and sensitivity about racism, President Kretzmann invited Schulze and his supporters to VU in the summer of 1950 for the first “Annual Institute on Human Relations.” A second annual Institute was held on campus in 1951. Then, in 1953 the Institute’s participants formed the Lutheran Human Relations Association of America (“LHRAA”) as “a broad civil rights group with a particular mission to the Lutheran community.” The group included members of the Lutheran Church of America (“LCA”) as well as the Lutheran Church Missouri Synod. Headquartered on the VU campus, the LHRAA had a national mission.

Rev. Schulze was elected the Executive Secretary of the LHRAA, and President Kretzmann appointed him to serve concurrently as a half-time instructor in the Department of Religion. Baepler describes the impact of the LHRAA on the VU campus as follows:

Although the numbers of African-American students slowly grew, it was not until the early 1960s that many began publicly addressing the issues of prejudice and discrimination that were evident all around them, including at the University.... While the African-American presence on campus was small, the LHRAA and the faculty and staff who strongly supported it created an awareness of civil rights issues on the campus and beyond. The organization’s presence at Valparaiso

---

1364 *Id.*
1365 BAEPLER, supra note 4, at 217.
1366 *Id.*
1367 *Id.* at 218.
helped define the University and kept the nation's central social and moral problem on the agenda when much of the church and public wanted to forget it.\footnote{id.}

In 1959 Rev. Karl Lutze became Associate Director of the LHRAA and a part-time professor in the VU Theology Department.\footnote{id. at 261.} Lutze and his wife Esther along with Schulze urged the University to become more involved with the social problems of race and poverty. These socially concerned members of the Lutheran clergy practiced what they preached.

At one point Rev. Schulze's political activism landed him in jail in Albany, Georgia. The Rev. Martin Luther King, Jr., led a group, which included Schulze, in the fall of 1962 protesting the denial of Black voting rights in Albany. They picketed the county courthouse and, after refusing an order to disperse, were arrested and put in jail. Historian Baepler describes how O.P. sent money to Georgia to bail Schulze out of his confinement.\footnote{id. at 262.} At the same time, O.P. sent a telegram to President Kennedy protesting the lack of civil rights in Albany and the town's treatment of the peaceful protesters.

The following year President John F. Kennedy invited ninety religious leaders from across America to the White House to discuss the nation's race problems. Included were President Kretzmann and Rev. Schulze.\footnote{id. at 263.} A few months later, Rev. Lutze attended at the foot of the Lincoln Monument in Washington, D.C., the momentous "I Have A Dream" speech of the Rev. Martin Luther King, Jr.\footnote{id.}

A group of predominantly Lutheran men and women from Valparaiso, Indiana, were not only seeking to bring more minorities to their town and university, they also were engaged in national protests and events in the furtherance of civil rights and in recognition of the fundamental human dignity of each and every person, regardless of race, gender, age, or national origin.

\footnotesize{\textsuperscript{1368} Id.  \\
\textsuperscript{1369} Id. at 261.  \\
\textsuperscript{1370} Id. at 262.  \\
\textsuperscript{1371} Id. at 263.  \\
\textsuperscript{1372} Id.}

http://scholar.valpo.edu/vulr/vol38/iss3/1
d. Increase in African-Americans

In the early 1970s during Alfred Meyer’s deanship, the law school faculty decided to intensify the School of Law’s efforts to recruit a larger number of minority, especially African-American, students. Following hours of faculty discussion it was agreed that the School of Law should seek to obtain at least twenty additional African-American law students within the shortest possible time.\(^{1373}\) Why the number was set at twenty—a recruitment stratagem that today would clearly violate the U.S. Supreme Court’s decisions on affirmative action\(^{1374}\)—is unclear. Apparently the number was chosen in the belief that, first, it would make it clear that the School of Law was committed beyond a token way to more fully integrate the law school, and, second, because it was thought that twenty might be doable. Not surprisingly, there were individuals and groups who opposed this new aggressive strategy. But surprisingly to the faculty, one organization who opposed the School of Law’s plan was a student group that the faculty had thought would be a strong supporter—the University’s Black Caucus.

In a two-page “position paper,” the VU Black Caucus protested the faculty’s recommendation that twenty black students be recruited and admitted to the law school, viewing the number as a maximum rather than as an arbitrary high number to spur greater efforts to diversify the School of Law.\(^{1375}\) The Black Caucus position paper acknowledged that the School of Law minority recruitment proposal “does not call for a maximum quota of blacks, per se, [but] in reality that is what will occur.”\(^{1376}\)

Certainly the law faculty had no intention of instituting a quota program, since the proponents of the program, which included Professors Bartelt, Berner, Bodenstenier, Gromley, Hiller, Meyer, Morrisson, Moskowitz, Stevenson, and Wechsler, all sincerely desired to open the School of Law’s doors as wide as possible to African-American students. The Black Caucus, however, construed the “goal” of twenty as a “quota,” which was not an unreasonable construction given that many institutions were then directly or indirectly imposing quotas on the

\(^{1373}\) Telephone Interview with Alfred W. Meyer, Former Dean, VUSL (July 10, 2003).


\(^{1375}\) Position Paper from the VU Black Caucus, with copies to BALSA; Richard Hatcher, Mayor, Gary, Indiana; Albert G. Huegli, President, VU; Alfred W. Meyer, Dean, VUSL; James Neal, Professor, VU; and The Torch (n.d.).

\(^{1376}\) Id.
number of members of various minority groups they would admit, not only on African-Americans, but also on Jews, Hispanics, and Orientals.

Besides their objection to what they believed was a quota system, the VU Black Caucus also protested the use of the LSAT as a criterion for adjudging admission of Black students to the School of Law, suggesting that the only "valid criterion for considering black applicants is a college degree or some equivalent means of evaluation." Finally, the Caucus pointed out that to "get an adequate number of Black students to Valparaiso Law School, massive recruitment is necessary." The School of Law's BALSA was willing to undertake this effort, but it needed greater financial resources to be provided to it by the School of Law than BALSA was currently receiving.

Greater financial resources were not forthcoming, however, either to the School of Law or to BALSA. Nonetheless, the faculty, admissions staff, and BALSA together made an all-out-effort to entice and recruit more African-American students to the School of Law in the early 1970s. Their efforts succeeded. By the mid-1970s, the number of African-American law students in the law school student body increased at one point to twenty-five students, on a percentage basis only eight to nine percent of the total enrollment, but a major increase nonetheless from the one to three percent level of the 1960s.

e. The CLEO Program

A few VUSL minority students received assistance from the Council on Legal Education Opportunity ("CLEO"), a head-start law school program designed for admitted applicants who had been educationally disadvantaged in their earlier schooling. The School of Law admitted several CLEO students over the years. During the 1976-1977 year, for example, two law students successfully went through the CLEO program before entering the VU School of Law.

In later years, the School of Law sent African-American law students to be teaching assistants ("TAs") in CLEO summer programs held in Region Four, the Midwest. In 1988, Barbara Bolling served as a TA for CLEO at Ohio State University for the six-week program. She helped

1377 Id.
1378 Id.
1379 See STEVENS, supra note 90, at 245.
disadvantaged students prepare for their first year of law school. Thirty-five students, four professors, and seven TA’s took part. Ms. Bolling described CLEO as “an excellent and intense program. . . . I hope the experience will make me a better lawyer.” The following summer, VUSL student Jocelyn Murphy was scheduled to serve as a TA at the CLEO program to be held at the University of Iowa.

The School of Law became the host school for the summer 1992 Midwest CLEO program. VUSL Professor Susan Stuart was the director of the Program, and VUSL Admissions Director Zahra Nwabara was co-director.

The Indiana CLEO program is modeled after the national program. It takes about thirty students who have applied to any of the state’s four law schools. The Indiana CLEO program was launched in 1997 by Indiana Supreme Court Chief Justice Randall T. Shepard “as an effort to increase the number of minority, low-income, or educationally disadvantaged students in Indiana’s law schools.”

Dean Meyer, the faculty, and the VUSL BALSA chapter deserve the credit for the rapid rise in the number of African-Americans enrolling in the School of Law during the period 1970 through 1980. Good cooperation and relations existed between BALSA and the School of Law administration of Dean Alfred Meyer. The VUSL BALSA chapter wrote a letter to Meyer in April 1975 expressing its appreciation to him, the law faculty, and the University administration for “the assistance we have received in attempting to make Valparaiso University School of Law responsive and sensitive to the needs of Black law students. The degree of success that our programs and ventures have attained have not been unaffected by your [Dean Meyer’s] concern and sincerity.”

The growth in the number of African-American law students at VUSL during the 1970s was not an isolated phenomenon. Rather, it

---

1382 Id. at 10.
1383 Id.
1384 Valpo Law to Host Indiana CLEO '02, VALPO LAW. (VUSL), Summer 2002, at 27.
1385 Id.
1386 Letter from Arlond N. Reid, President, BALSA, to Alfred Meyer, Dean, VUSL (Apr. 3, 1975).
reflected a nation-wide spike in minority enrollment during the decade. This was in part due to the intensified efforts at most of the nation’s law schools to recruit larger numbers of Black law students, and in part due to the efforts of BALSA nationally, regionally, and on a school-by-school basis to interest more Black college graduates in pursuing law. BALSA students often would work with law school administrations, as they did at Valparaiso, to assist and persuade admitted African-Americans to enroll in law school. According to law school historian Robert Stevens, the total number of minority students in America’s law schools went from under 3,000 in the 1969-1970 academic year to over 10,000 by 1978-1979. These figures include African-Americans, Hispanics, Native-Americans, and Oriental students. Of the 10,000 minority students in 1978-1979, 5,257 were African-Americans. The single year having the largest jump in minority law school enrollment in the country was 1973-1974, the same year as VUSL’s largest increase.

f. Justice Robert D. Rucker

One of the new African-American law students enrolling in the School of Law in the fall of 1973 was Robert Rucker of Gary, Indiana. Rucker would become one of thirty-six recipients throughout the United States of prestigious Martin Luther King, Jr. Fellowships for the study of law. Awarded to African-American veterans by the Woodrow Wilson National Fellowship Foundation, these full-tuition awards were highly prized.

Rucker was born the eldest of twelve children in a small rural Georgia town. His family soon moved to Chicago and then to Gary, Indiana. Having served as a Sergeant in the U.S. Army Infantry during the Vietnam War and winning a Bronze Star, Robert Rucker went to Indiana University Northwest and subsequently enrolled in the School of Law in part because it was a relatively short, fifteen mile commute from his Gary home. He loved law school, especially the opportunities “to intellectualize and debate.” In a 1995 interview

---

1387 STEVENS, supra note 90, at 235.
1388 Id. at 261 n.132.
1389 Id.
1392 Id. at 17.
1393 Id.
Rucker said, “Being at Valpo was a tremendous experience for me. Berner, Gromley, Meyer, Hiller—you know, they’re the best teachers. I am truly proud to be an alumnus of Valparaiso.” His VUSL fellowship covered his expenses for the second and third years in any law school of his choice. He chose to remain at the VUSL and graduated in 1977.

After several years in private practice in Lake County, Indiana, with the East Chicago firm W. Henry Walker & Associates, Rucker became a Lake County Prosecutor on the Career Criminal Strike Force where he spent six years. After Henry Walker died, Rucker purchased the firm with which he had previously been associated and took over the practice under his own name. In 1991, Indiana expanded the State’s Court of Appeals from four to five districts. Receiving a call from the Governor, Rucker was told that he was being appointed to one of the three positions on the newly created Fifth District Court of Appeals. He says he was “bowled over.” At that point, he became the first African-American to sit on the bench of the Indiana Court of Appeals; moreover, none had yet been appointed to the Indiana Supreme Court. He would change that too. In 1992, Judge Rucker gave the School of Law Commencement address.

On November 19, 1999, Judge Robert D. Rucker, VUSL class of 1977, became the 105th justice to sit on the bench of the Supreme Court of Indiana. At the time of his ascent to the State’s highest court, his former supervisor, one-time Lake County Prosecutor Jack Crawford, said of Justice Rucker that he “was probably the most unbiased, non-prejudiced person I’ve ever met.” Justice Rucker continues to sit on the Indiana Supreme Court today. He is a strong supporter of the School of Law, often sitting on the finals of its Moot Court competitions and assisting the Dean and BALSA in various ways.

The success of the minority recruitment effort continued in 1974 when thirty minority students were among the first-year class, consisting of nine Black students, three Latinos, and one Native American.
during the mid-1970s, a courageous African-American named Cecil Shaw enrolled in the School of Law. Shaw was twenty-eight years old when he was interviewed by a reporter for *The Torch* in 1975. The reporter, undergraduate VU student Deborah Ann Tate, said after the interview that she felt nothing less than encouragement and inspiration by the experience, noting that despite a major setback, Cecil Shaw was positive and aggressive in his desire to succeed in law school. It would not be easy, for Shaw was blind, having totally lost his sight by the age of fifteen. Second- and third-year law students would read to him. Nonetheless, he apparently dropped out of the School of Law.

g. The VUSL BALSA Chapter

The roots of the VUSL BALSA chapter began in the early 1970s. One result of the establishment of the Legal Clinic at the School of Law, the VUSL BALSA chapter in 1970 began a "Justice and Equality Program" to respond to landlord-tenant problems in Lake County, Indiana. The BALSA and VUSL Clinic co-sponsored program was noted with approval in the proceedings of the 1971 Midwestern Regional Conference of BALSA. Model Cities funding was obtained along with CLEPR legal aid funds to establish this segment of the VUSL Law Clinic program. The program, besides counseling individual low-income clients regarding problems with landlords, successfully pushed for the passage by the Gary City Council of legislation affecting the duties of absentee landlords and the rights of tenants in eviction proceedings. These new enactments benefitted primarily African-American and Hispanic low-income residents of the region.

On the 1976 Law Day, BALSA sponsored a program on legal careers and on civil rights in criminal litigation at the School of Law. African-American Judge James Kimbrough—a Lake County, Indiana circuit judge who later would become judge of the U.S. District Court for the Northern District of Indiana and an adjunct Professor of Law at the School of Law—talked on civil rights as pertaining to criminal trials. Next, Gary lawyer Jullian Allan spoke on the "real-world" aspects of

---


1401 *Id.*

1402 See *supra* text accompanying notes 1303-33.

1403 See *Community Involvement*, Midwestern Regional Conference of BALSA 2-3 (Nov. 13, 1971).

1404 *Id.*
practicing law. He discouraged the assembled law students from going into sole practice after graduating from law school, noting that recent graduates lacked experience, clients, and money, the three “pitfalls” of starting practice on one’s own.1405

Over the years, the VUSL BALSA chapter has brought noted speakers to the School of Law. In 1976, for example, former chief counsel of the Southern Christian Leadership Conference, Thomas N. Todd, spoke at VUSL on the topic “Black Law Students and Lawyers in the Changing ’70s.”1406 Todd, who had also been a law professor at the Northwestern University School of Law, was active in litigation involving the civil rights of minorities. He was a partner in the Chicago law firm Tucker, Watson, Butler and Todd. At VUSL, he spoke about the failure of America’s professional schools to obtain a “fair representation of minorities.”1407 Todd was described as a “superlative speaker,” one who captures his audience through his “inspiring oration.”1408

In 1975-1976 a VUSL African-American student, Debra Thomas, became an officer of the National Black American Law Students Association, Inc., serving as Vice Chairman of BALSA.1409 That same year, Dean Alfred Meyer wrote the regional BALSA headquarters a description of the VUSL BALSA chapter, noting that despite the School of Law’s location in a primarily rural community:

We now enjoy a law school community with a minority student population which has fluctuated between ten and fifteen percent of our total enrollment. The organization and enthusiasm of our BALSA chapter has made a large contribution to our relative success. . . . It has played a vital role in recruiting students, organizing special programs to meet the needs and concerns of its constituency, maintaining contact with minority alumni, and focusing attention on the ever-present need to draw

1406 Speaker on Blacks in Law, THE TORCH (VU), Nov. 9, 1976, at 6.
1407 Id.
1409 See Letter from Z. Mae Jimison, Vice Chairman, Midwest Region of BALSA, to Alfred W. Meyer, Dean, VUSL (Sept. 9, 1976).
more minority representatives into the legal profession.\textsuperscript{1410}

By 1980, BALSA had grown to a total of forty-two members as a result of the increase in the total number of African-American students at the School of Law.\textsuperscript{1411} In 1979, the United States Supreme Court decided \textit{Regents of the University of California v. Bakke},\textsuperscript{1412} a decision which proscribed a school’s using any type of quotas as regards minority admissions.\textsuperscript{1413} BALSA President Jerry Jarrett in responding to \textit{Bakke} stated that it was BALSA’s duty still to actively recruit Black students, noting that the lack of using quotas does not eliminate the need for minority enrollment.\textsuperscript{1414} The twin goals of BALSA, he pointed out, are recruitment and retention of minority students. As to the latter, improvements had recently taken place; Jarrett noted that of “last year’s twenty-four black students, all but one returned this fall.”\textsuperscript{1415}

\section*{h. 1983-1984 Minority Admission Plan}

During the 1983-1984 academic year when Dean Charles A. Ehren headed the School of Law, the faculty in consultation with the SBA, BALSA, and the Latino Law Student Association (“LLSA”), adopted a new and revised “Minority Admissions Program.”\textsuperscript{1416} During that year, the law school’s minority enrollment was twenty-three out of a total enrollment of 360, representing less than seven percent.\textsuperscript{1417} A newly expanded law school education program designed to introduce the field of law and its career opportunities to minority students throughout northwest Indiana was adopted and implemented. It was aimed not only at area college seniors, but at all college, junior college, high school, and middle-high school minority students. Representatives of the School of Law, including many alumni such as Hilbert Bradley, went to area schools and discussed minority opportunities in the legal profession. An informational School of Law pre-law brochure was developed with the assistance of BALSA and LLSA.

\begin{footnotes}
\item[1410] Letter from Alfred W. Meyer, Dean, VUSL, to Z. Mae Jimison, Vice Chairman, Midwest Region of BALSA (Sept. 14, 1976).
\item[1412] \textit{438} U.S. 265 (1978).
\item[1413] \textit{Id.} at 319-20
\item[1414] Conley, \textit{supra} note 1411, at 3.
\item[1415] \textit{Id.}
\item[1416] See \textit{Valparaiso University School of Law Minority Admissions Program 1-11 (n.d.).}
\item[1417] \textit{Id.} at 2.
\end{footnotes}
As to the recruitment phase, the School of Law planned to use pre-law advisors as well as members of BALSA and LLSA to make frequent contact with prospective as well as admitted applicants encouraging them to apply or, if admitted, to choose to come to VUSL. Finally, the program called for the appropriation of additional funding for both majority and minority scholarships.

T. New Faculty Hired Under Dean Meyer

1. Seymour ("Sy") H. Moskowitz (1969)

Seymour Moskowitz was mentioned above regarding the advent of the VUSL Law Clinics. He was one of three new VUSL faculty members who began service in the fall of 1969, the others being Fred Thomforde and Mike Swygert. Sy, as his colleagues called him, knew early on that corporate law was not "his thing," although he went the traditional route: an A.B. degree in 1963 from Columbia University in New York City, followed in 1966 by an LL.B. degree from Harvard Law School. After graduating from Harvard, rather than going to Wall Street, as many of his fellow graduates did, Moskowitz went to generic "main street" in East Chicago, Indiana, where he served as a Volunteers in Service to America ("VISTA") attorney responding to the legal needs of the community's economically deprived citizens. After two years, he joined the Gary Legal Aid Office as a staff attorney. It was in that position that Moskowitz learned about the School of Law. He participated in preparing a 1969 application to CLEPR for a grant to fund the VUSL Law Clinic.

Initially hired as an adjunct professor to be in charge of VUSL's program under its CLEPR grant—"Clinical Program in Legal Problems of the Poor"—Moskowitz in addition volunteered to teach labor law at VUSL. He became a full-time member of the faculty in 1971. In 1975, Moskowitz and his family left Valparaiso to live in Israel on a kibbutz.

Upon coming back from Israel, he joined the faculty of the Touro College School of Law from 1981 through 1984, returning as a visitor to the School of Law in the fall, and becoming for the second time a full-time member from 1985 onward. He has visited the University of Massachusetts as a Lawyer in Residence, and most recently at the Touro

---

1418 See supra text accompanying notes 1303-33.
College School of Law in New York. Admitted to practice in New York, Indiana, Connecticut, and Massachusetts, his expertise has expanded to include not only poverty law, but elder law, public health law, labor law, and pretrial practice. He has published numerous articles and is representative of the “new breed” of teacher/scholar, the dedicated hard-working full-time professor, the type which years earlier had been first exemplified at the law school by Marshall Jox.

When it comes to writing treatises, Seymour H. Moskowitz with his wife, Linda M. Moskowitz, hold the gold cup for producing the largest number of hard volumes in the School of Law’s history. Beginning in 1987, they produced a “Discovery Treatise,” consisting of six volumes published by Mathew Bender, which they kept updated every year through 2000. Then, in 1991, Sy and Linda published Bender’s New York Trial Guide, consisting of five volumes which they are still updating annually today. In addition, he and Linda, with the help of VUSL students in 1992, wrote another five-volume treatise titled the Mathew Bender Federal Trial Guide, and they kept it updated each year through 2000.

Highly respected for decades by his students—many of whom he motivated to work in public interest law—Professor Moskowitz’s activities at the law school personify the School of Law’s increased attention to issues of social justice, which began in earnest after both he and Burton Weschler joined the faculty at the end of the turbulent 1960s.

The influence of VUSL professors who have actively sought social justice at the School of Law, especially on the students—as active role models of what lawyers can accomplish in the pursuit of a just society—has probably been immeasurable. Racial and gender discrimination, spousal abuse, denial of welfare rights, jail conditions, abuse of the elderly, age and handicap discrimination, mistreatment of juveniles, rights of the unborn, separation of church and state, freedom of speech, freedom to practice one’s religion, as well as instances involving the denial of due process or equal protection under law—all of these areas and many more have been the subjects of actions undertaken by a socially concerned and active group of law professors at the School of Law for the past thirty years—one of its truly distinctive features.

Fredrick H. Thomforde, Jr. (1969)

No student or faculty member will forget Fredrick H. Thomforde, Jr. His lightning like mind combined with a wonderful sense of humor made him not only bright and extraordinary classroom teacher, but also one of the Wittiest, although he was a member of the VUSL Faculty for only two years.

Born in Newark, New Jersey, Thomforde attended Concordia Collegiate Institute of Bronxville, New York, before going to Concordia Senior College in Fort Wayne, Indiana. He then transferred to VU, where he earned his A.B. degree in 1963, followed by his J.D. degree in 1966. As noted earlier, he was influenced by Professor Savage's teaching of corporate and securities law. He joined the Securities and Exchange Commission in Chicago after law school. Subsequently, he became associated with the Boston firm F.S. Mosley & Co., a member of the New York Stock Exchange.

Hired in 1969, Thomforde taught corporations, professional responsibility, and securities regulation. After the arson of VU's administration building in May 1971 as a violent response to the shootings at Kent State University, he was one of the VUSL faculty members who stepped forward to work with undergraduate students to lower tensions and restore a sense of calm to the campus. Like other law school faculty members of the era, Fred Thomforde was driven in part by an ethical directive where the "principle" always trumped the expedient. He quickly saw through the pettiness and phoniness of which his students and colleagues were capable while empathizing with and being genuinely compassionate to students and colleagues in distress.

With the encouragement and endorsement of Dean Alfred W. Meyer, Thomforde applied for and was awarded in 1971 a prestigious Ford Urban Law Fellowship. The award allowed him to attend the Harvard, Yale, Columbia, or New York University law school of his choice. The Fellowship paid the recipient's full tuition as well as a stipend for expenses, allowing the recipient to work toward the S.J.D. degree, the highest research degree in law. Thomforde chose Columbia

\[1421\] See supra text accompanying notes 884-85.

\[1422\] The biographical information about Thomforde comes from several sources, including his "Biographical Information Questionnaire," a copy of which is contained in the VUSL Archives.

\[1423\] See supra notes 1278-81 and accompanying text.
University in New York City, primarily because one of the nation's leading experts on administrative law—Walter Gellhorn—was on its law faculty.¹⁴²⁴

Working closely with the distinguished law professor, Thomforde completed his research and in 1977 was awarded the S.J.D. degree from Columbia. His research resulted in his authoring several articles published in leading law reviews, including the Michigan Law Review.¹⁴²⁵ Unhappily for the School of Law, after earning his doctorate degree, Thomforde accepted an offer to join the law faculty at the University of Tennessee. There, he quickly established a reputation as an excellent teacher.


The same year in which Thomforde joined the faculty, Michael Swygert was hired as assistant dean and assistant professor of law. He was the first sub-dean appointed at the School of Law. Alfred W. Meyer, the Dean, made sure his assistant would be kept busy. At that point the school did not have any student recruitment, admissions, financial aid, public relations, publicity, registrar, alumni relations, or development department administrators or staff. Meyer and Swygert along with their secretaries performed all these functions, and in addition each taught a full course load. One of Swygert’s functions was to arrange for an annual faculty retreat for a weekend off campus.

These retreats were designed for the faculty to consider in depth issues including the law school’s mission, curriculum revision, grading reform, admissions and financial-aid policies, and ways to diversify the student body and increase minority recruitment. One such retreat took place at Pokagon State Park near Angola, Indiana, and another on the campus of the Culver Military Academy near Plymouth, Indiana. Faculty at the Culver meeting claim that as the hours of discussions dragged on, one faculty member crawled under the table to lay down on the floor. For a long period, nothing was heard from the “retired”

¹⁴²⁴ Press Release, VU, Law Faculty Member Awarded $10,600 Fellowship (Apr. 27, 1971). The award consisted of a full-tuition grant of $2,600 and an $8,000 cash stipend for living expenses for nine months. Given today’s tuition at Columbia University School of Law and the cost-of-living in New York City, an equivalent award in 2004 terms would be at least $50,000.

member of the faculty. Then, a loud, emphatic voice shouted “nonsense” (or an unprintable word of similar import) from below the table in response to an utterance of a seated participant. The voice, it was claimed, was that of Assistant Professor Swygert.

Swygert began his college education at Carleton College. He eventually earned his A.B. degree in 1965 and his J.D. degree in 1967, from Valparaiso University. (He was a “three-three” student, earning his A.B. degree after completing his first year of law school.) He then went to Yale Law School and earned an LL.M. degree in 1968. After one year of antitrust practice in Chicago, he joined the VUSL faculty in 1969, leaving in 1972 to join the DePaul University College of Law faculty in Chicago. Subsequently, he taught law either at Indiana, Emory, Wake Forest, and Notre Dame Universities. He also spent a year as a visiting scholar on the law faculty at Cambridge University’s Magdalene College in England.1426


In 1970, a young South African, Winston P. Nagan—a Rhodes Scholar and graduate of Lincoln College of Oxford University—was hired as an assistant professor on the School of Law faculty. On his first day on the VU campus, Professor Nagan in conformity with a custom in his native country approached Dean Meyer and presented him with the originals of the university degrees Nagan had earned, frames and all. In amazement, Meyer explained to the smiling South African that in American universities, the word of the applicant and his or her resumes were assumed to be true, and that the physical production of one’s degrees was unnecessary.1427

One of the original supporters of the establishment of the VUSL BALSA chapter, the new law professor worked closely with African-Americans in pursuit of racial justice. Professor Nagan had been exiled from his native country of South Africa for aggressively arguing against racism in general and apartheid in particular. He was the offspring of a

1426 In the spring of 2002, he was asked by VUSL Dean Jay Conison if he would write a history of the soon-to-be 125 years of VUSL’s continuous operation. Swygert naively agreed to do so. His wife, Dianne, was pleased, however, knowing the project would keep him occupied for nearly two years.

1427 The information about Professor Nagan is based on the author’s personal knowledge; they were colleagues both on the VUSL and DePaul law faculties and have remained in contact since.
"mixed" marriage, a native African and an immigrant Indian, and lived the sting and stigma of a member of a discriminated-against class in his own country. To this day, Winston Nagan has continued to aggressively confront and extensively write about the evils of racial and ethnic discrimination. But he has since expanded his agenda to crusade against governmental torture and mistreatment of human beings around the world. He has served as president of Amnesty, International, USA.

His stay at Valparaiso was brief, taking an appointment on the DePaul University College of Law faculty after only one year at the School of Law. Although he liked the small law school at Valparaiso, he was married with two children and DePaul offered him a large increase in compensation. Subsequently, Nagan went on to earn an S.J.D. degree from Yale Law School. His significance to the School of Law's history is that he was the first "colored," non-Caucasian to serve full-time on the law faculty.

5. Bruce G. Berner (1971)

Bruce G. Berner joined the VUSL faculty in 1971. He and Swygert had been law school classmates and both had been founding-board editors of the *Valparaiso University Law Review*. The hiring of Berner and his subsequent thirty-three years of service to date at the law school have aided the development and growth of the school in many ways. In particular, the approximate 2,800 students who have attended the School of Law during Berner's tenure have had the advantage of taking classes from him. Astonishingly, Berner has known and likely continues to remember by name each of his thousands of students. Moreover, from the students' perspective, Berner made their law school experience not only a memorable one, but also one more pleasant than they had likely expected. He made law school—especially for those in the stressful first year—more bearable not only because of his expertise in what he taught, but because of his incredibly fast and encyclopedic humor. Berner often taught the required first-year course in criminal law. At times, his classes, it has been said, equaled some TV Seinfeld episodes.  

Berner, like Thomforde, was born in New Jersey. And like Swygert, he was a VU three-three student, earning his A.B. in 1965 and J.D. in

---

142 The author bases much of this information about Berner on his personal knowledge, but also has used traditional sources such as Berner's "Biographical Information Questionnaire" on file in the VUSL archives and articles from *The Torch, The Vidette Messenger*, and other sources.
1967. Following law school he associated with a Westwood, New Jersey, law firm. A few years after joining the VUSL faculty, he took a leave and earned in 1978 an LL.M. degree from Yale Law School. Over the years, Professor Berner has taught criminal law, criminal procedure, creditors' rights, bankruptcy, appellate advocacy, and commercial law.

He also has starred many years in the School of Law's annual musical productions which, since 1991, have benefited the VUSL Law Clinic. Performing lead roles in Trial by Jury, The Pirates of Penzance, The Mikado, and many other musical extravaganzas, Bruce Berner, many believe, could have been successful in the theatrical and comic club worlds. His love of the theater also has resulted in his performing in musical, dramatic, and comic offerings staged by the Valparaiso Community Theater Players, whose productions take place in Valparaiso's old—but restored—Civic Opera House. Berner plays the piano and signs with talent and verve.

In addition to his extraordinary law teaching (and stage performing talents), Berner has every year coached appellate moot-court teams, both in the National Moot Court and in the Swygert Moot Court competitions.\[1429\] He has also researched and authored important articles on search and seizure law,\[1430\] as well as made a number of contributions to the University's magazine, The Cresset.\[1431\] In the 1980s, the law faculty instituted the requirement that any member receiving tenure present an "Inaugural Lecture" on a research topic of his or her choice. Berner, years after receiving tenure, nonetheless, gave his Inaugural Lecture in 1998 on the topic: "The Rehnquist Court and the Incredible Shrinking Fourth Amendment: Board Up the Windows!"\[1432\]

In 1989, Berner was appointed VU representative to the National Collegiate Athletic Association.\[1433\] At the same time, he also was elected chairman of the University's Senate.\[1434\]

---

\[1429\] See infra notes 1757-63 and accompanying text.


\[1434\] Id.
He has been Chief Judge of the Honor Court, has served as chair of virtually every important committee on the law faculty, including numerous special committees, and has dutifully served many years—on two occasions—as Associate Dean of the School of Law, first, from 1986 through 1991, when Ivan Bodensteiner was Dean of the law school, and, second, from 2002 through the present, under Dean Jay Conison. Moreover, Berner has never refused to expend his talents and time to the University as a whole. Among other appointments, Berner has served as president of the University Senate and the University Self-Study Task Force. If this were not enough, he has been a consultant to regional and stage public agencies and has served as President of the Valparaiso Park Board for over a decade. His appointment as a special prosecutor and subsequent involvement in the prosecution of the Ford Motor Company in the famous “Pinto case” will be discussed subsequently.\textsuperscript{1435}

In 1995, Professor Bruce Berner was appointed by VU President Alan Harre as the third holder of the Louis and Anna Seegers Chair at Valparaiso University, following in the footsteps of Louis F. Bartelt, Jr. and Alfred W. Meyer.\textsuperscript{1436} Meyer had retired from the law faculty in 1995. Bruce G. Berner has received the law school “Best-Teaching Award” numerous times at the School of Law. For the 2001-2002 academic year, he was voted by the Valparaiso University Alumni Association as the University’s “Teacher of the Year.” Few if any of the 2,800 VUSL students he has personally known would disagree.

6. Venturino Giorgio Venturini (1971)

Also joining the VUSL faculty in 1971 was a native Italian with an impressive curriculum vitae. Few who were at the School of Law during his brief stay as a visiting professor are likely to forget him. He has studied in six countries, speaks and reads five languages fluently, and earned several degrees, including a B.A., a B.Litt., as well as an S.J.D. from the University of Ferrara, Italy, and an LL.M. from Northwestern University School of Law in Chicago. He also studied at universities in Paris, Belgrade, and Oslo, and was the author of several books and over twenty articles in English, German, and Italian. Before coming to VUSL, he taught at the University of Ferrara School of Law, the Osgoode Hall Law School in Toronto, the University of Singapore, and the University

\textsuperscript{1435} See infra text accompanying notes 1584-91.

\textsuperscript{1436} See VAL. U. ALUMNI NEWS, Sept. 8, 1995, at 2; Berner Named New Seegers Professor, THE AMICUS (VUSL), 1995, at 8.

http://scholar.valpo.edu/vulr/vol38/iss3/1
of Queensland, where he was a Senior Lecturer in Law when he accepted VUSL’s offer to be a visiting professor during the 1971-1971 academic year.

Although hired sight unseen, Venturini’s resume and his references in Australia (who were contacted) impressed the faculty. They made him an offer to teach contracts and corporations for one year as a visiting professor. His course in contracts turned out to be an unpleasant experience for most of his students and then for the faculty. He failed a large number of the first-semester, first-year students, not because they failed to evidence knowledge of fundamental principles of contract law, but because their written examinations revealed misspelled words and errors in English syntax. He had learned English as he had French, Spanish, and German—with perfection—and apparently had expected American law students to be as proficient in their “native” language as he was in one of his many adopted ones. Students, however, were displeased, not only with the failing grades, of course, but also because radically different performance standards had been applied to them. After long deliberations involving Venturini, acting Dean Lou Bartelt (Meyer was on leave visiting at the University of South Carolina for the year), and the faculty, it was decided to adjust upward the students’ grades.1437

But as “hard” as he was in many ways, Venurini displayed also a soft side. On one occasion a female student whose baby-sitter was ill came to his class with her three-year-old daughter. The professor bent down, smiled, gently picked up the toddler, and held her as he lectured to the class. The child’s mother was Rosalie Levinson, who two years later became herself a member of the law school’s faculty.1438

7. Ivan E. Bodensteiner (1972)

Back in the fall of 1972, from a year-long teaching sabbatical, Dean Alfred Meyer encountered three new faces on the faculty. They were Ivan E. Bodensteiner, Phillip L. Brockington, and Judge Russell A. Willis.

As noted earlier,1439 Ivan Bodensteiner was hired in 1972 to co-direct the expanding VUSL Law Clinic with Professor Seymour Moskowitz,
who had been hired three years earlier. Bodensteiner was a 1965 graduate of Luras College of Iowa and a 1968 J.D. graduate of Notre Dame Law School. After Notre Dame, he joined the Legal Services Program of Fort Wayne, Indiana, becoming its Director, prior to joining the faculty of the School of Law.

His primary teaching specialties over the past three decades in addition to the Legal Clinic have been civil rights and civil procedure. Bodensteiner did not suspect when he left Legal Services in 1971 to join the VUSL faculty that someday he would himself become Dean of the School of Law since his primary motivation was to use his lawyering skills to assist the poor—but that is exactly what happened.

In 1977, Professor Bodensteiner took a year’s leave of absence from VUSL to be a consultant for the Legal Aid Society of Hawaii, training attorneys in litigation skills. Returning to Indiana in 1978, he became Director of Litigation for the Legal Services Program of Northwest Indiana and then for the entire Legal Services Organization of Indiana. The following year, he rejoined the VUSL faculty to assist the implementation of a new curriculum in the first year. In 1985, nearing the conclusion of the deanship of Peter McGovern, the law faculty recommended that Bodensteiner be appointed successor Dean, a recommendation approved by VU President Schnabel. Bodensteiner reluctantly agreed to accept the position. The School of Law’s advances during his deanship are discussed below.

Besides being a skilled teacher and an organized and effective administrator and facilitator, Bodensteiner has been an active writer. Together with his colleague Professor Rosalie Levinson, the two have co-authored a four-volume treatise on civil rights law and also a civil rights textbook. In addition, Professor Bodensteiner has published over a score of articles appearing in journals, including the Chicago Kent

---

1440 The biographical information about Bodensteiner comes from the author’s own knowledge and from several sources including his VUSL “Biographical Information Questionnaire” on file in the VUSL archives.
1441 See infra note 1819 and accompanying text.
1442 See infra note 1693 and accompanying text.
1443 See infra text accompanying notes 1707 et seq.
1444 See infra notes 1453-69 and accompanying text.
1445 See IVAN E. BODENSTEINER & ROSALIE BERGER LEVINSON, STATE AND LOCAL GOVERNMENT CIVIL RIGHTS LIABILITY (West 1987 with annual supp.); ROSALIE BERGER LEVINSON & IVAN E. BODENSTEINER, CIVIL RIGHTS LEGISLATION AND LITIGATION (1994 with annual supp.).
Law Review, Clearinghouse Review, Stetson Law Review, Western New England Law Review, and the Valparaiso University Law Review. On August 6, 1983, Professor Bodensteiner presented his Inaugural Lecture at the School of Law on The Role of Federal Court Judges: Their Duty to Enforce the Constitutional Rights of Individuals When the Other Branches of Government Default, which was subsequently published as a lead article in the Valparaiso University Law Review.¹⁴⁴⁶

Unlike a few of his colleagues, Ivan Bodensteiner always remained calm regardless of how intensified the faculty disagreements over hiring and other policies often became. This is not to say he has remained quiet. To the contrary, he gives his relevant opinion on any important matter in a thoughtful, reasoned manner and without rancor or emotion. That has to be part of the explanation for the success of the civil rights litigation he has brought on behalf of clients who have been illegally discriminated against either by an agency or unit of government or by a private party or employer. Although there have been and remain to be many fine real-world “lawyers” on the VUSL law faculty—Wechsler, Moskowitz, Levinson, Martz, Vandercoy, Schmidt, Gienapp, and Welter among many others—Ivan Bodensteiner has been the one that best portrays the image of a determined, calm, meticulous lawyer for social good as typified by the fictional hero Atticus Finch in Harper Lee’s classic novel, To Kill a Mockingbird.

Just as Professors Sy Moskowitz and Rosalie Levinson have a mentor and role model in Professor Burton Wechsler, so too Ivan Bodensteiner has a role model from his days at Notre Dame Law School, Professor Thomas Shaffer. One of the nation’s leaders over the past several decades in the area of law and morality and these ethical obligations of a lawyer, Shaffer used the model of Atticus Finch—the southern lawyer who defends a poor Black for a crime he had not committed—the role model par excellence of an ethical, competent, and caring lawyer.¹⁴⁴⁷ Ivan Bodensteiner carries on these ethical and excellence traditions of lawyering at its best.

Philip L. Brockington, Jr., who also joined the VUSL faculty in 1972, earned his B.A. degree in 1962 from Amherst College and his J.D. degree in 1965 from Harvard Law School. Following graduation from Harvard, Brockington served one year as a teaching assistant at Indiana University School of Law in Bloomington. He then joined the Valparaiso law firm Chester, Clifford, Hoepner and Houran, where he practiced corporate and estate planning law.\textsuperscript{1448}

During his decade on the VUSL faculty, Brockington taught corporations, securities regulation, estate planning, federal income tax, federal estate and gift tax, and tax planning. His highly-organized and efficient ways soon resulted in the old adage coming true—no good deed goes unpunished. He was asked to serve as Assistant Dean of the School of Law, beginning in 1972, and did so for six years.\textsuperscript{1449} During the 1982-1983 academic year, Brockington took a year’s leave of absence to serve as Visiting Professor of Law and Associate Dean of Touro Law School in New York City.

Among his contributions to the School of Law was his instructing a postmodern course in “Law and Literature,” one that both he and his students found refreshingly invigorating in comparison with more traditional curricular offerings. Today, law and literature courses are part of the curricula of many ABA approved and AALS member law schools. Like Professor Jack Hiller, Professor Phil Brockington has always emphasized the importance of creativity, imagination, and the connections of law to other creative disciplines. As such, they have been the two VUSL professors who come closest to the style of University of Michigan law professor, James B. White. In 1973, Professor White authored a seminal book titled, \textit{The Legal Imagination},\textsuperscript{1450} considered one of the more innovative legal texts by a legal academician in modern times.\textsuperscript{1451} Brockington retired from teaching law in 1996 to become a

\textsuperscript{1448} The biographical information on Brockington comes from various sources, including the author’s personal knowledge, as well as a “Biographical Information Questionnaire” on file in the VUSL Archives.

\textsuperscript{1449} \textit{Faculty Actions, THE AMICUS (VUSL)}, Summer 1996, at 11.


\textsuperscript{1451} Professor White’s book, \textit{The Legal Imagination} is an intellectual achievement uncommon in comparison to traditional law books on legal analysis and substance. It remains a unique and provocative assembly of legal and non-legal materials designed to spur a more creative understanding of, and potential for change in, the law.
hybridizer of daylilies, initially a hobby, now a business selling new varieties to gardeners around the world.\textsuperscript{1452}

9. Rosalie B. Levinson (1973)

In the summer of 1994, two courageous women who engaged in the same profession came together in Cambridge, England, to teach law students a course titled "Gender Discrimination." Both had themselves broken through the glass ceiling, one by becoming the first woman to sit as an Associate Justice on the Supreme Court of the United States, and the other by being the first woman appointed in the twentieth century to the law faculty of the Valparaiso University School of Law. The women were the Honorable Ruth Bader Ginsburg, Associate Justice of the United States Supreme Court, and Professor Rosalie B. Levinson, Professor of Law of the Valparaiso University School of Law. The two women also taught together again in the summer of 1997.

Professor Levinson's route to Cambridge began when she was a law student at the School of Law in the early 1970s. There, she encountered a group of law professors who changed the course of her life. Professors Sy Moskowitz and Ivan Bodensteiner got her involved in clinical work, which she liked. Professor Jack Hiller encouraged her to consider teaching law after she graduated. Then, Professors Bruce Berner and Charles Gronley served as role models for her own teaching career. And, having the greatest influence was her favorite professor, Burton Wechsler. She was inspired by his energy and enthusiasm. She recalled that one of her favorite memories of the School of Law was Professor Wechsler's "energy and enthusiasm in setting forth a fact pattern before we plunged into the analysis of a case."\textsuperscript{1453} As a law student, Levinson served as Professor Wechsler's research assistant, and actually spent an entire summer pouring through every Supreme Court Reporter from 1908 to 1973 for one of his articles.

Prior to attending law school, Rosalie Levinson earned two degrees from Indiana University, Bloomington—a B.A. degree (Phi Beta Kappa) in 1969 and then a M.A. degree in French (funded by a Woodrow Wilson Fellowship) in 1970. Although she began law school at Indiana University, she transferred to VUSL from which she graduated in 1973.

\textsuperscript{1453} Levinson Reunion Memories, supra note 1438.
with honors. She joined the VUSL faculty in the fall of that year as a teaching associate.

Back in 1967, the School of Law began the practice of hiring a recent honors graduate to teach one year in the position of "teaching associate." Michael Virgil, VUSL class of 1967, was the first teaching associate appointed. Levinson was the first female teaching associate hired. She taught a course titled "Sex Discrimination and the Law" and also supervised a legal problems course for first-year students. Due to her solid performance as a teaching associate, along with her sterling academic credentials, Levinson was appointed an assistant professor of law commencing with the start of the 1974-1975 academic year. She thus became the first woman hired as a regular full-time member of the VUSL faculty since Florence Higgins was appointed instructor in 1889. Levinson already was an experienced practicing lawyer having served as a staff attorney for the Gary-based public interest law firm—Project Justice and Equality—where she was involved in civil rights litigation during her third year at the School of Law. Professor Levinson's interest in civil rights litigation did not end there; for many years she has been a lecturer at several national civil rights conferences. She has also chaired the civil rights division of the AALS.

Besides practicing and teaching in the civil rights area, Professor Levinson teaches constitutional law and federal practice. In addition, in 1982, she began the Federal Judge Extern Program and she has also served for many years as the program's supervisor. She has also served as the faculty advisor to the Women Law Student's Association ("WLSA"). In that function, over the years, Levinson has presented papers and conducted seminars, conferences, and panels on women's issues. One example was a 1974 Valparaiso University Union Board address she gave on "Women and the Law, What the Law Has Done, Is Doing, and Needs to Do for Women." She called on the liberation of both men and women from the narrow roles in which society has placed them. In 1989, she discussed the meaning of sexual equality by

1454 The biographical information on Professor Levinson comes from various sources in addition to the 2003 VUSL Reunion Brochure referred to in the previous footnote, and also her "Biographical Information Questionnaire" on file in the VUSL Archives.

1455 See supra text accompanying notes 196-98.


1457 Id.
examining the laws and social customs of the Soviet Union in comparison with those in the United States as part of the University’s week-long celebration in 1989 titled “Women’s VU.” Levinson’s comparison of women’s rights in the Soviet Union with those in the U.S. was based on a study trip to the Soviet Union she had taken as part of a “People to People Women in Law” delegation which had studied first hand the Soviet legal system.

She has spoken to the WLSA on pornography and the law, and in 1977, helped WLSA, in conjunction with the ABA, put together a panel discussion on “Battered Women.” Participants included Lucy Williams of the Chicago Legal Aid Foundation, Lake County (Indiana) Superior Court Judge Phillis Senegal, and Dr. Suzanne Prescott of Governor State University.

Besides being an enthusiastic and admired teacher, a leader in women and the law, a civil rights expert and litigator, and a continuing legal education lecturer, Rosalie Levinson also is a legal scholar. As noted above, she is the co-author of a four-volume treatise on civil rights litigation (supplemented annually) as well as a civil rights textbook. Her numerous articles have focused on the rights of the learning disabled, gender discrimination, free speech rights of government employees, and due process violations.
Moreover, she has served as Associate Dean of the School of Law, has participated in the Institutes on Law and Pastoral Ministry sponsored by Valparaiso University, and has been a speaker at many programs put on by the Indiana Continuing Legal Education Forum. Besides teaching at the VUSL Cambridge summer program in 1994 and 1997 with Justice Ginsburg, Professor Levinson also co-taught a course with Justice Antonin Scalia of the U.S. Supreme Court during the summer of 1993, also as part of the VUSL Cambridge program. The topic was "Separation of Powers." Additionally, Professor Levinson team-taught a course with Justice Clarence Thomas in 1996. She has also lectured at Hebrew University in Jerusalem, at an international conference in Malaysia, and at a university in China.\textsuperscript{1468}

Rosalie's greatest challenge is ongoing as these words are being written, a challenge she is confronting with the same courage and determination that has characterized her rise to a highly-respected and admired professor of law. In 2001 she learned that she had advanced leukemia. For two years she has been combating this serious illness, which has included undergoing a stem cell transplant.\textsuperscript{1469} Augmenting her tremendous personal courage is the support of her husband and daughters and the entire law school community. She continues courageously with her teaching and scholarship.


The academic year 1973-1974 had four new faculty additions. Besides Rosalie Levinson, only Richard Taylor Stith remains on the school's faculty today. A holder of five earned degrees, he began his collegiate studies at Harvard University where he earned an A.B. degree in 1965. He then studied law in Uruguay under a Fulbright fellowship, followed by a year at the University of California, Berkeley, where in 1967 he earned an M.A. in political science. Then he spent several years at Yale University, earning three degrees: a Masters in Philosophy, or M.Phil., in 1971 from Yale Graduate School; then a Ph.D. in religious

\textsuperscript{1469}Jennifer Hanson, Bone Marrow Drive Held at VU Law School, THE TORCH (VU), Feb. 21, 2003, at 6.
ethics in 1973 from Yale Divinity School, and, the same year, a J.D. from Yale Law School.\textsuperscript{1470}

Professor Stith has taught or currently teaches courses in jurisprudence, family law, criminal law, comparative law, American legal history, and various seminars. During the past three decades, he has taken many leaves from VUSL to teach in countries around the world. He also has served as Director of the Developmental Program in Bio-Medical Ethics at St. Louis University School of Medicine; taught philosophy of Law at Poona University in India under another Fulbright Fellowship; lectured and conducted research at the Universidad de Navarra in Spain; spent a semester teaching and writing in Spanish at the Universidad de Valparaiso, Chile; returned to India in 1991 on sabbatical to research constitutional theory; and, in 1992 taught comparative law at Zhongshan University in Guangzhou (formerly Canton), China.\textsuperscript{1471} During July 1999, Professor Stith was granted visiting status on the Faculty of Law at the University of Cambridge, allowing him access and use of the Squire Law Library facilities to conduct research.\textsuperscript{1472} A member of the Board of Editors and Advisory Council of the American Journal of Comparative Law, Professor Stith has made significant contributions to the scholarly literature on fundamental issues in jurisprudence and in ethical theory.\textsuperscript{1473}

Professor Richard Stith has been an activist and writer in the worldwide pro-life movement. He is a member of the National Board of University Faculty for Life. Most recently, he has authored \textit{Location and Life: How Stenberg v. Carhart Undercut Roe v. Wade}.\textsuperscript{1474} He also has served on the advisory board for the National Youth Pro-Life Coalition and has testified before the U.S. Senate Subcommittee on the Constitution in support of a proposed compromise on the abortion issue.

\textsuperscript{1470} The biographical information regarding Professor Stith comes from several sources including his "Biographical Information Questionnaire" on file in the VUSL archives, various newspaper and The Torch stories, and from personal knowledge of the author.

\textsuperscript{1471} Much of this information is taken verbatim off the web page of Professor Stith. \textit{See} http://www.valpo.edu/law/faculty/richards.html (last visited Mar. 11, 2004).

\textsuperscript{1472} \textit{VAL. U. CAMPUS CHRON.}, Feb. 11, 1999.


which would reestablish legislative autonomy. In 1989, Professor Stith together with fellow VUSL Professor and pro-life advocate John J. Potts filed an amicus curiae (“friend of the court”) brief with the Supreme Court of the United States in the case of Webster v. Reproductive Health Services.\textsuperscript{1475} In their brief they argued that the Court, in reviewing the Webster case, should overrule its earlier precedent of Roe v. Wade\textsuperscript{1476} which legalized abortion under certain conditions in the United States.

The brief was researched and written by Professors Stith and Potts and submitted in behalf of the International Right to Life Federation, an anti-abortion organization.\textsuperscript{1477} Stith and Potts wrote in their brief that a review of other nations’ constitutional and legislative rulings on abortion reveals that Roe v. Wade “stands in isolation in Western constitutional jurisprudence.”\textsuperscript{1478} They pointed out that in many countries confronting the abortion issue, that issue has been left for the legislatures, not the courts, to decide. In other countries, including Germany and Spain, courts have overturned laws allowing abortion, finding that the unborn child is human and therefore deserving of constitutional protection under the law.

\textbf{U. Hugo E. Martz (1975)}

A new VUSL Law Clinic Director was hired to join the law faculty as assistant professor of law in the fall of 1974, Hugo E. Martz. He earned his B.S. degree in 1960 from Purdue University (where he was a member and soloist of its renowned Glee Club) and went on to earn his J.D. degree from Indiana University (Bloomington) in 1962, followed by an M.S. in economics in 1965 from the University of Missouri. At Missouri he authored a booklet on \textit{Farm Corporations}.\textsuperscript{1479} He did a superb job in running the VUSL Law Clinic for six years. He was in charge not only of supervising students, but also in assisting with the drafting of numerous appellate and other trial briefs required in the Clinic’s representation of its hundreds of clients.

A pleasant, charming, soft-spoken person, Hugh (as most called him) was liked and respected by virtually all students, faculty, and

\begin{footnotes}
\item[1475] 492 U.S. 490 (1989).
\item[1476] 410 U.S. 113 (1973).
\item[1477] Pat Randle, \textit{VIU Professors Ask Supreme Court to Reverse Its Stand on Abortions}, \textit{Vidette Messenger} (Valparaiso, Ind.), Mar. 2, 1989, at 1A.
\item[1478] Roe v. Wade, 410 U.S. 113.
\item[1479] See Hugo E. Martz, Biographical Information Questionnaire (1974).
\end{footnotes}
administrators who have known him. During his years on the VUSL faculty, he delivered a paper on the right of privacy as a participant in a conference on "The Project for Study and Application of Humanistic Education, at the Institute for Theological Encounter for Science and Technology. Nonetheless, when the time came for a decision on his tenure, in a close vote, the faculty denied him tenure on the basis of a perceived lack of scholarly publications to the shock of scores of students as well as to several of his faculty colleagues.

Two years earlier, an ABA inspection report of the School of Law had chastised the law faculty's paucity of publications during the period of 1971-1978, noting moreover that no written policy in reference to research and writing requirements existed. This was said to be in violation of ABA accrediting regulations, although the School of Law did have an unwritten understanding that scholarship was important. The timing of the ABA criticism was especially unfortunate for Professor Martz as it occurred a little over one year before the faculty's decision on his tenure and during a period when the ABA was closely looking over the school's shoulder as regards claimed deficiencies. Martz by no means was the only faculty member to be denied tenure but in his case, his superb supervision and work in the Clinic was being sacrificed for a uniformity and standardizing policy related to the ABA-imposed-view of what an "elite model" law school should expect from each faculty member. All were to come from a similar, if not same, cookie punch.

As sad as the tenure denial was for Hugo Martz personally and for his many supporters, it nonetheless represented an emerging new fact in 1980-1981 about the School of Law: scholarly productivity was important, more so than it had been previously, and no untenured faculty member was exempt. Every faculty member who did not have tenure—clinical as well as regular faculty—was expected to publish in addition to performing his or her teaching and/or supervising responsibilities. Was this newer standard always applied consistently in the future? Probably not. Is it a supportable standard? Many would say no.

Previous efforts to encourage across the board scholarship had been made by the VUSL law faculty. On May 17, 1971, the School of Law

1480 Faculty News, VAL. U. ALUMNI NEWS, Sept. 1979, at 5.
1481 See infra notes 1482-83 and accompanying text.
faculty passed a "Resolution" which ended with the following paragraph:

AND THAT IT BE FURTHER RESOLVED BY THE VALPARAISO UNIVERSITY SCHOOL OF LAW FACULTY to inform each new member, full or part time, regardless of rank, that it is the policy of the School of Law to encourage legal scholarship, such scholarship to be a factor in promotion and tenure policies, that a copy of this resolution be given to each new member at the commencement of his or her association with the Valparaiso University School of Law.1482

The faculty passed the resolution unanimously.1483

One of the results of the ABA rigorously enforcing its normative policies on all law schools without acknowledging different emphases, for example, the importance of legal scholarship, is to discourage individuality of the kind Professor Hugo Martz represents. He considered his priority to be working alongside his students in the VUSL Law Clinic on a daily basis. When it came to writing, preparing briefs in the furtherance of the interests of the Clinic’s clients seemed the correct course to follow. Other faculty members have not been retained at the School of Law over the years, but none was so controversial or painful as was the Martz’s decision. Practicing today in Valparaiso, Hugo Martz remains a highly-respected lawyer and academician among his former colleagues and students at the School of Law. He continues to support the VUSL Law Clinic today both by making monetary contributions and by offering his assistance. We turn now to the story of one of Hugh Martz’s favorite people at the law school, "Lucy."

V. The School of Law Goes to Bat for "Lucy"

What made the School of Law special for many alumni and faculty of the late 1960s and 1970s is typified by an incident involving the school’s cleaning lady and building custodian. Although she never authored a legal treatise or taught a single law class, Mildred “Lucy”

1482 Resolution Adopted by the VUSL Faculty (May 17, 1971) (unpublished report).
1483 See Memorandum from Michael Swygert to VUSL Faculty Members (May 19, 1971) ("Although disappointed by the vote on the Wechsler Amendment to the Scholarship Resolution, I am gratified that we passed without a negative vote the resolution which affirms that scholarship is to be a factor in granting tenure . . . ").

http://scholar.valpo.edu/vulr/vol38/iss3/1
Hubbard is remembered fondly by students, faculty, and staff who were present at the law school during her nine-year tenure—1967 through 1976. A custodian in the highest usage of the word, Lucy, as everyone called her, not only took physical care of Wesemann Hall, she took emotional and psychological care of the members of the Law School community during those years. From telling students to hurry up and not miss class (she seemed to know their schedules), to informing them they must study more diligently, to advising them about their personal concerns, and consoling them when in distress, she was the consummate "house mother." She gave names to people and to parts of the University which encapsulated the essence of the person or institution. For example, she always referred to the University's development division as the "begging department." And, she called professors by names including "Hot Rodder" (Professor Stevenson who rode a motorcycle); "the Lone Ranger" (Professor Moskowitz, for always going to the rescue of the victim of injustice); "the EX" (for former Dean Bartelt); and the "Fearless Leader" (for law school Dean, Al Meyer).

Years after she retired from the University she continued to receive each Christmas season up to 100 cards from former students at the school, many including letters and family photographs. One of Lucy's best friends and legal advisor was Professor Hugh Martz. He was quoted in an article published about Lucy, following her death, as follows:

I would estimate that 200 to 300 former students, past and current faculty, and other Law School family members, maintained contact with Lucy by letter, phone, and personal visit.... She was the one they remembered most fondly from their law school experience.... [She] emerged as the solid, genuine, and caring person with whom they bonded most deeply.

In the fall of 1971, Lucy was informed by a University vice-president for business and management that she was going to be transferred from the law school to another campus building, no explanation being offered.

1484 For many years after her retirement, the author would stop in during the holiday season to see Lucy. On each visit, she would hand him a large pile of letters, cards, and photographs from former VUSL students, staff, and faculty. On one occasion, the author counted the messages and was astonished by the number—ninety-four.

She politely complained to the VP, noting that there had been no complaints about her work and that she felt deeply attached to the law school community. The vice-president brushed aside her protestations and Lucy appeared at the School of Law in tears. Quickly the word spread throughout the corridors, offices, and lounges of Wesemann Hall that Lucy was being ordered to go work full-time in another building. In the midst of the era of student protests associated with the Vietnam War, suddenly a local grave injustice was perceived across the entire political spectrum of the law faculty and students. United, students and faculty called for a meeting with the University Vice-President Harold Gram. Gram agreed to meet with concerned students and faculty in the school’s courtroom.

At the appointed hour for the meeting, students and faculty members marched into the courtroom, many holding mops, brooms, and signs with the saying, “LUCY CAN NOT BE WEIGHED IN GRAMS,” an obvious reference to the vice-president’s name. Professor Sy Moskowitz was one of the many professors present at this peaceful protest on behalf of the school’s cleaning lady, and recalls what then took place:

Vice-President Gram walked up to the podium and picked up the microphone and was about to speak when Professor Burton Wechsler with a broad smile walked up and gently asked for the microphone, graciously informing Dr. Gram that this meeting was to inform the vice-president what the students and faculty thought about Lucy being ordered to another campus building, and not the other way around.1486

The multiple voices expressed a common message: Lucy was more than the School of Law’s cleaning lady, she was the school’s conscience, its moral guide, everyone’s partner in the learning and teaching process. The “Meeting Concerning the Future of Lucy” came to an end. The sentiment and depth of passion expressed in support of “the cleaning woman” had been overwhelming. In what had been an early struggle

---

1486 Id. “Sheepishly, Gram handed the microphone over to Wechsler who then called upon students and supporters of Lucy to come forward and voice their opinion In re Lucy.” Interview with Seymour Moskowitz, Professor of Law, VUSL, in Valparaiso, Ind. (July 2003). Harvard Law Professor Duncan Kennedy would have been pleased. He has written about legal education being more open and compassionate regarding everyone in its community, including custodians. See Duncan Kennedy, Legal Education as Training for Hierarchy, in THE POLITICS OF LAW 40 (David Kairys ed., 1982).
between efficiency and equity, equity had prevailed. Gram backed down and Lucy remained at the law school until she retired.

Throughout her nearly ten years at the School of Law, Lucy Hubbard inspired, cajoled, encouraged, and made sure students were studying and not missing classes, reminding them of the importance of their studies. During this period she would go to each professor's office and light incense (which she had purchased) in the belief (not shared by all the professors, but none would dare tell her) that this small ceremonial, nearly religious-like act would make them feel "more at home and comfortable" in their environs. Certain faculty members waited until Lucy had moved on to offices down the hall, and then would quickly snuff out the odorous flames. Yet, everyone at the School of Law from the mid-1960s through the mid-1970s knew that Lucy, to borrow Sy Moskowitz's expression, was "truly one of a kind." The intangibles often leave the greatest impressions and thus serve as a basis for differentiating institutions, including law schools.

W. Conclusions Regarding the Lutheran Dean Era

The Lutheran Dean Period of Deans Stalland, Bartelt, and Meyer covered twenty-three years from 1954 through 1977. The period was characterized throughout by a continuing and significant shortage of monetary resources, but also by a growing supply of human dedication and talent. The faculty was enlarged and strengthened, the student body diversified by the enrollment of more women and minorities, and, despite severe financial restraints, a new law building and later an addition were constructed.

Each of the deans had particular strengths. Stalland's were his organizational skills in setting goals and then his dedication, hard work, and perseverance in seeing them accomplished, as well as in understanding the importance of the physical environment (facilities) needed for law students to flourish. Bartelt's many strengths included his personal integrity never compromised, support of important new programs including the establishment of the Law Review and the clinic, and his realistic appraisal of the School of Law—its deficiencies as well as its distinctiveness—which allowed central administrators to understand better what the school needed to improve.

Meyer's strengths included: diversifying the student body; emphasizing for the first time the importance of scholarship for the entire faculty; and continually recognizing and responding to the fact
that the law school was a part of University where the whole is greater than any of its parts. This meant to Meyer that the School of Law was best when it worked with, not against, the University. And although all three Lutheran deans of this era appreciated and tried to emphasize the Lutheranism of the law school, arguably Meyer had the deeper philosophical understanding that the school’s distinctive mission was to teach law well in the earthly kingdom but to do so within the environment of a University community which believed in and aspired for the heavenly kingdom, in short, the relationship between religious faith and intellectual freedom.1487

All three deans—Stalland, Bartelt, and Meyer—put principle above their own interests. They were leaders who had strong religious convictions and who also conducted their professional lives and careers by ethical principles of integrity, service, and compassion. Were they perfect? Of course not. If they shared one fault, they could not or would not see ahead far enough to recognize that legal education was changing or being changed in ways that made their combined contributions to the law school ultimately at risk. The School of Law had outgrown its new facilities. Moreover, modern legal education had evolved to a point where the law school at Valparaiso by the end of the Lutheran Dean Era found itself, despite its strengths, in genuine jeopardy. Its financial resources were stretched to the limit. The “rules” for ABA approval were changing.

Following the Lutheran Dean Era, a team of six men and women appointed by the Council of Legal Education of the ABA inspected the law school in Valparaiso. They did not find everything to their satisfaction—far from it. A new era in the history of the Valparaiso University School of Law was about to begin with a new dean and a new crisis.


A Christian is a perfectly free lord of all, subject to none. A Christian is a perfectly dutiful servant of all, subject to all. These two theses seem to contradict each other. . . . Both are Paul’s own statements. He says in 1 Cor. 9, “For though I am free from all men, I have made myself a slave to all,” and in Rom. 13[8], “Owe no one anything, except to love one another.” . . . Let this suffice concerning the inner man, his liberty, and source of his liberty, the righteousness of faith. He needs neither laws nor good works but, on the contrary, is injured by them if he believes that he is justified by them.

Id. at 16.
V. THE MODERN ERA—EHREN, MCGOVERN, BODENSTEINER, GAFFNEY, AND CONISON: 1977-2004

A. Dean Charles A. Ehren, Jr. Comes to the School of Law

Charles A. Ehren, Jr., came to the law school at Valparaiso in 1977. He had just completed residence as a Visiting Scholar at Columbia Law School where his work involved research in environmental law and energy matters. Ehren, a 1954 graduate of Columbia College, received his J.D. from its law school in 1956. A native New Yorker, he was admitted to the bar in 1956 and, after two years of army service in Germany, entered corporate practice in New York City. In 1967, he accepted a Reginald Herber Smith Fellowship at the University of Pennsylvania Law School where he focused on legal services for the poor. He helped establish the first Legal Services Corporation in Westchester County, New York. Ehren then became Director of Curriculum for the National Institute for Education in Law and Poverty at Northwestern University School of Law.

In 1970, he was appointed to the faculty of the University of Denver College of Law where he served four years. In addition, Ehren served as Executive Director for the Committee on Electric Power and the Environment of the Association of the Bar of the City of New York. In that post, he directed a project sponsored by the Ford Foundation that developed policy recommendations aimed at reconciling the competing claims of electric energy development and environmental protection.

Charles Ehren is the author of numerous reports, papers, and scholarly studies. In addition, he was hired at Pace University to begin planning for a law school at that institution. As a visiting Scholar at Columbia Law School, he renewed his friendship with Professor Walter Gellhorn, who directed a seminar in legal education. Gellhorn had been Ehren's contracts professor when Ehren was initially a law student at Columbia.

Gellhorn suggested Ehren's name when VU was searching for a new dean for its law school.1488 Upon becoming Dean in August 1977, Ehren was charged by VU President Albert G. Huegli "to seek a positively distinguished" law school.1489 Ehren went about to do just that,

---

1489 Id. at 2.
completing a comprehensive and detailed planning document submitted to the Administration in October 1977. The report made it clear that there were serious deficiencies and that many things needed to be done at the School of Law. Nonetheless, a "bombshell" from outside still took the central administration by surprise a few months following Ehren's report.

B. A Critical 1978 ABA Inspection Report

In the spring of 1978, a team of six inspectors representing both the Section of Legal Education of the ABA and the AALS came to the School of Law at Valparaiso for the periodic (every seven years) inspection. The purpose of periodic inspections is to ascertain whether a law school and its program remain in full compliance with the ABA-promulgated standards for approval of law schools. During the 1970s, the ABA strengthened its regulations in several areas that would apply to the VU law school.  

The School of Law's last inspection in 1971 had been a fairly routine matter although deficiencies were found as regards the library (collection, shelf space, and staffing) and physical facility (insufficient space). On that occasion Dean Meyer and then Vice-President Donald Mundringer were asked by the ABA to meet with the ABA in New Orleans to discuss the issue of the lack of sufficient space. The ABA was advised of the new addition being planned for Wesemann Hall.  

During the spring 1978 inspection, the ABA found that VUSL had "serious deficiencies," not only as regards its library and physical facilities, but also in reference to its program of legal education. The 1978 inspection team was led by Fred D. Fagg, III, Dean and Professor of Law at the Lewis and Clark College, Northwestern School of Law, who had been a member of the ABA Accreditation Committee for less than two years when assigned to head the VUSL inspection. One problem

1490 See Memorandum from Charles Ehren, Dean, VUSL, to Dr. Robert V. Schnabel, President, VU, and Dr. John H. Strietelmeier, Vice-President for Academic Affairs, VU 1-10 (Sept. 12, 1978).
1493 Besides Dean Fagg, the other members of the ABA team were Christine Brock, Director of the Law Library at DePaul University College of Law; Thomas Headrick, Dean of the State University School of New York School of Law at Buffalo; John Hicks, Professor

http://scholar.valpo.edu/vulr/vol38/iss3/1
his team found was the absence of sophisticated business-oriented courses, even though tax planning, corporations, securities regulation, and environmental law were currently being taught. Moreover, in what can be interpreted as an across-the-board critical report—not necessarily an entirely justified one—the faculty, who were said to be good teachers, were nonetheless denigrated. Although the report referred to the teaching as “good” and the faculty as “committed,” it asserted that as a group they had low self esteem, suffered under high work loads and low pay, and generally were not productive in writing and research. It also complained that “far too much time in each faculty meeting is consumed by attention to detail, especially student requests of various types.”

As the ABA inspectors viewed the faculty, it was spending far too much time on concerns of students and not enough on scholarly research. But that was only the beginning. Serious deficiencies also related to the library and physical plant. The library, the report noted, was substantially short in seating capacity under the recently-established sixty-five percent requirement; had inadequate processing space; needed professionally-qualified librarians; and was not in compliance with minimum record keeping or in the amount of maintenance expenditures. As for the physical plant, it was said to be barely adequate for its current program and definitely inadequate for the future.

The ABA inspection team’s report noted that all the deficiencies which it identified related to a lack of financial resources which, the report concluded, “presented a great problem for this law school.” The solution? Money. The inspection team assessed that the law school needed an additional $600,000 per year and questioned how the University was going to resolve that problem. The team felt strongly that the School of Law did not have available financial resources necessary to provide a sound legal education and accomplish the objectives of its educational program.

The draft report of the findings was initially made available to VU’s top officials in September 1978. Its across-the-board negative thrust was not entirely a surprise. The inspectors commented at the time of their exit-interview with then VU President Dr. Albert G. Huegli, Vice-President for Academic Affairs, Dr. John Strietelmeier, and School of Law Dean Ehren, that the interview “was a bit of a depressing event.”

of Law at the University of Tulsa College of Law; and Richard Franklin Gottier, a psychologist who also held a graduate degree in theology.
Though President Huegli, Vice-President Strietelmeier, and Dean Ehren may have been depressed and “somewhat shocked” by the magnitude of the Inspection Team’s concerns about their law school, “they still exhibited resiliency.”

The report was right about the administrators being “somewhat shocked,” especially President Huegli. Shortly after Charles Ehren became the law school’s seventh dean (commencing with the 1977-1978 academic year), he met with President Huegli who, Ehren recalls, said words to the effect that “I only put off the table one topic: please don’t ask for new or expanded law school facilities.” Recall that only two years earlier the School of Law had constructed and dedicated a costly expansion of Wesemann Hall. Nonetheless, it was probably understood by Huegli at the ABA exit interview in the spring of 1978 that the University either had to allow for the expansion of the law school student body to grow to 450 to 500 students, necessitating an entirely new and substantially larger facility than presently existed, or, in the alternative, to provide annually a prohibitively large sum of money—an extra $600,000—to subsidize the law school budget, a subsidy that the University could not afford as it already was paying off a law school indebtedness which the endowment—generated income alone could not service.

C. “Life or Death” for the School of Law

What the spring 1978 exit interview diplomatically suggested—that the infusion of vastly larger sums of money into the School of Law would be necessary for continued ABA approval—became patently clear in the fall of 1978 when the ABA issued its tentative written inspection report, the findings of which were later officially adopted by the ABA Council of Legal Education. The heart of the matter was that Valparaiso University had to direct substantial new financial resources—$600,000 plus—to the School of Law every year if it maintained its current student enrollment of around 300; or, in the alternative, the school immediately must start planning for a larger law school of between 450 and 500 students which in turn would necessitate an entirely new physical facility, one that would surely cost millions of dollars. If the School of

1495 Telephone Interview with Charles Ehren (May 2003).
1496 See supra notes 1341-48 and accompanying text.
1497 See 1978 ABA Report, supra note 1492, at 5-7.
Law’s officials could convince the ABA Council that it would seriously plan to enlarge the law program, the ABA would give it reasonable time to so.

Given these options—neither of which seemed to members of the administration as being financially feasible—it is not surprising that University officials and members of the VU Board of Directors raised the question of whether VU could continue to afford its professional School of Law. Years later John Strietelmeier recalled that upon learning of the 1978 ABA Report, he, for one, favored closing the law school and that others within the University shared that opinion. Also confirming that certain officials and Board members seriously considered the possibility of closing the school is Alan S. Morrisson, who was the University’s outside legal counsel and who attended the Board’s meetings during the critical time period of 1979 through 1982. A review of the Board’s activities indicates that the law school’s survival had become its top priority.

The Executive Committee of the Valparaiso University Board of Directors met on December 16, 1978, and considered the ABA/AALS inspection report. The minutes of the meeting are revealing.

The gravity of the situation facing the University and its Law School (which Dr. Strietelmeier terms a “crisis” is well known to members of the Board, who have previously received a summary of the deficiencies noted by the accreditation units of the American Bar Association and the Association of American Law Schools. These deficiencies can be reduced, at heart, to the matter of financial and plant resources. The question is soberly put as to whether the University has adequate resources to support a School of Law in the degree required to meet minimal accreditation standards.

The Executive Committee noted that the ABA’s Consultant on Legal Education, Dean James White of the Indiana University (Indianapolis)

1498 Interview with John Strietelmeier, Professor Emeritus, VU, in Valparaiso, Ind. (June 2003).
1499 Interview with Alan S. Morrisson, Distinguished Adjunct Professor of Law, VUSL, in Valparaiso, Ind. (May 2003).
1500 Minutes of VU Meeting of the Bd. of Dirs. of the Lutheran Univ. Ass’n and Valparaiso Univ. Ass’n, Inc. 7 (Dec. 16, 1978).
School of Law, "indicated firmness but not lack of understanding and empathy and he seemed to affirm the sensible, business-like, gradualist approach we have been developing as well worthy of full consideration." 1501

The Board went on to praise Vice-President John Strietelmeier and Dean Ehren for their "energetic work," especially "the industriousness and professionalism of Dean Ehren in gathering data and developing various options to be considered," adding that if the VU law school should be successful in overcoming its weaknesses, "much of the credit will have to go to Dean Ehren—truly a man for this season in the history of the School of Law." 1502

Vice-President Strietelmeier in a letter to President Schnabel on January 19, 1979, wrote that a "crisis" existed regarding the future of the law school. 1503 Strietelmeier said that he had never used that scare word—crisis—in a report at the University. But, in this case, he did so. He wrote the University President:

Crisis is a turning point in a life-or-death situation. Ultimately, the Board [of Directors], acting in light of the best advice it can get from the President and its own committee, will have to decide which it shall be for the Law School: life or death." 1504

President Schnabel and the Board put together a "Law School Task Force," made up of members of the Board and various University officials. The Task Force was chaired by School of Law alumna, Ms. Sharon King, and consisted of Board Members Harold Bernthal, Indiana Governor Otis R. Bowen, alumnus Richard Duesenberg, former VU president Dr. A.G. Huegli, Dr. Walter Schur, Vice-President John Strietelmeier, and School of Law Dean Charles Ehren. 1505 At an April 1979 meeting of the Board's Executive Committee, a letter written by

1501 Id. at 8.
1502 Id.
1504 Id.
1505 See Minutes of O'Hare-Kennedy Holiday Inn, Chicago Meeting of the Executive Comm. of the Bd. of Dirs., the Lutheran Univ. Ass'n, and Valparaiso Univ. Ass'n, Inc. (Mar. 31, 1979).
Vice-President Strietelmeier to President Schnabel was read. In it Strietlemeier wrote that during the 1977-1978 academic year:

[T]he University has subsidized the operating budget of the Law School by an amount calculated by the Business Office at $390,000. This level of subsidization obviously cannot and must not continue if other units of the University are to be appropriately maintained and developed.\textsuperscript{1506}

Over the next three years, the minutes of the Board of Directors' meetings reveal that the subsidizing of the School of Law by the University was diminishing as the Board permitted increases in law school tuition and as larger numbers of students enrolled. Still, pressure from both James White of the ABA and Millard Rudd representing the AALS continued for a new building. When the decision was finally made by the Board at its October meeting in 1982, the future "life" of the law school was resolved.\textsuperscript{1507} The new Vice-President for Academic Affairs Richard Baepler wrote President Schnabel one year later, in October 1983, that the ABA still was demanding that a timetable for completion of the new building be furnished to the ABA.\textsuperscript{1508} Baepler noted that the timetable could be set and that construction could be scheduled to begin in the summer of 1985, and that should satisfy the ABA.\textsuperscript{1509} Baepler went on to point out, however, that new resources must be found for the operational budget of the School of Law. . . . It is unfortunate to let such a School which has genuine possibilities of making a strong contribution to legal education and of enhancing the strength and reputation of the University continue to exist on a basis of marginal funding.\textsuperscript{1510}

Dean Ehren certainly understood this point.

\begin{footnotes}
\item[1507] See Minutes of VU Meeting of the Bd. of Dirs. of the Lutheran Univ. Ass'n and Valparaiso Univ. Ass'n, Inc. 2-3 (Oct. 1982).
\item[1508] Letter from Richard Baepler, Vice-President, VU, to Robert V. Schnabel, President, VU 2 (Oct. 7, 1983).
\item[1509] Id.
\item[1510] Id. at 3.
\end{footnotes}
In December 1979 Dean Ehren wrote the law faculty that the four main ABA concerns—inadequacy of financial resources; low faculty salaries and lack of resources to support scholarship; inadequate law library facilities and staff; and inadequate physical facilities—all came down to "dollar issues."\textsuperscript{1511} "[I]t is my hope," he added, "that the University can be forced to continue recognizing our needs and also to begin recognizing realistically our potential for developing the resources those needs demand. My work is cut out for me for the New Year."\textsuperscript{1512}

Compounding Ehren's challenge was a new central administration at the University. Dr. Robert V. Schnabel succeeded Dr. Huegli as President of VU in the fall of 1978, concurrent with the ABA's issuance of its critical report on the School of Law. Schnabel appointed Richard Baepler to be the academic Vice President, succeeding John Strietelmeier. These men took office with the ABA report in hand. Schnabel and Baepler immediately understood the financial predicament that the University was facing \textit{vis-a-vis} the law school. Ehren recalls that "the most challenging new element was the drive for more space, which led ultimately to planning and construction of the new Wesemann Hall."\textsuperscript{1513}

Dean Ehren called for a series of special faculty meetings and retreats to develop a plan to respond to the ABA-identified shortcomings and to bring in the necessary resources to eventually fund the implementation of the plan. Assisting this planning effort was the law school's receipt of a $40,000 planning grant from the Aid Association for Lutherans allowing Ehren to bring in "high-status, mainstream legal education consultants." These included Henry Senft who prepared a report titled \textit{A Survey of Prospective Students at Valparaiso University School of Law}, which included a demographic analysis and projections on future law school enrollment.\textsuperscript{1514} The consultants, Dean Ehren, and the law faculty worked from the fall of 1978 through 1980, \textit{inter alia}, culminating in a fourteen-page document setting out the building needs for the School of Law projected for a fifteen-year period in the future.

\textsuperscript{1511} Memorandum from Charles A. Ehren, Dean, VUSL, to VUSL Faculty 1 (Dec. 12, 1979).
\textsuperscript{1512} \textit{Id.} at 2.
\textsuperscript{1513} Letter from Charles A. Ehren, Jr., to Michael I. Swygert 1, 4 (May 20, 2003).
\textsuperscript{1514} \textit{Id.} at 2. Other experts Ehren brought in were Professor Vaughn Ball, Professor Robert Bard, former AALS executive director Michael H. Cardozo, Professor Quentin Johnstone of Yale, Dean John R. Kramer of Tulane (an expert on law school finances), Professor Craig W. Christiansen, Professor and Law Librarian Alfred Coco of Denver, and Professor Peter DeL. Swords.
The School of Law faculty's "planning document" was presented to the VU Board of Directors in October 1980. It made it clear that costly and massive new facilities for the law school had to be found or built. The report was distressing news to the VU Board of Directors members. At this time, the law school was already operating at a deficit, one subsidized by the University. Ehren later wrote that in his personal judgment, "the future will require us to go to the upper end of the range for both faculty [twenty-two] and enrollment [450 students]," adding that "it is upon this basis that future planning is proceeding.”

Ehren had the support of members of the law school's advisory group, then known as the "Board of Visitors." In the fall of 1978, the Board consisted of six VUSL alumni plus Russell H. Matthias, a partner in the Chicago firm Meyers & Matthias, which represented the Lutheran Brotherhood. VUSL law alumni included Richard W. Duesenberg, class of 1953, chairman of the Board of Visitors, and Vice-President and General Counsel of Monsanto Chemical Company, St. Louis.

The Visitors' meeting focused on the recent ABA report and how the School of Law should respond. Ehren shared with the Board a report from consultant Michael H. Cardozo which concluded, "I think that a
fair reading of the ABA report gives the impression of a school that is giving students a sound legal education, despite the difficulties confronted by the faculty and administration in accomplishing the result with the resources in hand.”¹⁵²⁰ Three years later Ehren wrote that the Board of Visitors had met at key junctures and had both collectively and through individual members promoted the School of Law’s “development efforts.”¹⁵²¹

Cardozo’s report to Dean Ehren focused in part on the asserted problems with the VUSL law library. After opining that the “entire report on the library, it seems to me, exaggerates the deficiencies,” he noted that “on balance, a careful reading of the library report appears to give the impression of a library that is actually working the way the minimum standards require, despite the need for improvement in order to achieve a quality of distinction.”¹⁵²² The librarian member of the ABA inspection team was the Director of the Law Library at the DePaul University College of Law in Chicago, Christine A. Brock. Although she had received her law degree from the DePaul Law School only two years earlier in 1976, she had been associated with the DePaul Library since 1970, starting out as a cataloger but quickly moving up the ranks to the top Director’s position in 1973, having been appointed by then DePaul Law School Dean Richard Groll.¹⁵²³ Her analysis of VUSL’s law library was the most negative part of the report. It focused on technical violations, as Cardozo saw it, yet failed to point out that neither students nor faculty had any serious space problems in using the facility.

Cardozo’s report also contained good counsel about how VU should initially respond to the 1978 ABA Inspection Report: “I think it is important . . . somehow to call the committee members’ special attention to the visitors’ tone of general satisfaction with the School. They should particularly note that such comments as . . . ‘good teaching [exists] at Valparaiso law school’ . . . ‘[s]tudents seemed consistently loyal to the School and felt they were receiving a good legal education’; and . . . ‘the

¹⁵²² Id. at 2.
¹⁵²³ The information about Ms. Brock is personally known to the author as he was a member of the DePaul law faculty from 1972 through 1979.
quality of teaching is good.”'”

Cardozo concluded his report by emphasizing that the ABA Committee “must be convinced that the ‘very serious deficiencies’ in technicalities perceived by the visitors, and not really in dispute, have not, in this case, prevented the School from giving the students the ‘sound legal education’ that the standards of both agencies [ABA and AALS] require.”

Over the ensuing three years, scores of meetings, reams of reports, hours of telephone conversations, and numerous letters were produced by Dean Ehren; James P. White of the ABA Council of Legal Education; Millard Ruud, Executive Director of the AALS; President Robert P. Schnabel; Vice-President Richard Baepler; and the various consultants hired by Dean Ehren, in particular, Michael H. Cardozo of Washington, D.C., and Alfred Coco of Denver, Colorado, who helped develop specific architectural requirements for a new law building.

Throughout this period, Ehren’s greatest challenge was to convince the University’s Board of Directors and top administrators of the need to risk a sizeable investment in the School of Law for its survival. In a 1981 report on his four years as dean to date, Charles Ehren observed: “Until our physical facilities are expanded, Valparaiso will not be able to increase its student enrollment with the optimal range of up to 450 students. . . . Such an increase is essential in order for the School to maintain a sound long-term balance of program, personnel, and resources.”

Stepping up the pressure, he ended his report by noting, “Fundamentally, every part of the picture is interdependent with every other part. . . . We must maintain and accelerate the efforts of the last several years.” Although not presented in a confrontational manner, Ehren was pleading in his detailed report for the VU Board of Directors to authorize a new building.

D. The “Special Virtues of the Institution”

Nothing in the ABA report was critical of the value orientation of the School of Law. It’s just the opposite. In the report finding technical non-compliance with ABA standards, the ABA inspection team had specifically observed, found, and concluded:

1524 Cardozo Letter, supra note 1520, at 3.
1525 Id.
1527 Id. at 43.
Any law school Dean at Valparaiso will have to understand the special virtues of this institution appreciate the deep loyalties toward it felt by the people who serve it and respect the warm friendships which have developed . . . . 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 Inspection Team felt that the environment within which the Valparaiso law school sits has something very valuable to offer American legal education and moves toward improving the school's program ought not to sacrifice the special qualities which make Valparaiso distinctive.\textsuperscript{1528}

These comments suggest a deeper dimension of the problem of law school approval and accreditation, one also related to attempts to rank law schools. The intangibles of care, warm friendship, deep loyalty, and the environment which includes the religious tradition and ethos are not "regulated or required" and, therefore, are not reflected in essentially numerical, modern cost-benefit analyses of a law school’s financial and physical resources and operations. Ehren looked at the School of Law as an institution that had to survive. Legal education requires substantial financial resources and modern, spacious physical facilities according to ABA's standards, applied across the board to all law schools without regard to a school’s atmosphere, religious ethos, or special attributes.

Legal education was changing and Ehren’s perspective reflected those changes. In assessing law schools, an increased emphasis had developed on looking primarily at easily-measurable tangibles, such as square feet of shelving space. This required-inventory-of-assets approach was applied to law schools as if they all should have the same ABA perceived minimum tangible resources. When reviewing Inspection Reports around the country, an impossible standard seems to have been applied: law faculty should all be paid at or above the median. Think about it. What was happening was that the ABA in effect was playing a leverage game on behalf of law deans and faculties against their central administrations, not with a nefarious intention, but apparently in the arguably narrowly-focused belief that quality education can only come from the expenditure of greater and greater resources.

\textsuperscript{1528} 1978 ABA Report, \textit{supra} note 1492, at 3-4 (emphasis added).
It is ironic that an inspection report that finds so many technical violations of ABA standards—such as having too few seats in the law library according to the ABA’s mathematical formula—lauded the special virtues of the Valparaiso University School of Law. With obvious sincerity and respect, the Team noted the University and School of Law’s “special virtues” but could not consider them in their required mechanistic review which focused on physical and financial resources rather than on the end product—how well the students were prepared by the time they graduated to practice law. Arguably, the ABA applied to the School of Law in 1978 the letter of the law, but not the spirit, to borrow a much-used legal aphorism, in its periodic review function.

E. ABA’s Approval Process Comes Under Attack

There are those at the University today who still feel the ABA was unfair in emphasizing physical deficiencies while appearing to undervalue the special attributes of the School of Law in 1978. It turns out that other law schools during this period felt that they were being treated unfairly by the ABA inspection process as well. One university sued the ABA for libel. The school was the Delaware Law School in Wilmington. According to historian Robert Stevens, an ABA inspection report noted that “‘the intellectual spark is missing in the faculty and the students’ at the Delaware Law School.”1529 The ABA’s Consultant on Legal Education was sued and ordered to pay a judgment of $50,000 to the University for libel.1530 Historian Stevens reports that at about the same time, “the ABA was getting its fingers burned” in its efforts to deny accreditation of Western State University (“WSU”) College of Law because it had made a profit.1531 Dean Maxwell Boras of WSU went before the ABA and argued that “many university law schools were profitable but that the parent university siphoned off the profit.”1532

Professor Harry First of New York University Law School has argued that for decades the ABA and AALS had been imposing on America’s law schools a standardized law-school model in basic conformity with what he calls the “elite model” of better-known law

1529 STEVENS, supra note 90, at 245.
1531 STEVENS, supra note 90, at 244; see also Harry First, Competition in the Legal Education Industry (II): An Antitrust Analysis, 54 N.Y.U. L. REV. 1049, 1082-86 (1979) [hereinafter First, Competition (II)].
1532 STEVENS, supra note 90, at 244; see also Monroe Freedman, Holding Law Schools Hostage, 4 LEARNING & L. 16 (1977).
Using traditional macro-economic analysis, Professor First has sought to demonstrate that the ABA and AALS have operated as a classic cartel in violation of the Sherman and Clayton antitrust laws, a charge which years later would be born out by a Department of Justice consent decree with the ABA, which prohibited specific practices of the ABA in its approval-of-law-schools process.

One area in which the ABA at one time had attempted to impose a standard of particular relevance to the School of Law concerned discrimination based on religion. An ABA regulation had refused ABA approval for those law schools which discriminated against students on the basis of religion. Historian Stevens notes that under threat of a federal court’s restraining order, in 1981 the ABA’s House of Delegates backed off its no-religious-discrimination policy. The ABA’s retreat was precipitated by a lawsuit commenced by Oral Roberts University of Tulsa, Oklahoma. Oral Roberts required both students and faculty to sign an oath of religious faith.\[^{1534}\]

F. The Standardizing and Secularizing of Law Schools

What was the consequence of the ABA/AALS promulgating increasingly more rigorous standards on all of America’s law schools? Ostensibly, it was to raise the quality of legal education. This objective was met. But there also was a price to pay for this regulation—uniformity and the loss of educational innovation, experimentation, and uniqueness. Professor Soia Mentschikoff of the University of Chicago Law School (later Dean of the University of Miami School of Law) in 1961 at an AALS conference noted that the AALS standards forced “a common set of objectives and practices on all law schools.”\[^{1535}\] She made a motion that the AALS set up a committee with the goal of eventually doing away with the standards.\[^{1536}\] Although her motion passed, the committee reported back in 1962 recommending additional standards.\[^{1537}\]

Professor First got to the heart of the matter when he wrote: “A cartel of competitors tends inevitably to eliminate the differences between them, and in so doing, to become increasingly detailed in its


\[^{1534}\] STEVENS, supra note 90, at 260-61 & n.129.

\[^{1535}\] 1961 AALS PROCEEDINGS 65.

\[^{1536}\] First, *Competition (I)*, supra note 1533, at 401.

\[^{1537}\] 1962 AALS PROCEEDINGS 109-204.
code of self-government. This bureaucratization clips the spurs of innovation.\textsuperscript{1538} Indeed, the ABA and AALS have not heeded Columbia University Law Professor (at that time) Karl Llewellyn's criticism made in 1961: "Legal education instead of being standardized, should be multiplied."\textsuperscript{1539}

1. Indiana's Rule 13 Preempts Curriculum

In 1973, in what may be considered as the most frontal attack on the relative independence of law schools, the Indiana Supreme Court adopted Rule 13 in reference to admissions to the bar.\textsuperscript{1540} The Rule, unlike any other in America at the time, required that applicants who apply to take the Indiana Bar Examination must have taken in law school a list of mandatory subjects constituting fifty-four hours of course work, well over half of all the courses needed to graduate from an ABA-approved law school.\textsuperscript{1541} The deans of the four ABA-approved law schools located in Indiana protested what they considered to be a most unwelcome intrusion into the academic regulation of their law schools.\textsuperscript{1542} A few years later, however, the dean of the Indiana University School of Law at Indianapolis, William Harvey, declared that Rule 13 had been beneficial to the development of competent attorneys.\textsuperscript{1543} Also defending the controversial rule was Indiana Supreme Court Chief Justice Robert Givan.\textsuperscript{1544} Historian Stevens describes Rule 13's adoption as underlining "the inherent schizophrenia in legal education," referring to the ongoing battle between the goals of legal education as perceived by many academics and the goals as perceived by leaders of the organized bar.\textsuperscript{1545} Chief Justice Givan, Stevens notes, argued that the growth of "social awareness courses" in the law schools had come at the expense of "lawyering skill courses," adding that "war is too important to be left to the generals."\textsuperscript{1546}

\textsuperscript{1538} First, Competition (I), supra note 1533, at 400.
\textsuperscript{1539} Id. at 401; see 1961 AALS PROCEEDINGS 75.
\textsuperscript{1540} See STEVENS, supra note 90, at 239-40.
\textsuperscript{1541} Id.
\textsuperscript{1542} Among the deans protesting were Alfred Meyer, Dean of VUSL, and Thomas Shaffer, Dean at Notre Dame Law School. Telephone Interview with Alfred Meyer, Dean, VUSL (Sept. 9, 2004).
\textsuperscript{1545} See STEVENS, supra note 90, at 239.
\textsuperscript{1546} Id.
One of the more offending aspects of the Indiana Supreme Court's indirect regulation of law schools was the removal of the requirement that students had to be graduates of law schools when they take the bar examination. Provided they had taken all the Rule 13 required courses by the end of their second year in law school, they could in the summer between their second and third years take the bar. They still had to return, of course, and finish the third-year requirements at their law school. Yet, from the law faculty's perspective, once students who had taken the Indiana Bar Examination after their second year were notified that they had passed, the incentives to take serious the third year of law school were greatly diminished. It was challenging enough for law schools to keep law students focused on studying in their third year, let alone the major disincentives caused by Rule 13.

2. Harvard, Yale, or East Cupcake?

In 1971, one year prior to Indiana's adoption of Rule 13, a report was issued titled, New Directions in Legal Education,\textsuperscript{1547} by The Carnegie Commission on Higher Education. The authors were Herbert L. Packer, a Professor of Law at Stanford, and Thomas Ehrlich, Dean of Stanford Law School. Noting that the ABA had "laid a pattern in 1921 that still determines legal education," the authors made the following observation:

Taking the run of national and regional full-time, university-connected law schools as a unit, a visitor could sit blindfolded in, say, a first-year torts class in any of them with some assurance that he would not be able to tell whether he was at Harvard, Yale, Columbia, Chicago, Stanford, or East Cupcake.\textsuperscript{1548}

\textsuperscript{1547} Herbert L. Packer & Thomas Ehrlich, New Directions in Legal Education (1972).

\textsuperscript{1548} Id. at 29. The Carnegie Report went on to recommend that the traditional law school curriculum be shortened to two years. In doing so, it came close to a recommendation of a Curriculum Study commissioned by the AALS and headed by University of Michigan Law Professor Paul Carrington. See AALS Curriculum Study Project Committee, Training for the Public Profession of Law (1971). The Carrington Report, as it came to be called, recommended a standard two-year J.D. curriculum followed by a third year having alternative curricula responsive to different types of law practice. See Stevens, supra note 90, at 242.
Yale Law Professor Ronald Dworkin wrote in 1968 that a uniformity in law schools existed both as to "structure and purpose."\textsuperscript{1549} Calling the situation "wasteful," Dworkin recognized that lawyers did not practice law in a homogeneous fashion\textsuperscript{1550}—the same point was made in 1921 by Alfred Z. Reed in his study of legal education.\textsuperscript{1551} Reed had recommended that the Harvard model not be the only model for law schools to imitate, but his recommendations were never accepted by the powers to be within the legal academic community, in particular within the academically-dominated AALS.

Not only had the Langdellian case-book and Socratic-style pedagogy become standardized in America’s law schools, but so too had the curriculum.\textsuperscript{1552} Packer and Ehrlich in their Carnegie Foundation report identified what they believed was an additional sameness starting to spread through America’s law schools—a de-emphasizing of \textit{legal theory} and its replacement with an emphasis upon \textit{secularization}, or the practical skills of law practice. From law as a system of \textit{rational principles} from the time of Blackstone; to law as an \textit{analytical, inductive science} beginning with Langdell; to the Realists’ destruction of legal and inductive principles and their replacement of law as decision makers’ \textit{actions} which can only be understood in relation to the \textit{social sciences}; and currently, to law which emphasizes a \textit{clinical set of skills} including drafting, negotiation, appellate advocacy, and trial techniques, legal education in America’s law schools more or less had evolved in unison. Now, the emphasis was switching more towards skills training. The authors argued that it was time, nonetheless, "for legal education to pay more attention to a broader and more philosophic inquiry into the law."\textsuperscript{1553} Generally speaking, this did not happen. The profession instead spoke out in favor of skills training.

3. The Impact of the Crampton Report

The emphasis on skills training in the law schools came from outside academia, from the bar and from the courts. Chief Justice Warren Burger urged that trial lawyers not fully trained in trial skills should not be

\textsuperscript{1550} STEVENS, \textit{supra} note 90, at 233.
\textsuperscript{1551} See REED, \textit{PUBLIC PROFESSION}, \textit{supra} note 114.
\textsuperscript{1553} id. at 34-36.
permitted to litigate in the federal courts.\textsuperscript{1554} The organized bar was becoming increasingly concerned about law schools' not emphasizing lawyering skills as an integral part of their curricula.\textsuperscript{1555} A committee appointed by United States Court of Appeals for the Second Circuit in 1973 circulated a proposal that only lawyers who had taken trial advocacy, ethics, criminal procedure, civil procedure, and evidence in law school could practice in the Circuit's district courts.\textsuperscript{1556} Known as the "Clare Proposals," they were not adopted, yet they still alerted legal educators across the country that more attention had to be focused on "practice" training.

Encouraging America's law schools even more to afford students greater opportunities to develop lawyering skills was a report issued in 1979 by a special ABA task force on lawyer competency.\textsuperscript{1557} Chaired by Cornell Law School Professor Roger Crampton, at one time president of the AALS, the task force stressed that law schools should provide students far greater opportunities in clinical legal education.\textsuperscript{1558} Historian Robert Stevens points out that the push for skills training by the ABA led to a rift between it and the AALS.\textsuperscript{1559} In 1980, in response to the Crampton Report's recommendations, the Council of the ABA Section on Legal Education endorsed a regulation which would require all approved law schools to offer instruction in trial and appellate advocacy, counseling, negotiation, and drafting.\textsuperscript{1560} Stevens writes: "[T]he AALS complained its autonomy was threatened. Once again the ABA backed off and the AALS breathed a sigh of relief."\textsuperscript{1561}

Recall that clinical education at the Valparaiso University School of Law began in the mid-1970s, and by 1979 the School of Law obtained its first grant from CLEPR to fund the Law Clinic. Ultimately, courses in negotiations and client counseling were added to existing offerings in trial and appellate advocacy. Thus, by the end of the 1980s, the School of Law provided its students with several opportunities to take courses in

\begin{itemize}
\item \textsuperscript{1554} See Stevens, supra note 90, at 238, 255 n.72.
\item \textsuperscript{1555} Id. at 238.
\item \textsuperscript{1556} Id. at 239.
\item \textsuperscript{1557} See ABA Report on Lawyer Competency (1973).
\item \textsuperscript{1558} See Stevens, supra note 90, at 240; Bar Unit Urges Law Schools to Shift Emphasis, Chron. Higher Educ., June 1979, at 18.
\item \textsuperscript{1559} Stevens, supra note 90, at 240.
\item \textsuperscript{1560} Id. at 257 n.88.
\item \textsuperscript{1561} Id. at 240.
\end{itemize}
lawyering skills as well as opportunities for clinical experience, both on and off the VU campus.

But so did nearly every other ABA-approved law school in the country, even though the ABA's specific clinical and skills requirement promulgated in 1980 had been dropped. It happened nonetheless. With the notable exception of the Antioch School of Law experiment in the 1970s, which offered a curriculum based on a clinical model—an experiment which eventually failed—the curricula of virtually all American law schools were greatly expanded due to the addition of clinical and skills courses in the 1980s. This in turn required schools to hire large numbers of additional "clinical" and "skills" faculty since clinical training could not be done in the efficient, large-classroom style of Langdellian pedagogy.

Rather than law schools taking diverse paths, which Alfred Reed suggested in the 1920s, Karl Lewellyn in the 1930s, Ronald Dworkin in the 1960s, and Packer, Ehrich, and Carrington in the 1970s, they developed in conscious parallelism. Think what the alternative might have been. Certain schools might emphasize legal theory, others public policy analysis, others like Howard University, civil rights, others private international law, others public interest law including poverty and elderly law, others business and tax planning, others litigation, others alternative dispute resolution, others law and economics, some philosophy and jurisprudence, still others lawyering skills, and many more than just Notre Dame and Brigham Young, their religious orientation and culture. Would this have been better for the multifaceted profession of law and for the country? Perhaps, but perhaps not—who can say for sure?

In any event, rather than a diverse and segmented legal education industry in the United States, virtually all ABA approved law schools had reached a point where they believed they had to attempt to do it all—to attempt to "cover the waterfront." Schools had little choice but to try to emulate each other while complying with the single regulatory mold prescribed by the ABA and AALS. The end result: both structurally and pedagogically, law schools are largely copies of each other. Look at the curricular offerings at any ABA-approved school today without seeing the name of the institution. Regardless of which catalog is picked up the list of offerings will be long and will include

---

1562 See supra notes 1089-90 and accompanying text.
substantially the same variety and combination of skill, substantive, theoretical, historical, specialty, and professional responsibility offerings. Obviously, for any school to offer such a smorgasbord requires a large faculty to cover the diverse and expanding substantive and practical areas which prospective students expect to see offered.

G. A Turning Point for the School of Law

The ABA Inspection Report of the School of Law in 1978 had pointed out particular qualities and attributes of the school: small size, warm friendships, emphasis on good teaching, a value-oriented atmosphere, the students' loyalty and respect for the school and the caring attitude of the faculty and administrators. Yet, the ABA Inspectors in accordance with their regulations, mandated that the School of Law in effect become larger and more comprehensive in its programs.

The days of relatively small law faculties and facilities for many schools were coming to an end. This included the law school at Valparaiso. As a result of the 1978 ABA inspection along with the marketplace expectations that the School of Law must offer additional courses in lawyering skills while enlarging clinical offerings, the law school at Valparaiso had reached a turning point exactly one-hundred years after its founding.

Over its first century, the School of Law's strengths had related to its smallness: personal attention and care of faculty and staff toward students; a tradition of excellence in respect to classroom teaching; a mutual respect shared by all members within the School of Law's community; an understanding of and appreciation for the religious heritage of the University; and a consequential awareness that the school must always seek to do more than teach law well. Now, the challenge to the School of Law was not merely to grow in size, it was also to preserve the school's special attributes.

In 1979, it was clear to a few at the University (especially Dean Ehren) that the law school at Valparaiso had reached a critical junction in its history. It had to change or it would in time be forced to close. There was no choice. By 1989, a decade later, the School of Law was, in atmosphere at least, a more secularized institution; it had changed. It had a spacious, technologically savvy "modern" facility and, in about every respect, reflected the Langdellian elite-model prescribed by the ABA and AALS. The faculty had tripled in size within the decade and their salaries had increased; the student body had grown to 450 students,
soon to approach 500. Yet, even with a student body of this size, the School of Law was still “small” when compared with national averages. Georgetown and Harvard, for example, had well over 1,000 students during the 1980s. Only one university-related law school in Virginia—Washington & Lee—remained as small as the VUSL had been in 1980. But Washington & Lee had substantial endowments.

Moreover, an expanded VUSL faculty by the 1990s was writing more than it ever had previously. The physical space problems had been solved. New technology had been installed, meaning, for example, that the IBM “Selectric” typewriters, which the 1978 report had specifically criticized as being obsolete, had been discarded and replaced with word processors. The Library had thousands of new volumes, periodicals, and documents as well as several additional professional librarians. And as to space, there were scores of added seats and tables and offices for studying, plus ample space for book preparation and cataloging. And, of course, there were more class, seminar, and meeting rooms. New sub-administrators roamed the hallways of the new 90,000 square-foot Wesemann Hall. Of course, teaching and learning continued, although more varied in content and diverse in subject matter. By 1990 it was clear that the secular mission of the School of Law at Valparaiso was in no danger. It provided virtually the same program in content and pedagogical styles as provided by any non-church-related, but university-related law school. On the surface, at least, Harvard, Yale, Valparaiso, and East Cupcake law schools had in important respects virtually become copies of each other.

Yet, of course there are major differences especially in regard to what are called the intangibles among these various law schools. One of these intangibles is the religious atmosphere and culture of an institution. As VU President O.P. Kretzmann stated in 1940, a law school as part of a church-related university has to be as good in the secular realm as any secular university in what it teaches.\footnote{\textsuperscript{1563} See \textit{supra} notes 834-38 and accompanying text.} Thus, a church-related law school like Valparaiso’s has to attempt to train and teach law students the law, legal theory, and lawyering skills in a manner equal to that of Harvard and Yale. But the church-related law school is always charged with striving to do something more. O.P. suggested “the more” should be to encourage students “to be noble” in their trained occupation.\footnote{\textsuperscript{1564} See \textit{supra} notes 834-38 and accompanying text.} This flows from the Lutheran perspective on the two kingdoms or, to

---

\textsuperscript{1563} See \textit{supra} notes 834-38 and accompanying text.

\textsuperscript{1564} See \textit{supra} notes 834-38 and accompanying text.
quote Baepler, "the two realms."\textsuperscript{1565} The intersection of the two realms is part of Lutheran theology and culture, and at times this intersection has been more apparent at the School of Law than at other times.

It appears that the awareness of the intersection of the two kingdoms at VUSL began to diminish from about the time of the ABA's issuance of its critical 1978 Inspection Report. Certainly the law school had not consciously chosen to change its mission, but circumstances of the overwhelmingly secularized and standardized world of legal education had caused the School of Law to concentrate for many years on its secular survival and improvement, resulting in less attention being directed to its cultural and religious heritage and related special attributes which had distinguished it in the past.

The theology, philosophy, and Lutheran cultural awareness of Deans Stalland, Bartelt, and Meyer could not have staved off either the standardizing power of the ABA and AALS or the secularizing influence of a lawyering profession apparently concerned more with the techniques of lawyering than with the noble values that underlie law as justice. Adding to this was the "legal realist" view which de-emphasized notions of "noble values," a view held by several of the newer faculty members.

A final observation: It is always more expedient for accrediting agencies to measure assumed "progress" or "quality" by looking at dollars spent, dollars available, square feet of shelf space, number of seats, number and placement of a faculty's publications, teacher/student ratios, average LSAT and GPA scores, median faculty salaries, and total hard-volume count in the library, than it is to measure the intangibles, which often are of greater value to serious and dedicated students and faculty but which are undervalued by the ABA and AALS. Why? Because there is no definable yardstick to measure "personalized" psychic intangibles.

President Kretzmann in the 1940s and 1950s led the University under what could be called a theology of faith, service, and scarcity. This idealism would not have been enough once the age of cartel-like regulations had been imposed upon American legal education. Indeed, by the end of the 1970s, every American law school which sought accreditation, i.e., ABA approval, would be officially judged as to how

\textsuperscript{1565} See supra notes 834-38 and accompanying text.
well it had imitated or failed to imitate the "elite model," which, as Professor First points out, was prescribed by "elitists" not in the bar but from those within legal education itself who controlled the AALS and, to a lesser degree, the Council of the ABA Section on Legal Education.\footnote{See supra note 1533 and accompanying text.}

The different and differing values of American populism, rugged individualism, Midwest frugality, and a pervasive undergirding of a religiously-grounded and value-infused ethos had all but vanished in America's look-and-act-like-each-other-law-school world. These values had served as the formative bases for the law school at Valparaiso in 1879 as they had for many other law schools in the formative era of American academically-based legal education. But at Valparaiso, at least these values were not forgotten, although they were less "present" in the everyday life of the law school community.

To return to the story, Valparaiso University officials by 1981 had reached the decision to do whatever was necessary to keep the one-hundred-year-old law school at Valparaiso in existence and to improve its secular program and enhance its reputation.\footnote{Among the University leaders who came to this decision were President Robert Schnabel, Vice President Richard Baepler, Former President Albert Huegli, and Former Vice President John Strietelmeier.} It was a risky choice. The decision was made at a time when it was unclear that risking millions would be successful. Applications to law schools had already begun to decline by 1981 when the VU Board of Directors committed the University to revitalize, modernize, and expand the School of Law. There was only a hope backed by a projected demographic analysis that there would be sufficient student demand to make the risky investment ultimately pay off. Fortunately, it did. The demand for legal education by the late 1990s and thereafter rose appreciably.

Consequently, every student and faculty member who has been associated with the School of Law since 1981 should know that the Board of Directors, President Robert Schnabel, and Vice-President John Strietelmeier did in fact take a chance after being persuaded by Dean Charles Ehren and certain members of the school's Board of Visitors not to close the School of Law following the 1978 ABA Report, but rather to try to raise or, if need be, even borrow millions of dollars on the hope and prayer that the money would eventually turn out to be well spent. By doing so, these leaders went against their naturally conservative
nature and, to their credit, followed the tradition and culture of a previous leader of the University under the Cross, President Otto Paul Kretzmann. The remainder of this history and the ensuing two decades of the School of Law would have not occurred but for the faith of these people. And that single word—faith—encapsulates the heart, soul, and culture of Valparaiso University.

H. The 1979 Centennial

1. Rev. Richard John Neuhaus

Amid the anguish precipitated by the fall 1978 ABA Inspection Report, Dean Ehren established a Centennial Planning Committee of the School of Law to make plans for the school’s 100th anniversary the following year. The committee decided to invite well-known speakers to celebrate the occasion, including the highly respected Lutheran theologian and sociologist, Richard John Neuhaus. At the time, Neuhaus was senior editor of *Worldview* and a New York City pastor. The author of several books including *Christian Faith and Social Policy*, *In Defense of People*, and *Movement and Revolution* (with Peter Berger), Rev. Neuhaus agreed to come to Valparaiso to present a paper related to law and theology which would also serve as the School of Law’s Centennial Address.

On March 29, 1979, Rev. Neuhaus presented his thesis titled *Law and the Rightness of Things*. It was subsequently published in the *Valparaiso University Law Review*. In his Chapel address, Rev. Neuhaus remarked that the Judeo-Christian tradition is “premised upon the notion of real history, real change, happening in an incomplete universe that is still awaiting its promised fulfillment.” Pertinent to a law school within a Christian university, Neuhaus observed that theologians and jurists do not deal with separate worlds or subject matters, but “are engaged in [God’s] one history and this common task: to enhance life by relating it to the justice of law, and to renew law by relating it to the meaning of life.”

Edward Gaffney, a professor of law at Notre Dame

1568 Memorandum from Charles A. Ehren, Dean, VUSL, to Dr. Robert V. Schnabel, President, VU, and Richard Koenig 1 (Feb. 1, 1979).


1570 Richard John Neuhaus, *Law and the Rightness (and Wrongness) of Things*, 22 WORLDVIEW 40, 45 (1979) (said to be based on “an address at the centennial of the Law School of Valparaiso University, Indiana”).

1571 Id. at 45.
and a member of the Council on Religion and Law, gave a response to the Neuhaus paper. Within a dozen years, Professor Gaffney would himself become dean of the law school at Valparaiso.

2. Historian Robert Stevens and Justice John Paul Stevens Celebrate VUSL's Centennial

The second major public event of the School of Law's centennial was a series of lectures on the history of legal education presented by the highly-regarded legal historian, Robert Stevens, author of Law School: Legal Education in America from the 1850s to the 1980s, which has been frequently cited and quoted in this history. Stevens was president of Haverford College in Pennsylvania. A former Yale Law School professor and, subsequently, president and provost at Tulane University, Stevens received his formal education at Oxford University and Yale, and he practiced law in both London and New York City before joining the Yale law faculty. Besides the history of American law schools, Stevens authored several other books, including In Search of Justice, and Law and Politics: The House of Lords as a Judicial Body, 1800-1976.

His three October 1979 VU lectures emphasized "the Valparaiso [School of Law] Experience in the Context of [American] Legal Education." Besides informing those who gathered to hear his addresses in 1979, they also served as the starting point and focus of this 125-year history of the School of Law.

In his addresses, Stevens pointed out that when the Northern Indiana Normal School opened its law department under Mark L. DeMotte in 1879, it was "an integral part of the rebirth of American legal education." Comparing 1879 with 1979, Stevens warned that "the increased power of the profession over law schools could have a serious

1573 See infra notes 1775-77 and accompanying text.
1574 See STEVENS, supra note 90.
1576 Press Release, VU, Haverford College President to Deliver Series of Lectures at VU (Sept. 17, 1979).
1577 Id.
1578 Robert B. Stevens, The Valparaiso Experience in the Context of American Legal Education, A Series of Three Lectures, Lecture I, STRUCTURE, 1979, at 2 (the text of the first of three lectures President Stevens presented at VU on October 3-5, 1979, are located in the VUSL Archives).
anti-intellectual impact and cause American legal education to lose its outstanding international reputation as well as its great vigor."^{1579}

Stating that "the excellence of this institution [the School of Law] is well-known," Stevens ended his first VU lecture by listing the School of Law's "many assets."^{1580}

You are a small institution; you can experiment in a way that the large law schools, which include an increasing number of law schools each year, cannot. You retain a measure of informality which the large law schools cannot. You have... shaken off many of the bad things about the case method.... You have been concerned about skills which the Crampton report addresses.... It is in relatively small schools like this that the important breakthroughs come.^{1581}

In what may have been intended as a specific response to the immediate need for the School of Law to be injected with substantial new funds, or perhaps by mere coincidence, Stevens reportedly also noted that "universities having law schools should be generous with the money allocated to the field of law."^{1582} Stevens' lectures were a good tonic for the School of Law as it faced its ongoing battle with the ABA. The message of the ABA and of Robert Stevens in the end came to similar conclusions—the law school at Valparaiso had to look ahead; it had to be responsive to changing times and demands; but with Stevens alone adding, it should strive to be innovative.

The final School of Law centennial-related event was a commencement address by United States Supreme Court Associate Justice John Paul Stevens at the May 1979 graduation ceremonies. Appointed to the Supreme Court by President Gerald Ford in 1975, he had earlier served five years on the United States Circuit Court of
Appeals for the Seventh Circuit in Chicago.\textsuperscript{1583} Justice Stevens’ remarks were well received by the School of Law’s alumni, students, and faculty.

I. Berner and Students Assist “Pinto” Prosecution

VUSL Professor Bruce Berner\textsuperscript{1584} was engaged in a nationally news-covered dispute from the fall of 1978 through the spring of 1980 and was unable to be very involved in the School of Law’s centennial events. The landmark case was the criminal prosecution of Ford Motor Co., after the number two car manufacturer in America was indicted for the crime of “reckless homicide for allegedly designing and manufacturing” its controversial Ford Pinto in such a manner that when struck from behind, the car’s gas tank could rupture, starting a fire.\textsuperscript{1585} The prosecution grew out of a tragedy that had occurred in 1978 near Goshen, Indiana. Three teenage girls in route to a church-sponsored volleyball game were in a 1973 Ford Pinto car when it was struck from behind by a van. The Pinto burst into flames, burning all three girls to death.\textsuperscript{1586}

As described in an article in the \textit{Chicago Tribune}, the case on one side involved Ford, having $42 billion in sales in 1978 and a legal team headed by former Watergate prosecutor, James Neal, assisted by six full-time and numerous part-time lawyers. On the other side was a part-time Elkhart, Indiana prosecutor, Michael Cosentino, assisted by four deputy prosecutors and by two volunteer law professors and some volunteer law students. The assisting professors were VUSL criminal law professor Bruce Berner and DePaul College of Law torts professor Terrence Kiely. Each professor contacted volunteer students from his respective school to help in the research. Several top-flight VUSL students answered Berner’s call for assistance. They included Gene Schoon, Don Seberger, Donny Wray, and Kathleen Schmidt,\textsuperscript{1587} as well as Diedre E. Burgman, Michael Meyer, Don Lane, and Mark Reymer.\textsuperscript{1588}

\textsuperscript{1583} \textit{High Court Judge Chosen to Speak}, \textit{THE TORCH} (VU), Apr. 23, 1979, at 8. Dean Ehren arranged for Justice Stevens to speak at VU with the assistance of Stevens’s former Seventh Circuit colleague, Judge Luther Swygert. Memorandum from Charles A. Ehren, Dean, VUSL, to Robert V. Schnabel, President, VU (Jan. 15, 1979).

\textsuperscript{1584} See supra notes 1428-36 and accompanying text.

\textsuperscript{1585} Lee Strobel, \textit{Pinto Trial: Ford vs. an "Army,"} CHI. TRIB., Oct. 21, 1979, § 1, at 1.

\textsuperscript{1586} Id.

\textsuperscript{1587} Id.

\textsuperscript{1588} Christian Potthof-Sewing, \textit{VU Professor Battles Ford Pinto in Potential Landmark Legal Case}, \textit{THE TORCH} (VU), Feb. 12, 1979, at 1. See also Dave Heidorn, Berner: \textit{The Pinto Case}, THE FORUM (VUSL), Nov. 10, 1980, at 5, for a well-done and comprehensive interview of Professor Berner in reference to the case.
The "sleepy" law school in Indiana was in the thick of this nationally followed case.

In the middle of the trial, a headline in an Elkhart local newspaper proclaimed: The Berner and Kiely Show: Professors Are Key Aides in Pinto Prosecution.\textsuperscript{1589} In the article, the reporter noted not only the legal assistance the two professors were giving the local prosecutor, Mr. Cosentino, but also noted that when the two academics had time to relax, they often exchanged one liners. For example, Berner, reportedly, said that he had come up with a courtroom objection no judge could overrule. What is it, Kiely, asked. In a serious tone Berner replied, "Objection, your honor. The question calls for an answer." Despite such moments of light humor, their work was both serious and vitally important. Prosecutor Cosentino acknowledged that Berner and Kiely "have been invaluable in this case. The state could not be in its present position, which is ready for trial, without their assistance."\textsuperscript{1590} Berner commented that to him, the case raised a very simple issue: Whether a corporation has the same liabilities and responsibilities as other people. "To me," Berner opined, "it [raises] a philosophic point."\textsuperscript{1591} Despite their efforts, Ford Motor Company was not convicted.

J. New Faculty and Staff

In the fall of 1978, several newly appointed staff and faculty members began service at the School of Law. One was Assistant Dean John M. Farago, a Harvard University undergraduate and a graduate of New York University School of Law, where he was articles editor of the law review. When he came to VU he was working toward a Ph.D. in higher education from NYU. His previous experience was with the Chancellor of the New York City Board of Education.\textsuperscript{1592} Brought on board by Dean Ehren to head student recruitment, admissions, and placement, Farago was a dynamo. Hard working, creative, and continually coming up with innovative ideas, John Farago was the right administrator to assist Ehren during the difficult post-1978 ABA inspection years. Ehren, often shut in his office working on how best to respond to the ABA and at the same time having to persuade the powers that be at VU to save the law school, delegated much of the

\textsuperscript{1589} David Schrebier, Professors Are Key Aides in Pinto Prosecution, ELKHART TRUTH (Ind.), Jan. 1980, at 7.

\textsuperscript{1590} Id.

\textsuperscript{1591} Id.

responsibility to his assistant dean for interacting with students and faculty. Ehren’s apparent aloofness was not always understood either by the faculty or by the students. Despite this shortcoming, Ehren made many good decisions for the betterment of the School of Law.

One was the appointment of Richard Baepler, former Dean of Christ College, later VU historian, and presently professor emeritus, to be Professor of Theology and Law, with teaching responsibilities both in the University Theology Department and at the School of Law. A graduate of Concordia Seminary St. Louis (B.A. and M. Div. degrees) and the recipient of a Ph.D. from the University of Chicago, Baepler had taught legal history at the School of Law in previous years. Dean Ehren’s announcement of Baepler’s joint-appointment noted that this “is a most significant step in our movement toward the interdisciplinary approach to legal education.”

Also joining the VUSL faculty in 1978 was another cross-trained professional, one who has specialized in international development, African law, and law and economics—Professor Paul H. Brietzke. Coming to the law school with a strong background in comparative law and economics, Brietzke in short order became one of the faculty’s most prolific writers, authoring by 2003 over fifty published articles. He earned his undergraduate degree Phi Beta Kappa in economics from Lake Forest College, followed by a J.D. from the University of Wisconsin Law School, where he also took graduate courses in education. Although he has taught the basic contracts course since he was first hired at the School of Law, he also teaches or has taught law and economics, antitrust, and various seminars on international development and international human rights.

After law school, Brietzke spent a year teaching educationally disadvantaged students at the secondary school level in Chicago. He next taught law for three years at the University of Malawi School of Law, then moved to Ethiopia in 1973 where he spent two years at Addis Ababa (formerly Haile Selassie I) University, again teaching law and jurisprudence. During his time in Ethiopia, the country’s revolution of 1973-1974 was going on around him. After leaving Ethiopia in 1975, Brietzke served three years as a lecturer in law at Brunel University in England. One year after joining the VUSL law faculty, he was awarded

1594 New Contracts Prof., THE FORUM (VUSL), Sept. 2 1978, at 3.
in 1979 a Ph.D. from the University of London. His thesis was titled, *Law, Development and the Ethiopian Revolution*, and was published in 1982 by Bucknell University Press.\footnote{The information about Professor Brietzke comes from several sources, including a 2003 Curriculum Vitae supplied the author, a copy of which is in the VUSL Archives.}

Besides teaching at Malawi, Ethiopia, England, and Malaysia, Professor Brietzke received a Fulbright Scholarship to teach and do research in law at Hanoi National Economics University in Hanoi, Vietnam.\footnote{Brietzke, Rubchak Are Fulbright Scholars, VAL. U. CAMPUS CHRON., Jan. 21, 1999, at 1.} He was the first Fulbright recipient to go to Vietnam.\footnote{Id.} In 1999, Brietzke was appointed chief legal advisor to the Ministry of Justice in the Republic of Indonesia. Working in Jakarta for over a year, he was part of a project funded by the U.S. Agency for International Development, which devised economic reforms for the country.

Brietzke's appointment to the VUSL faculty represents an important addition. For one thing, he has had training in both law and economics and favors such interdisciplinary approaches to law. For another, he has taught in seven countries outside the United States and has developed an in-depth understanding of third-world problems and economic responses. He has served as an associate editor, along with Professor Jack Hiller, of the *Third World Legal Studies* periodical, which has been published at the School of Law with the assistance of Librarian and Professor Mary Persyn. Having familiarity with five foreign languages—French, German, Italian, Amharic, and Malay/Indonesian—he has served as a consultant not only in Indonesia, but also in Ethiopia, Mongolia, Kenya, Eritrea, China, and the Czech Republic. As law increasingly became recognized as global, and as international trade and commerce has taken on added importance, Paul Brietzke has, and continues to offer, a specialized expertise and inter-disciplinary perspective to his colleagues and students at the School of Law.

Also appointed to the law faculty in 1978 was Marcia L. Gienapp. She was hired to oversee the first-year legal problems course. Receiving both her B.A. and J.D. from VU, she taught legal research and writing at the University of Cincinnati School of Law prior to joining the VUSL faculty.\footnote{Ms. Marcia Gienapp, VAL. U. ALUMNI NEWS, Sept. 2, 1978, at 2.} During law school, she was an executive editor of the *Valparaiso University Law Review*.\footnote{New Legal Problems Prof, THE FORUM (VUSL), Sept. 19, 1978, at 3.} Along with Professor Gienapp,
Professor Ivan Bodensteiner returned to the School of Law after a two-year absence to help administer the program. Later, Professor Gienapp became Director of the VUSL Law Clinic.

The one new addition to the faculty in the fall of 1979 was Professor Bert Z. Goodwin, who before coming to VUSL, had been Deputy General Counsel in the U.S. Air Force; then Chief Counsel to the Federal Administration Association ("FAA"); and finally, counsel to the Airline Pilots Association. Having both undergraduate and law degrees from the University of Chicago, where he had been managing editor of the University of Chicago Law Review, Goodwin also had earned in 1970 an S.M. degree from the Sloan School of Management of the Massachusetts Institute of Technology. During his years on the faculty, he married VUSL professor Linda L. Long, who joined the faculty in 1980. In the fall of 1983, both Goodwin and Long left the School of Law to go to Sapporo, Japan. Goodwin had received a Fulbright Award to teach there at Hokkaido University. Linda Long studied Japanese methods of dispute settlement. Neither returned to VUSL.

The process of expanding both the size of the student body and the full-time law faculty continued the following years. In the fall of 1980, four new full-time faculty were hired: Diedre Burgman, Paul N. Cox, David E. Myers, and David Vandercoy. Then in 1981, John Potts joined the law school's faculty. Diedre Burgman was one of the student research assistants to Professors Berner and Kiely on the Pinto case discussed above. While an undergraduate student at VU, she was contacted by Dean Al Meyer and Professor Lou Bartelt, who suggested that she consider applying to law school. Six years after graduating with honors in 1976 from VU, Burgman took their advice and enrolled in the School of Law, graduating with high honors in 1979. She then clerked for Chief Justice Paul H. Buchanan of the Indiana Court of Appeals prior to joining the faculty.

After two years, Professor Burgman left the VUSL faculty to join the New York City law firm Dewey, Ballantine. She then earned an LL.M. degree in 1985 from Yale Law School. She subsequently joined the
New York City law firm Cahill, Gordon & Reindel.\footnote{New Personnel: Associate Professor Dierdre A. Burgman, VAL. U. ALUMNI NEWS, Oct. 1980, at 3.} Before and during her appointment on the VUSL faculty, Professor Burgman authored scholarly articles including one on the concept of wrongful life\footnote{See Dierdre A. Burgman, Perish the Day of Birth: The Emerging Concept of Wrongful Life, THE CRESSET (VU), Sept. 1980, at 3.} and one on conspiracy law.\footnote{See Dierdre A. Burgman, Unilateral Conspiracy: Three Critical Perspectives, 29 DEPAUL L. REV. 75 (1979).} She returned to VU to be the commencement speaker at the 1988 graduation ceremonies for the School of Law.\footnote{See Dierdre A. Burgman, Not the Journey’s End, THE AMICUS (VUSL), 1989, at 14.} That same year she was elected Chairperson of the VUSL Board of Visitors\footnote{THE AMICUS (VUSL), 1989, at 17.} and more recently has been a member of the school’s National Council.

Another relatively short-term addition to the faculty was Paul Cox, an honors graduate from Utah State University and a J.D. graduate of the University of Idaho. Like Burgman, he too had clerked before coming to the law school at Valparaiso on the United States Court of Appeals for the Tenth Circuit. Subsequently, he earned an LL.M. degree from the University of Virginia. At Valparaiso’s law school from 1980 until 1985, Professor Cox’s specialties were labor and discrimination law. He later joined the law faculty of Indiana University School of Law, Indianapolis.\footnote{Id.}

Of four new appointments made in 1980, two remain on the faculty today, twenty-four years later: Professors David Myers and David Vandercoy. Myers received his undergraduate education at Drake University in Iowa, then graduated from the University of Illinois College of Law in 1976. He served as law clerk to Justice Maurice Rawlings of the Iowa Supreme Court from 1976 to 1977 and then became an assistant professor of Agricultural Law at the University of Illinois. Professor Myers has taught in the property, environmental, land use, intellectual property and entertainment law areas. In the summer of 1984, he visited at the University of Arizona. An advisor for several years to the \textit{Valparaiso University Law Review}, Myers also has been active in assisting the admissions staff with recruiting prospective students to the School of Law. In 1996, Professor Myers won the Charles Gromley Distinguished Teaching Award.
Professor Myers' major involvement in the "real world" has been related to his expertise in agricultural law, with both the American Agricultural Law Association ("AALA") and with the AALS. One of the original founders of the AALA, he was president-elect of the national organization in 1985 and served as president the following year. For several years he served as one of the regional editors of the Association's newsletter. In addition, he has served as chair of the AALS Committee on Agricultural Law. A solid scholar, he has published numerous articles on agricultural, environmental, land use, and taxation subjects in journals including the Vanderbilt Law Review, Alabama Law Review, Kansas Law Review, Indiana Law Journal, Drake Law Review, and The Agricultural Law Journal, and is co-author of the book, Taxation: Federal, State and Local Systems. He also has co-authored a casebook on entertainment law litigation.

The other 1980 hire who remains on the VUSL faculty today is an energetic and experienced trial litigator, David E. Vandercoy. A 1971 graduate of Pennsylvania State University, he earned his J.D. degree from Dickinson School of Law in 1974, then an LL.M. in criminal law from the New York University School of Law in 1980. After law school, he engaged in civil and criminal litigation for three years and served one year as staff counsel to the Senate Judiciary Committee of the Pennsylvania Senate. In the summer of 1979, Vandercoy accepted an appointment to serve in the Legal Services Center of the St. Louis University School of Law before entering that fall into the NYU Law School.

After joining the VUSL faculty in 1980, Professor Vandercoy soon was named head of the Law Clinic, a position he retained until appointed Associate Dean of the School of Law in 1993. He served as Associate Dean until succeeded by Rosalie Levinson in 2002, when he returned full time to teaching in the clinic as well as teaching a course in

---

products liability law. In overseeing hundreds of VUSL students in the clinic for over twenty years, Professor Vandercoy has helped develop the practical lawyering skills that the Crampton Report had demanded of American legal education in the mid-1980s.\footnote{See supra notes 1554-61 and accompanying text.}

A strong supporter of "the right of the people to keep and bear arms,"\footnote{See U.S. CONST. amend. II.} upon attaining tenure in 1991 Professor Vandercoy gave his Inaugural Lecture on the history of the Second Amendment of the United States Constitution.\footnote{See David E. Vandercoy, The History of the Second Amendment to the United States Constitution, THE AMicus (VUSL), 1991, at 16-22.} The lecture was subsequently published in The Amicus as well as in the Valparaiso University Law Review.\footnote{Id.} In what might seem as incongruity, but not to those who know him, Vandercoy remains a member and strong supporter of the American Civil Liberties Union ("ACLU").\footnote{Buska, supra note 1615, at 3.}

Before becoming Director of the Clinic, Professor Vandercoy worked with Professors Hugh Martz and Linda Long in supervising students. In time, however, the Clinic was expanded. As Clinic Director, Vandercoy limited his supervision to criminal cases while Professor Long supervised civil cases. He was able to obtain important federal grants to help sustain the Clinic's activities, not only from the Legal Services Corporation, but also from the Department of Education.\footnote{E-mail from David Vandercoy, Professor of Law, VUSL, to Michael Swygert (Aug. 26, 2003, 11:09 CDT).} In recent years, the Clinic has expanded to include a Criminal Law Clinic supervised by Professor David Welter; a Tax Clinic supervised by Karen Kole; a Juvenile Clinic supervised by Elizabeth Tegarden; and a Mediation Clinic and service run by Professor Barb Schmidt. Since 1993, Professor Marcia Gienapp has served as Director of the Clinic.\footnote{Id.}

The following academic year, 1981-1982, brought Professor John J. Potts to the faculty. After receiving his B.A. degree from the University of New Mexico in 1969, he earned a J.D. from Boston College Law School in 1974 and an M.S. in accounting from Northeastern University in 1975. After practicing as a tax specialist and attorney in Albuquerque, New Mexico for six years, he joined the VUSL faculty to teach in the tax area,
an area in which the 1978 ABA Inspection had indicated the curriculum was deficient.

Upon joining the faculty, Professor Potts helped revamp the School of Law's then meager tax offerings, increasing the number from two to seven. An author of numerous articles in the area of taxation, Professor Potts himself has taught all seven tax-related courses at the law school, including international aspects of U.S. taxation. In addition he teaches legal philosophy and the rights of unborn children.

During his time on the VUSL faculty, Professor Potts has been consistently active in the national and world-wide pro-life movement. He, along with Professor Richard Stith, helped organize and then advise *Jus Vitae*, a pro-life student organization at the law school, which Potts describes as the "first law reform organization formed at the School." The organization which began at VU branched out to a few other law schools including Notre Dame. In January 1988, Professor Potts and members of the School of Law's *Jus Vitae* organization traveled by bus to a national pro-life rally held in Washington, D.C. In 1989, along with Professor Richard Stith, Professor Potts drafted amicus briefs which were filed with the United States Supreme Court in reviewing the case of *Webster v. Reproductive Health Services*. The Potts-Stith brief was filed on behalf of the International Right to Life Federation. The action brought a curt response from the president of the local chapter of the National Organization of Women ("NOW"), who wrote in *The Torch*: "Would Mr. Potts and Mr. Stith have us return to the day of illegal abortion when the greatest killer to women was back-alley abortions?" Stith wrote a measured and calm response to the NOW representative.

The pro-life and legal-reform activities of Professors Potts and Stith are within the social activism tradition of the past three decades of the School of Law. Although Professors Wechsler, Moskowitz, Martz, Levinson, Schmidt, Bodensteiner, Potts, and Stith certainly have not
shared the same agenda, they have pursued their sincere beliefs about social justice with action and from a shared ethical and religious-based ethos of human compassion. Using the law and pursuing law reform in seeking social justice has both Old and New Testament bases and has been and remains an important part of the on-going history of the School of Law. This is not to say that the students and faculty are of one mind on the issue of legal abortion. The disagreements have been sharp and not always mutually cordial. But a university is a place where important legal, social, moral, and constitutional issues are debated.

During Ehren's administration, one other new faculty member needs to be mentioned, Douglas Kmiec. A 1973 Northwestern University undergraduate and 1976 University of Southern California School of Law graduate, Kmiec had been an international law fellow at Exeter University in England and then had practiced law in Chicago before Ehren brought him on the faculty in 1978. Teaching land use and property, Kmiec also was involved in starting up the School of Law's participation in the national client counseling competition which led to the VUSL team gaining second place in the nation in the spring of 1980. After two years at VUSL, Professor Kmiec left to join the law faculty at Notre Dame. Later he became dean of the Catholic University School of Law in Washington, D.C. Kmiec has been a leader of the Federalist Society, a national organization of conservative lawyers and law students, and frequently appears on public television as a spokesperson for conservative viewpoint on judicial matters.

Finally, during Ehren's administration, Donald W. Huiner was appointed the first Director of Development for the School of Law in its history. A joint appointment with the University's Department of Alumni and Public Affairs, Huiner helped establish the annual fund for the School of Law. Ehren also appointed two important adjuncts to the faculty in 1980 to beef up the school's programs. First was Judge Jack R. Allen, an alumnus, to teach trial advocacy. Judge Allen had served first as a city judge then a Porter County Superior Court Judge for eight years. Later, Judge Allen would serve as the first chair of the VUSL National Council. Second was Edward W. Osann, Jr., a partner in the Chicago law firm Leydig, Voit, Mayer & Holt and a specialist in patent

---


and trademark law, to teach a course in intellectual property at the School of Law. Osann was the first adjunct who practiced with a Chicago law firm to come the sixty miles to Valparaiso to teach a specialized course.

K. Historical Assessment of Ehren’s Deanship

An assessment of Ehren’s deanship at the School of Law comes down to one key point—he was one of the University’s leaders who was instrumental in taking the necessary steps to upgrade the School of Law, guaranteeing not only its survival, but its ability to flourish in subsequent decades. Ehren anticipated the 1978 ABA/AALS critical inspection report. He hired appropriate outside experts such as Michael Cardozo to help the law school respond. He worked with Presidents Huegli and Schnabel and helped convince them that the School of Law had no alternative but to invest substantial funds to become larger and more efficient and, moreover, that it was necessary to take the risk to do so.

He convinced the Board of Directors to raise substantially the School of Law’s tuition, far above the undergraduate level. And, along with President Robert Schnabel, he convinced the Board to agree to raise and or borrow the necessary millions of dollars to build a modern law school facility that could accommodate a school of 500 law students. Not all agreed with his way of doing these things or with all the actions he took. Some saw a diminishment in the “special attributes” and traditional characteristics of the School of Law. Nonetheless, by the end of his five years as dean of the School of Law, the institution was stronger administratively, academically, and financially than it had been when he came in 1977. In retrospect, the five-year period when Ehren served as Dean of the School of Law appears clearly to have been a necessary turning point in its history.

Fittingly, during Dean Ehren’s last weeks in office as Dean, the Valparaiso University Board of Directors at its spring 1982 meeting approved preliminary plans for a “new School of Law complex to be built on the Heritage Park (old) Campus” of the University. In addition to an entirely new building, the adjacent Heritage Hall would

---

be renovated to house the School of Law's Clinic and student newspaper, *The Forum*.\(^{1634}\) It took four years for the project to be completed.

Upon Ehren’s resignation from the dean’s position in 1982, he remained on the faculty until retiring from the University in 1995, by then having given eighteen years of service. President Emeritus Robert Schnabel upon Ehren’s retirement noted that he had assumed the deanship of the School of Law when new demands and challenges had to be confronted.\(^{1635}\) Schnabel stated:

> We salute Charles A. Ehren, Jr., as a law dean and faculty member for eighteen years. It was a most productive tenure in times of qualitative and quantitative growth and expansion. In paying tribute to Charles, we acknowledge with deepest appreciation . . . his willingness to commit himself to the challenging tasks confronting our Law School.\(^{1636}\)

**L. Wesemann II Becomes a Reality**

Being unable to find an acceptable decanal replacement for the ensuing academic year, President Schnabel with the faculty’s approval appointed Professor Alfred W. Meyer to again serve as dean for the academic year 1982-1983, this time as acting dean.\(^{1637}\) Recall that he had served as dean for several years prior to Ehren’s deanship.

In the fall of 1983, Dean Meyer met with a group of alumni at Chicago’s Union League Club to kick-off the official fundraising campaign for the new law complex.\(^{1638}\) In attendance were law alumnus Herbert F. Stride, class of 1957, the designated national chairman of the campaign, from Chicago; co-chairmen George P. Mallers, class of 1955, from Fort Wayne; and Glenn J. Tabor, class of 1958, from Valparaiso. In a statement to alumni, Dean Meyer wrote that the School of Law has “a

---

\(^{1634}\) *Id.* at 10.

\(^{1635}\) Robert V. Schnabel, Tribute to Charles A. Ehren, Jr. 1 (May 22, 1995) (unpublished manuscript) [hereinafter Tribute to Ehren]. “The Law School had to face the increased expectations and requirements imposed by the American Bar Association and the Association of American Law Schools that surfaced at the very time Dean Ehren assumed his leadership role in 1977.” *Id.* at 2.

\(^{1636}\) *Id.*


http://scholar.valpo.edu/vulr/vol38/iss3/1
distinctive character which needs and deserves to be nurtured and preserved." But to do so, he added, "requires that we have facilities which are not merely adequate, ... [but] which will be conducive to the new developments in legal education." He was referring in part to the technological revolution beginning to affect law libraries and also to the recent national emphasis on skills training in law school curricula.

President Schnabel worked closely with Deans Ehren, Meyer, McGovern, and Bodensteiner and with the ABA/AALS officials from 1978 through 1986—an eight-year period—overseeing the planning, fund raising, and construction of the new complex. Schnabel recalled years later that the VU Board of Directors, "led by the strong leadership of undergraduate and law alumni like Herb Stride and Dick Duesenberg" determined "that ways must be found to meet the demands of the ABA and AALS." He noted that the $7.5 million complex was paid "in considerable measure" from funds from a "$3 million gift received from Adolph and Janet Wesemann." But money still had to be appropriated from other units of the University to pay the total cost.

The groundbreaking for the new Wesemann Hall on the Heritage Park campus took place on April 27, 1985. By this time, Peter J. McGovern had become the law school's Dean. President Schnabel officiated and a short service at the construction site was led by the Rev. Daniel C. Brockopp, University Pastor and Dean of the Chapel of the Resurrection. Dean McGovern served as lector. The new, nearly 90,000 square foot structure was completed in a little over a year and was open for the entering class in September 1986. By the fall of 1987, it was said that "memories of the old law school, used until May, 1986, are fading quickly."

1640 Id.
1641 Tribute to Ehren, supra note 1635, at 1.
1642 Id.
1643 See infra notes 1644-47 and accompanying text.
1645 Groundbreaking, VAL. U. ALUMNI NEWS, Apr. 22, 1985, at 3; see also Leane Pardicck, Ground Breaking Service Held, THE TORCH (VU), Apr. 29, 1985, at 1 (noting that "75 alumni, faculty and students particip[ed]").
The new building "made a radical difference not only in terms of space, but in the entire 'personality' of the School of Law." So wrote Assistant Dean Curtis Cichowski, VUSL class of 1981. Noting that the School of Law had "been magically transformed into a full-service law school," Cichowski commented that the new library was larger than the original Wesemann Hall in its entirety.

Faculty office space had tripled. Eight classrooms, taking up 15,000 square feet in area, now seated 534 students compared with four classrooms of less than 4,000 combined square feet which sat only 230. The old building totaled 25,980 square feet and the new one 76,300, with 15,000 square feet for expansion. With expanded space for interview rooms, computer laboratories, student lounges, placement services, and financial aid, as well larger offices for admissions and recruitment, alumni relations, development, and assistant and associate deans' secretarial and support staff, the educational goals of the new facility were realized fully. The University administrators, law school's deans, and faculty, along with the projects consultants, architects, and builder—Sverdrup, Parcel and Associates, of St. Louis, Missouri—had together produced a modern, efficient, and functional law school facility that would be user (and hopefully ABA/AALS) friendly for decades to come. As regards the final cost of $7.5 million, the aesthetically attractive (both inside and out) structure appeared to be worth every penny, although its cost had not been fully paid.

The success of the new building in attracting students was apparent immediately. By the time the structure was one year old, the incoming class in August 1987 consisted of 151 students with degrees from eighty-three undergraduate institutions. Coming from twenty-one different states and two foreign countries, fifty percent were from Indiana, followed by fifteen percent from Illinois. Minorities represented ten percent of the class. The class included two podiatrists, two university professors, and eight with masters degrees. Ten percent had received their undergraduate training at VU, six percent at Indiana University, and five percent at Purdue University. Thirty-six percent were Catholic,

\[1649\] Id.

http://scholar.valpo.edu/vulr/vol38/iss3/1
fifteen percent Lutheran, and seventeen different religions were listed on their applications. The students all found the facilities agreeable.

The dedication of the new Wesemann Hall took place on the weekend of April 3-5, 1987. On the fifth Sunday in Lent, in the Chapel of the Resurrection, a Holy Communion and Ecclesiastical Convocation was held as part of the dedication activities. The officiate was Dr. August Menicke, First Vice-President of The Lutheran Church-Missouri Synod. Included in the weekend’s events was a symposium on the topic: “The Mission of a Church-Related Law School,” discussed earlier.

The official dedication was a “University Convocation” which was held on Saturday in the Chapel. The principal speaker was Professor Victor G. Rosenblum, President of the AALS, and a chaired professor of law at Northwestern University. His address was titled, “Interactions of Classroom, Law Office and Marketplace: Their Bearing on Professionalism.” Rosenblum raised an issue coming out of a report of the Stanley Commission on Professionalism of the American Bar; he said, “Has our profession abandoned principal for profit, professional for commercialism?” Rosenblum argued that law practice was more than a business. A lawyer’s principal goals should be to serve people’s legal needs and to seek to improve the “fairness and efficiency of our system of justice.”

Concluding his address, Professor Rosenblum stated, “In this beautiful and imposing new Wesemann Hall, the probes, debates, and relentless quests for truth and justice will surely flourish in an ambiance of professional skills and caring.” Following Rosenblum’s address,
VUSL professor and former law school dean, Louis F. Bartelt, Jr., spoke briefly on the 100-year history of the School of Law.\textsuperscript{1660}

\textbf{M. Key Personnel Make Contributions}

Partly in response to the ABA’s concern that the School of Law was seriously understaffed administratively—which it was—at the time of its 1978 inspection, Dean Ehren, followed by Acting Dean Meyer, and then by Deans McGovern, Bodensteiner, Gaffney, and Conison each expanded the law school’s administrative staff. Ehren named John M. Farago the school’s first full-time Assistant Dean and Donald Huiner as the school’s first Director of Development, while Julie Blackburn served as Director of Admissions; Mildred Kristowski, as Director of Placement; and Esther Kruger, followed by Nancy Kohlhoff (later to be named Registrar), as Assistants to the Dean. Ehren hired professionally-qualified law librarians, notably Matthew P. Downs as head Law Librarian, C. Chris Kirkwood, as Assistant Law Librarian for Public Services, and Young-Hi Choe, Catalogue Librarian. All three held librarian degrees and Kirkwood and Downs had law degrees as well.

During Alfred Meyer’s one-year service as Acting Dean of the School of Law, two critical administrative changes occurred which resulted in enhanced service to the law school and especially to its students. The first was the hiring of Curtis W. Cichowski as Director of Admissions who later was named Assistant Dean and then Associate Dean and Adjunct Professor of Law. A 1978 graduate of Carroll College in Wisconsin, Cichowski earned his J.D. degree in 1981 from the School of Law where he served on the staff of the \textit{Valparaiso University Law Review}. Cichowski practiced for one year before accepting the Director of Admissions appointment at the law school.\textsuperscript{1661}

When Cichowski subsequently became Associate Dean, he oversaw many of the administrative operations of the School of Law. As such, he has worked with Deans Meyer, McGovern, Bodensteiner, Gaffney, and Conison through the present day. Obviously skilled at working well with different personalities, he consistently has been a source of creative ideas on issues ranging from student recruitment and placement, to the marketing of the School of Law and its programs. Energetic yet always

\textsuperscript{1660} \textit{See Dedication Highlights—Law Week, VAL. U. ALUMNI NEWS}, Apr. 1987, at 1-8.

\textsuperscript{1661} The biographical information about Dean Cichowski comes from several sources, including his “Biographical Information Questionnaire,” a copy of which is located in the VUSL archives.
calm in his delivery of services to the School of Law and to its faculty and students, Dean Cichowski has been and remains a key administrative contributor to the growth and modernization of the Valparaiso University School of Law. In addition, Dean Cichowski teaches courses in his specialty areas: copyright, trademark, and unfair competition.

The second person who joined the administrative staff in the summer of 1982 was Gail Peshel, who worked with a local firm and had studied at Ball State and Indiana Universities. She was appointed to the joint position of Director of Career services and of Alumni Relations. If this were not enough, she soon volunteered to help put together CLE programs at the school. She excelled in all the areas, but her most important contribution to the School of Law and to its students, which continues today, was the extent to which she was able to upgrade career placement services. Soon after her appointment, Peshel became active in the National Association for Law Placement, and served on the National Committee for Legal Careers, as well as the Midwest Committee for Research. An incredibly quick learner, she became a “national player” in career services for law students in short order. In his annual dean’s report to Vice-President Baepler, acting Dean Alfred Meyer wrote: “What was one of our weak points has become one of our strengths. A reading of Ms. Peshel’s [placement] report will reveal the extent of the activity conducted in her office.”

In the career services area at the law school, Peshel focused on development of information on jobs, career counseling, and scheduling of on-campus employer interviews. She was responsible for the implementation of a nationwide computer database of placement opportunities. She also established the service of student resume formulation and the assistance in the writing of personalized cover letters. During her years as the School of Law’s Career Services Director, the placement of the school’s students became significantly more diverse geographically and in terms of kinds of practice—from large corporate firms, to corporations in-house counsel, to government positions, to judicial clerkships, to law faculty positions, and to public interest law practice. In the area of alumni relations, she wrote and edited a law

---

1662 The biographical information about Gail Peshel comes from several sources, including VUSL catalogs and bulletins located in the VUSL Archives.

school alumni newsletter and later, *The Amicus*, a periodical having news and features about the School of Law. Her contributions to the law school can be summarized by three words: innovative, meaningful, transforming. The School of Law was a different place when Peshel left than what it had been when she had arrived.\textsuperscript{1664}

During the McGovern deanship\textsuperscript{1665} an appointment to a joint faculty and administrative position turned out to be another critical hire: head Law Librarian and Assistant Professor of Law, Mary G. Persyn. She commenced her professional service to the School of Law in the summer of 1984. After receiving her undergraduate degree in 1967 from Creighton University, she earned a Masters of Library of Science degree from the University of Oregon in 1969. After nine years as a professional social sciences librarian at Miami University in Oxford, Ohio, Persyn went to the Notre Dame Law School where she earned a J.D. degree in 1982.\textsuperscript{1666} While there, she was Editor-in-Chief of the *Notre Dame Journal of Legislation*. After graduation, she remained at the Notre Dame Law School as a staff law librarian until accepting the offer to be Librarian and Assistant Professor of Law at the School of Law in 1984.

In addition to directing the Law Library for nearly two decades, Professor Persyn has taught legal research in the first-year program as well as an upper division advance legal research course. She also has served as Managing Editor of the *Third-World Legal Studies Journal*. Edited for many years at VUSL, the *Third-World Legal Studies* is an international journal on the law in emerging countries. It is the journal of the International Third-World Legal Studies Association.\textsuperscript{1667}

In 1999, Professor Persyn became president of the Indiana Cooperative Library Services Authority, an organization of 744 academic and public school libraries which provides electronic information and interlibrary services to its members.\textsuperscript{1668} She also has been active in the American Association of Law Libraries.

\textsuperscript{1664} She left in August 2000 to accept the position of Director of Career Services at the University of Notre Dame Law School.

\textsuperscript{1665} See infra notes 1670-93 and accompanying text.

\textsuperscript{1666} The information about Professor Persyn comes primarily from the biographical materials pertaining to Mary Persyn on file in the VUSL Archives.

\textsuperscript{1667} The General Editor of the Journal in 1988 was M. Laksman Marasinghe of the Faculty of Law of the University of Windsor, Ontario, Canada. See Law School Briefs: *Third World Legal Studies Published at Law School, THE AMICUS* (VUSL), 1988, at 5.

\textsuperscript{1668} Mary Persyn, *Faculty Updates*, INSIDE VALPO L. (VUSL), Spring 1999, at 9.

http://scholar.valpo.edu/vulr/vol38/iss3/1
Other key administrative personnel hired in McGovern’s deanship included Katharine E. Wehling, who was named Recruiter and Director of Special Projects as well as the editor of the law school’s publications; Joanne H. Albers, Director of Law Admissions; and Jan Zoladz, Administrative Assistant to the Dean for Finance. These three, in addition to Nancy Kohlhoff, Mary Persyn, Mary Moore, and Gail Peshel “did much to professionalize the Law School and kept it running smoothly,” according to Professor and later Dean, Ivan Bodensteiner.1669

N. Peter J. McGovern Becomes Dean

A dean’s search committee chaired by Professor Jack A. Hiller recommended the appointment of Peter J. McGovern to be the School of Law’s eighth dean, commencing in the summer of 1983. McGovern had received his A.B. degree from the University of Notre Dame in 1961 and his J.D. from Fordham University School of Law in 1964 where he was a staff member on the Fordham Law Review.1670 Subsequently, he completed a course in advanced legal studies with the U.S. Army Judge Advocate General’s School in Charlottesville, Virginia. He also earned a doctorate degree in education from the University of South Dakota School of Education.

A Judge Advocate for the United States Navy from 1965-1971, Judge McGovern attained the rank of Lieutenant Commander, J.A.G.C., U.S.N. He became admitted to practice in New York, South Dakota, the U.S. Tax Court of Claims, the U.S. Court of Military Appeals, and the United States Supreme Court. He also had experience in criminal trials with the U.S. Department of Justice Criminal Division.1671

Before coming to VUSL, Peter McGovern was a professor of law at the University of South Dakota School of Law where he had served as assistant dean, associate dean, and acting dean of the school during his tenure on the faculty. In addition, he was Director of Continuing Legal Education for the State Bar of South Dakota and University of South Dakota Counsel when he accepted the appointment to be Dean of the School of Law.1672 He had been active in the AALS, being chairperson of

1669 E-mail from Ivan Bodensteiner, Professor of Law, VUSL, to Michael Swygert 2 (Jan. 9, 2003).
1670 Appointment of New Dean to the School of Law Announced, VAL. U. ALUMNI NEWS, Mar. 1983, at 1.
1671 Id.
1672 Id.
A Roman Catholic, Dean McGovern was the first of three successive Catholic deans at the School of Law, the other two being Ivan Bodensteiner and Edward Gaffney. Although Catholic, Dean McGovern often attended the Lutheran services held in VU's Chapel of the Resurrection. He said, "We have daily chapel service at [10:10 a.m.] and I feel it is important to be there. We teach more by example than by any other way."1674

His personal philosophy regarding being dean of a law school fit right in with what VUSL was looking for. He wrote, "I firmly believe that law schools either grow and develop or slide into mediocrity. There is no continued status quo."1675 Interviewed by VUSL student Cornell Boggs in the fall of 1983, Dean McGovern made it clear that the law faculty had to attend national meetings more and become "more visible as they work in their individual disciplines."1676 McGovern added that it was necessary for the faculty "to be exposed to a variety of people in an educational environment and to gain a broad perspective as to what is going on in the legal profession."1677

The 1978 ABA inspection report had also criticized the provincialism of the faculty in their reluctance to attend and participate in annual meetings such as those sponsored by the AALS. For years the faculty's response in part was that the University did not provide sufficient travel funds and, given the School of Law's comparatively low salaries, attendance was a financial burden. Reportedly, VU would pay a flat sum or at most one half of the costs, while many law schools paid the entire costs for attendance and participation at national professional conferences. This reluctance or inability to fund more extensive faculty travel and participation in professional development has been a persistent problem at the School of Law.

1675   Personal Statement on Function of a Dean from Peter J. McGovern, Professor, to VUSL Dean Search Committee (Nov. 2, 1982).
1677   Id.
When McGovern began what would be only a two-year term as dean in the fall of 1983, the School of Law’s total enrollment was 369, too many for the original Wesemann Hall on the University’s East Campus. McGovern walked into the ABA/AALS pressure being exerted on the University and its Board of Directors to build a new law center. As noted above, the Board had committed in 1982 to go ahead with the project but no date for starting construction had yet been set. Consequently, McGovern saw among his top priorities the completion of that undertaking. He worked in cooperation with University personnel in the Crusade for Valparaiso University, which sought to raise the necessary funds for several VU building projects, including the new School of Law faculty.

During McGovern’s deanship, under the direction of Law Librarian Mary Persyn, the Library installed LEXIS, NEXIS, and WESTLAW terminals for access to their respective databases. McGovern in his 1985 Annual Report praised Librarian Persyn as well as deputy librarians Sally Holterhoff and Tim Watts for being active in national professional organizations and for publishing scholarly articles. McGovern promoted his secretary, Mary Moore, to Administrative Assistant to the Dean, a position she competently held through not only McGovern’s deanship, but also through the five years of Dean Bodensteiner’s leadership and the first few of Dean Gaffney’s. Dean McGovern, incidentally, was the first dean to hold weekly administrative staff meetings at the School of Law, thus stressing the administrative governance of the institution as had Dean Ehren.

An innovation under McGovern’s deanship was the establishment of a “Scholastic Early Acceptance Program” (“SEAP”), which encouraged high school seniors interested in eventually pursuing law to apply to VU where they could be eligible for early acceptance to VUSL after their sophomore year if their grade point average was sufficiently high, and provided they continued their high academic achievement thereafter.

---

1678 See supra note 1567 and accompanying text.
1679 See Annual Report of the Dean of the School of Law from Peter J. McGovern, Dean, VUSL, to Dr. Richard P. Baepler, Vice President of Academic Affairs, VU 9 (May 1984) [hereinafter 1984 Annual Report]; Annual Report of the Dean of the School of Law from Peter J. McGovern, Dean, VUSL, to Dr. Richard P. Baepler, Vice President of Academic Affairs, VU 8 (June 12, 1985) [hereinafter 1985 Annual Report].
1681 See VUSL, Scholastic Early Admission Program (n.d.) (containing a description of the goals and guidelines of the SEAP program).
The program was started on a four-year experimental basis where up to thirty students per year would be admitted. According to Associate Dean Curt Cichowski, the SEAP innovation was not successful and was quickly dropped.

Another more successful innovation which Dean McGovern brought to the School of Law was a "Distinguished Jurist-in-Residence" and "Distinguished Practitioner-in-Residence" program. Designed to bring to the School of Law well-known jurists and lawyers for relatively short periods of time, this was part of McGovern's priority goal of the faculty and students having "greater exposure to a variety of people to gain a broader perspective of what is going on in the legal profession." The first distinguished jurist-in-residence was Judge Luther M. Swygert, then Senior Judge on the United States Court of Appeals for the Seventh Circuit. Appointed by President John F. Kennedy in 1960, Swygert had been chief judge of the Seventh Circuit for several years before taking senior status in 1980 at the age of seventy-five. He was at the School of Law for the entire fall 1983 semester, and taught a seminar on "Language and the Law." During the spring 1984 semester, the School of Law's first distinguished practitioner-in-residence was VU alumnus, Richard W. Duesenberg, Vice President and General Counsel of the Monsanto Corporation.

In subsequent years, distinguished jurists-in-residence and practitioners-in-residence included Judge Jose A. Cabranes, of the U.S. District Court for the District of Connecticut (1988); Professor Kate Stith on the faculty of the Yale Law School (1988); Judge Hubert L. Will, U.S. District Judge for the Northern District of Illinois (1989); and Judge Kenneth F. Ripple of the U.S. Court of Appeals for the Seventh Circuit (1990).

During the last year of Ehren's deanship in 1982, the faculty decided to invite university and college professors to apply for admission to the School of Law. The School of Law would then award fellowships, in

1682 See supra note 1676 and accompanying text. 
1684 1985 Annual Report, supra note 1679, at 5. 
1686 Id. 
1687 Judge Will to Be Jurist-in-Residence at School of Law, VAL. U. CAMPUS NEWSL., Sept. 27, 1989, at 1. 

http://scholar.valpo.edu/vulr/vol38/iss3/1
effect waive tuition, to the top candidates. The program was announced in 1982 for the 1982-1983 academic year.\textsuperscript{1689} Five academic fellowships were awarded for the entering 1982 class, including one to Dr. Dorothy Smith who had been Dean of the VU School of Nursing and later became Vice-President of the University.\textsuperscript{1690} Although sixty-eight inquiries regarding the academic fellows program came to the School of Law during the 1983-1984 academic year, the extremely limited financial resources of the School of Law caused several on the faculty to change their minds about the efficacy of the program. Due to budgetary restraints, it was decided that only one Fellow could be selected for the 1984-1985 program.\textsuperscript{1691} In time, the program was dropped although Professor Hiller, chairman of the Faculty Fellows Committee, espoused the hope that substantial funding could be obtained so that the University and the School of Law "can fully realize the Program's unique potential."\textsuperscript{1692}

In May 1985, at the conclusion of his second year as Dean of the School of Law, McGovern informed President Schnabel that he had accepted an appointment to be dean of the St. Thomas of Villanova University School of Law in Dade County, Florida, a school which had just started up and was seeking accreditation.\textsuperscript{1693} In future years, McGovern would become dean of a third law school, John Marshal Law School in Chicago. He remains there today as a member of its faculty.

O. The Edward A. Seegers Lectures

Serious issues of moral philosophy, law and revolution, the United States Constitution, religion and law, war powers of the United States, American Black history, a jurisprudential basis for contract law, law and anthropology, and other stimulating topics have been presented by eminent internationally-recognized scholars as part of the School of Law's annual Seegers Lectures over the past two decades. Begun in 1981 and funded by the late Chicago lawyer, Edward A. Seegers, the Seegers Lecture Series have drawn internationally-recognized scholars to the

\textsuperscript{1689} See Law School Announces Fellowship Program for Academics, VAL. U. ALUMNI NEWS, Jan. 1982, at 2, 5.
\textsuperscript{1690} Fellows, VAL. U. ALUMNI NEWS, Sept. 1983, at 3.
\textsuperscript{1691} Report from Jack A. Hiller, Chairman, Fellows Committee, to the VUSL Faculty (May 17, 1984).
\textsuperscript{1692} Id.
\textsuperscript{1693} See Memorandum from Robert V. Schnabel, President, VU, to Faculty and Executive Staff of VU (May 23, 1985).
School of Law, including Harold J. Berman, Ronald Dworkin, Neil MacCormack, John Finnis, Mark V. Tushnet, William Twining, Derrick Bell, Eugene V. Rostow, Robert Summers, Bernard D. Meltzer, Stanley Fish, Laura Nadar, and Justice Sandra Day O'Connor.\footnote{1694}

The first Seegers lecturer was Professor Thomas L. Shaffer of the Notre Dame Law School. He was followed in 1983 by Harold J. Berman, the James Barr Ames Professor of Law at Harvard Law School.\footnote{1695} Berman gave three lectures over a three-day period on the topic “Law and Revolution.” The author of over twenty books, Berman talked the first day on: “The Lutheran Reformation and German Law.”\footnote{1696} The second day he spoke on “The Puritan Revolution and English Law,” and on the final day, “The Enlightenment, the French Revolution and the Napoleonic Codes.”\footnote{1697} Then in 1985, Dr. Neil MacCormack, Regius Professor of Public Law at the University of Edinburgh spoke on “A Moralistic Case for a Moralistic Law.” William L. Twining, the Quain Professor of Jurisprudence at University College, London, gave the sixth Seegers Lecture. In 1995, Professor Derrick Bell of New York University School of Law spoke on “Black History and America’s Future.”

The Seegers Lecture Series was the first of what would be by the 1990s four annual lecture series at the School of Law. In the mid-1980s, another distinguished scholar series began, financed by the Monsanto Corporation, and known since 1986 as the annual “Monsanto Lecture Series.”\footnote{1698} Then in 1997, VU alumnus Glen Tabor funded an institute at the School of Law on legal ethics, which included an annual lecture pertaining to legal ethics and professional responsibility by a nationally recognized expert.\footnote{1699} Finally, with the support of the Indiana Supreme Court, in 1999 an annual Indiana Supreme Court Lecture Series was commenced.\footnote{1700}

\footnote{1695} Subsequently, Professor Berman left Harvard to accept a chair at Emory University School of Law.
\footnote{1696} Harvard Professor to Speak on “Law and Revolution,” The Torch (VU), Nov. 7, 1983, at 9.
\footnote{1697} Id.
\footnote{1698} See infra notes 1745-49 and accompanying text.
\footnote{1699} See infra notes 1994-99 and accompanying text.
\footnote{1700} See infra note 2000 and accompanying text.
Upon the announcement of his resignation as dean in May 1985, McGovern reportedly stated, “I thought I had gotten done everything I could at Valpo.”

The faculty and administration were “quite surprised” by McGovern’s resignation on such short notice—having been Dean of the School of Law for only two years—to accept a deanship at another school. Equally surprised was Professor Ivan Bodensteiner when President Schnabel, with the concurrence of the law faculty, appointed the civil procedure professor “interim Dean” for the 1985-1986 academic year. Bodensteiner, admired by his colleagues and students alike, inherited a law school still under the yearly inspection of the ABA/AALS regarding the completion of the School of Law’s physical facilities which would finally allow it to comply with ABA standards.

Bodensteiner also became Dean at a time in American legal education when applications to law schools were on the decline in the early and mid-1980s. He stated that he was concerned with the national trend showing fewer people going to law school. The School of Law like most schools would in time feel the pinch. Fewer students meant declining revenues, just as the new Wesemann Hall was being finished in 1986.

Increased expenses, stagnant tuition revenues, and a large debt on the new Wesemann Hall—one which the VU central administration believed that the School of Law was responsible for paying—meant again the School of Law found itself in need of financial resources. Indeed, looking back at his five-year period as Dean, Bodensteiner notes, “the overriding issue during these years was the budget.”

The University assessed each year an “overhead charge” to the School of Law which would then be paid to the University out of the law school’s gross tuition and fee revenues which the School of Law had produced. In a few years following Bodensteiner’s deanship, a deepening controversy over how and to what extent overhead should be assessed developed.

---

1703 “The interim appointment was one surprise,” Bodensteiner told The Torch. Id.
1704 Schroeder, supra note 1701, at 3.
1705 E-mail from Ivan Bodensteiner, Professor of Law, VUSL, to Michael Swygert 2 Jan. 9, 2003. “There were a couple of years when we actually stopped purchasing supplies at the end of the fiscal year.” Id.
between members of the VU central administration and the subsequent deans and faculty of the School of Law. The situation reached a crisis in 1993 when a large surplus which the School of Law had accumulated had been appropriated by the University. This episode and its eventual resolution in 2002 are discussed subsequently.\footnote{1706}

In spite of a severely limited budget, many positive developments under Bodensteiner’s deanship took place at the School of Law. One benefit resulted from the recruitment of a more diverse faculty. The fourth woman to be hired on the faculty following Rosalie Levinson, Marsha Gienapp, and Mary Persyn, was Rutch C. Vance in 1985. Within a few years several more women were hired, including Geri J. Yonover in 1986;\footnote{1707} Carol Kaesebier also in 1986; Cheryl Stulz in 1988, the School of Law’s first African-American law professor; Laura Dooley\footnote{1708} in 1990; and in 1991, JoEllen Lind\footnote{1709} and Linda S. Whitton.\footnote{1710} By 1991, the faculty had as many as eight women out of nineteen full-time members. The faculty would become further diversified when other African-American professors were appointed beginning in 1998. Returning to Professor Ruth Vance, she was honored for “distinguished service to the law school” at a 1998 School of Law faculty/staff dinner. Among her accomplishments is service as chair of the AALS Section on Legal Writing, Reasoning and Research, which presented a day-long workshop, “Reading Critically,” at its 1999 convention in New Orleans.\footnote{1711}

A 1979 honors graduate of Olivet College and 1982 law graduate of the VUSL, Ruth Vance practiced law in Hammond, Indiana before joining the faculty in 1985 to instruct and help design an innovative legal writing program at the School of Law.\footnote{1712} Moreover, Professor Vance during her years on the faculty has expended large amounts of time in coaching the School of Law’s negotiation, client-counseling, and Moot Court teams.\footnote{1713} With extensive experience in alternative dispute resolution practice, she has also served as a special-education mediator.

\footnote{1706}{See infra notes 1910-16 and accompanying text.}
\footnote{1707}{See infra notes 1717-18 and accompanying text.}
\footnote{1708}{See infra notes 1860-65 and accompanying text.}
\footnote{1709}{See infra notes 1869-73 and accompanying text.}
\footnote{1710}{See infra notes 1875-79 and accompanying text.}
\footnote{1711}{See Ruth C. Vance, INSIDE VALPO L. (VUSL), Spring 1999, at 9.}
\footnote{1712}{For a description of the innovative legal writing program, see infra notes 1819-28 and accompanying text.}
\footnote{1713}{See Ruth C. Vance, VAL. U. SCH. OF L. FACULTY & STAFF PROFILES 48 (1994-1995).}
for the Indiana Department of Education. In addition to teaching in VUSL's distinguished legal writing program, she teaches courses in workers' compensation and employment rights, an area in which she has authored several scholarly articles.

Professor Vance's lawyering-skills specialization typifies the kind of faculty member the Crampton Report\textsuperscript{1714} suggested law schools needed to hire in order to increase lawyering competency. In that regard, she has been an instructor in CLE programs involving negotiation and client counseling skills. She has also given programs on employment discrimination and sexual harassment in the workplace.\textsuperscript{1715} At the School of Law, she has designed and taught advanced courses in legal research and writing, as well as in alternative dispute resolution.\textsuperscript{1716}

Also hired in 1985 was Michael S. Straubel. He earned his B.S. degree from Western Michigan University, a J.D. from Marquette University School of Law, and an LL.M. in “air and space law” from the McGill University Institute of Air & Space Law in 1985. He was chosen as chair of the AALS Section of Aviation and Space Law in 1988. He has authored various articles. Although he was hired initially to teach legal writing, in time Professor Straubel expanded his teaching to include international law, international business transactions, space law, and sports law. An avid track and field enthusiast, he has coached the University's cross country and track teams. Professor Straubel has wide interest and is the faculty's expert on law as it applies to sports and athletics.

In 1986, another scholarly and energetic woman joined the law school faculty: Geri J. Yonover. After attending Smith College for two years, Yonover transferred to the University of Chicago where she received her B.A. degree in 1964. She earned her J.D. degree from Chicago Kent College of Law in 1983 and then clerked for Judge Hubert L. Will of the U.S. District Court for the Northern District of Illinois. She then practiced with the Chicago firm Sonnenschein, Carlin, Nath and Rosenthal before joining the VUSL faculty to teach torts, conflicts of law, and intellectual property.\textsuperscript{1717} In addition, she has offered seminars in employment discrimination, commercial torts, and art law.

\textsuperscript{1714} See supra notes 1557-58 and accompanying text.
\textsuperscript{1715} Professor Ruth C. Vance, THE AMICUS (VUSL), May 1990, at 3.
\textsuperscript{1716} See Faculty and Staff Activities, THE AMICUS (VUSL), Fall 1993, at 23.
Professor Yonover has authored many articles on subjects including tort law, using the RICO statute to fight anti-abortion activists, retaliatory discharges in the workplace, and the Erie doctrine. At the School of Law she advises the Intellectual Property Moot Court Team and the Coalition for Choice. Two other new faculty members were hired in 1986—Carol Colby Kaesbier and Lawrence G. Albrecht—but each stayed on the faculty for only two years. Both were VUSL graduates. Then in 1989, another woman, Cheryl Stulz, joined the faculty. She held a B.A. from Notre Dame and a J.D. from Catholic University School of Law, and she taught land transfer, business associations, and business planning. A native of Washington, D.C., she practiced with a D.C. firm before accepting a visiting assistant professorship at VUSL. She left in 1991.

The other major addition to the faculty during the Bodensteiner years was Cornell Law School graduate, Robert Frank Blomquist, who would become one of the most prolific writers on the faculty. He came to the School of Law with solid credentials. He had earned a B.S. degree in economics from the Wharton School of the University of Pennsylvania in 1973, and then a J.D. degree from Cornell Law School in 1977. Before joining the VUSL faculty, Blomquist practiced law for nine years in New Jersey as a shareholder and director of a Cherry Hill, New Jersey professional corporation where he specialized in federal litigation, environmental law, and appellate practice. The year before joining the VUSL faculty, Blomquist in 1985 received a certificate of commendation from Chief Justice Warren Burger at a ceremony at the Supreme Court Building for his efforts in organizing and co-editing the New Jersey Appellate Handbook, which was part of a national project to promote more proficient appellate advocacy sponsored by the ABA.

At Valparaiso, Professor Blomquist has been continually active. After joining the faculty, he had an idea about a new organization for the School of Law and followed through by founding a public interest organization at the law school called “The Midwest Environmental Law Caucus” (“MELC”). Its first president was VUSL student Tim Baker.

For a list of her articles through 1994, see id. at 70.
Id.
presently a U.S. Magistrate Judge in Indianapolis.\textsuperscript{1722} The Caucus over the years has been involved in issues relating to the Indiana Dunes National Lakeshore not far from the VU campus, and in successfully resisting the relocation of a National Guard helicopter base to Valparaiso.\textsuperscript{1723} Other activists in MELC have included VUSL students Beth Henning and Paul Jesse, who, Blomquist says, "made important contributions in organizing MELC and getting the organization involved in environmental advocacy."\textsuperscript{1724} The Caucus remains a viable institution today. An example of MELC's recent activity is a "Forum on Environmental Justice," held at the School of Law in February 2003. Speakers addressed the issue of environmental justice from the national, state, and individual perspectives. Speakers included Alan Walts, an Environmental Protection Agency ("EPA") lawyer, and Alexandre de Silva, of the Indiana Department of Environmental Management.\textsuperscript{1725}

In 1991, Professor Blomquist arranged for the EPA Externship Program at the School of Law where students interested in environmental law could work alongside EPA Region Five attorneys in their Chicago offices. Besides environmental law and policy, Blomquist's areas of expertise include international environmental law, torts and toxic and environmental torts, bankruptcy, and legislation.\textsuperscript{1726} In 1990, he presented his "Inaugural Lecture" to the faculty on the subject: "Clean New World: Toward an Intellectual History of American Environmental Law."

Professor Blomquist's environmental law and policy expertise has not gone unnoticed by policy makers in Indiana. In 1992, he was appointed to the Environmental and Natural Resources Policies Review Panel, a part of the Indiana Governor's Government Operations Committee, to make recommendations for reform of Indiana's environmental and natural resource laws. Indiana Governor Evan Bayh that same year appointed Professor Blomquist to a four-year term on the Indiana Pollution Prevention Board, where he served as vice-chair of the ten-member Board.\textsuperscript{1727} In January 1994, Blomquist was invited to participate in a two-day conference at the United Nations in New York

\textsuperscript{1722} Letter from Robert Blomquist, Professor of Law, VUSL, to Michael Swygert (Oct. 2, 2002).
\textsuperscript{1723} Id.
\textsuperscript{1724} Id.
\textsuperscript{1726} \textit{Faculty, VAL. U. SCH. OF L. HANDBOOK} 9 (2002).
\textsuperscript{1727} Blomquist Profile, \textit{supra} note 1720, at 29.
City. The conference was a follow up to the June 1992 "Earth Summit" in Brazil, described by Blomquist as "the largest and most ambitious conference [on environmental policy] of all time."

At the subsequent NYC conference Professor Blomquist spoke to the delegates on "The Ethical Issues That Must Be Faced in Implementing the United Nations Program on Environment and Development." Among the issues he discussed was how world nations are to resolve the competing goals of environmental protection and economic development.

His public service has included the local level as well. He has served as a member and chair of the Porter County Solid Waste Management Advisory Committee. In 1994 he announced he was running for the Republican nomination for the Porter County Council, Third District. In 1995 he was appointed to the Council to replace the unexpired term of a former Councilman-at-large. As to scholarship, Professor Blomquist over the past fifteen years has been one of the more prolific members of the faculty. Besides serving as editor for the three volume Great Lakes Environmental Transactions Guide (1994), he has published scores of articles. Although the majority have pertained to environmental law and policy issues, he also has published on a wide range of other subjects.

Q. An Innovative "Pro Bono" Program Begins

In 1988, Dean Bodensteiner and faculty commenced a pro bono publico requirement for all third-year law students at VUSL beginning with the 1989 entering class. Pro bono publico is a Latin phrase which in English means, "for the public interest." In doing so, the School of Law reportedly became the second school in the country to make as a mandatory condition for graduation a requirement that students expend efforts in pursuit of public interest objectives. Tulane University School of Law in New Orleans had been the first. Eight years later, in 1996, the ABA Committee on Legal Education amended its standards for approval for law schools merely "to encourage students to participate in

\[1728\] From VU to UN, VIDETTE MESSENGER (Valparaiso, Ind.), Jan. 15, 1994, at 1.
\[1729\] Id.
\[1730\] Political Notes, VIDETTE MESSENGER (Valparaiso, Ind.), Jan. 20, 1994, at 6.
\[1731\] Faculty Notes, THE AMICUS (VUSL), Summer 1995, at 9.
pro bono activities and to provide opportunities for them to do so."\textsuperscript{1734} A 1999 report by the AALS' Commission on Public Service concluded that "law schools should do more."\textsuperscript{1735} This was eleven years after the School of Law required mandatory pro bono work as a condition for graduation.

In an announcement of the requirement in 1989, the School of Law stated that the purpose of the program "is to introduce law students to the public service requirement of the legal profession and sensitize them to the needs and problems of the under-represented in society."\textsuperscript{1736} Noting that law students would obtain practical experience and assist attorneys in fulfilling their public service requirements, Dean Bodensteiner and the faculty also pointed out that under-represented members of the community would have greater access to legal services.\textsuperscript{1737}

By making \textit{pro bono publico} service mandatory for law students in 1989, the School of Law was not only among the early leaders of this concept in legal education, it was also "ahead of the curve" when it came to the legal profession itself. Only in 2002 did the ABA amend its Model Rules of Professional Conduct\textsuperscript{1738} as regards the non-mandatory language of ABA Model Rule 6.1 regarding a lawyer's obligations for public service.\textsuperscript{1739}

The older version of the Rule provided that "A lawyer should aspire to render at least (fifty) hours of \textit{pro bono publico} services per year." The 2002 amendment added the more mandatory sounding expression: "Every lawyer has a professional responsibility to provide legal services

\textsuperscript{1734} DEBORAH L. RHODE & GEOFFREY C. HAZARD, JR., PROFESSIONAL RESPONSIBILITY AND REGULATION 214 (2002).
\textsuperscript{1736} \textit{ld}.
\textsuperscript{1737} E-mail from Ivan Bodensteiner to Michael Swygert, supra note 1705.
\textsuperscript{1739} RHODE & HAZARD, supra note 1734, at 131-35.
to those unable to pay." In addition, Comment 11 to Rule 6.1 was amended to include the statement: "Law firms should act reasonably to enable and to encourage all lawyers in the firm to provide pro bono legal services." Original Comment 1 to Rule 6.1 was expanded. It states in part that every lawyer, "regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay." Whereas the earlier comment spoke of "a responsibility to provide" legal services to the poor, the language of the 2002 revised rule itself clearly states that every lawyer has a responsibility to provide legal services to the poor.

Unlike the ABA walking a tightrope between obligatory and aspirational pro bono service, the School of Law decided in 1988 that from that time forward, every law student who would graduate from its School of Law had to have at least twenty hours of pro bono work experience under the supervision of an attorney in his or her last year of law school. This was a significant innovation and one that was reflective of the public interest emphasis that had existed at the School of Law since Professors Burton Wechsler and Seymour Moskowitz joined the faculty in the 1960s, followed by Ivan Bodensteiner, Hugh Martz, Rosalie Levinson, David Vandercoy, Marcia Gienapp, Barbara Schmidt, and David Welter, among others in subsequent years.

The adoption of a pro bono requirement at the School of Law was consistent with Dean Bodensteiner’s philosophy of legal education. In an interview, he said that most law schools do a good job of teaching analysis and legal reasoning, "but I’m less confident that law schools prepare students to be good attorneys.... I wonder if we convey the importance of service in the profession." Certainly, the pro bono requirement which went into effect during his deanship and remains today emphasizes the role of the legal profession’s and each lawyer’s obligation for service.

1740 Id. at 131.
1741 Id. at 134.
1742 Id. at 132.
1743 "Pro Bono" Requirement, supra note 1732, at 1.
R. The "Monsanto" Lectures

During the 1985-1986 academic year, the School of Law received a generous grant from the Monsanto Corporation as a result of discussions involving Dean Peter McGovern a year earlier. Since 1986, a funded lecture series has brought to the School of Law an array of distinguished legal scholars to critically examine the theory of tort law as it has evolved in the United States and to explore avenues for its reform. Made possible by a gift from the Monsanto Fund, the charitable arm of the Monsanto Company, the lecture is based on a scholarly manuscript which is then usually published in the *Valparaiso University Law Review*. The underwriting of the lectures came about through the efforts of Richard Duesenberg, VUSL class of 1953, who was Monsanto's Senior Vice President, General Counsel, and Secretary.\(^{1745}\)

The Monsanto lecturers are nationally-recognized distinguished professors and jurists: George L. Priest, Yale Law School; Robert Rabin, Stanford Law School; Ernest J. Weinrib, University of Toronto Law School; Peter W. Huber, the Manhattan Institute for Policy Research; Richard Epstein, University of Chicago Law School; Kenneth S. Abraham, VU class of 1962, Virginia Law School; Hans A. Linde, Hastings Law School; Sir Geoffrey Palmer, Iowa Law School; Hon. Guido Calabresi, U.S. Second Circuit Judge, formerly of Yale Law School; Stephen D. Sugarman, University of California (Boalt Hall) Law School; Ian Ayres, Yale Law School; Linda S. Mullenix, University of Texas Law School; Jules L. Coleman, Yale Law School; Jonathan Turley, George Washington University Law School; and William H. Rodgers, Jr., University of Washington School of Law.\(^{1746}\)

The tort reform emphasis of the Monsanto Lecture Series is typified by the topic: *A Clash of Two Cultures: Will Tort Law Survive Automobile Insurance Reform?*, presented in 1990 by Professor Richard Epstein, the James Parker Hill Distinguished Service Professor at the University of Chicago School of Law.\(^{1747}\) As noted above, most of the Monsanto lectures have been published. An example is *Resolving Aggregate Mass Tort Litigation: The New Private Law Dispute Resolution Paradigm*, by Professor Linda S. Mullenix, the Bernard J. Ward Centennial Professor at

---

1746 Id.
the University of Texas. University of Chicago Professor Richard Epstein has described the Monsanto Lecture Series as "a major outlet for torts scholarship in the United States."  

S. Additional Developments During Bodensteiner’s Deanship

1. The Law Clinic

Once the new Wesemann Hall was finished and occupied, the VUSL Law Clinic moved into neighboring Heritage Hall from their old quarters in Lembke Hall. The space and facilities in Heritage Hall were “a vast improvement,” Dean Bodensteiner wrote Vice-President Baepler. The Clinic, due to a $24,200 grant from the Legal Services Corporation, was able to add another section of to its legal services clinic and hire adjunct professor Barbara Schmidt, a 1973 graduate of VUSL, to supervise it. Schmidt had practiced for several years including for the Legal Services Program of Greater Gary as well as for Lake County, Indiana, as a deputy prosecutor. Also hired to revive the public interest section of the Clinic was visiting professor Lawrence Albrecht.

2. Student Competitions

In 1987, two first-year students, Barbara Boiling and Lisa Wyatt, won the Midwest Regional ABA Client Counseling Competition but did not prevail in the national finals in Toronto, Canada. During Ehren’s deanship, in 1980 two other VUSL students advanced to the national finals and took second place in the ABA-sponsored competition: Jeff Eggers and Jackie Leimer. In 1984, VUSL made the final round in New York City of the National Moot Court Competition, but it did not bring home the goal. The team consisted of Craig Buche, Cassidy Fritz, and David Goodnight. In the regional competition held earlier in

---

1749 E-mail from Laura Dooley, Professor of Law, VUSL, to Michael Swygert (Sept. 12, 2003, 3:01 CDT) (citing Richard A. Epstein, Protecting Property Rights with Legal Remedies: A Common Sense Reply to Professor Ayres, 32 VAL. U. L. REV. 833 (1998)).
1750 Memorandum from Ivan Bodensteiner, Dean, VUSL, to Richard Baepler, Vice President for Academic Affairs, VU 2 (May 29, 1987).
1751 Id.
1752 Id.
1753 Id.

http://scholar.valpo.edu/vulr/vol38/iss3/1
Chicago, the VUSL team defeated Indiana University, Bloomington, Northern Illinois, John Marshall, and Notre Dame. In 1990, VUSL law students Michael Mollering and Allen Fore won first place in the regional rounds of the annual ABA Negotiation Competition held at the University of Louisville. Sixteen teams competed. Professor Ruth Vance was their coach.

3. The Endowed Swygert Moot Court Competition

In 1989, the family of Judge Luther M. Swygert established an endowment at the School of Law in the judge’s memory to underwrite the costs of an annual moot court competition. Judge Swygert died in 1988, after serving forty-five years as a federal judge. He was appointed by President Franklin Delano Roosevelt in 1943 to the bench of the United States District Court for the northern District of Indiana, and then was elevated to the Seventh Circuit Court of Appeals, which sits in Chicago, by President John F. Kennedy in 1961. He was chief judge of the Seventh Circuit for several years.

Judge Swygert had served as the School of Law’s first “jurist-in-residence” and had sat on numerous moot court panels at the law school over the years. He also had sat on moot court panels at Yale, Chicago, New York University, Wisconsin, DePaul, Illinois, Syracuse, and Northwestern law schools. The principal contributor to the newly-endowed “Luther M. Swygert Moot Court Competition” was his widow, Mrs. Gertrude Swygert of Chicago.

The first Swygert Moot Court Competition occurred in April 1990, before a bench consisting of Judges Harlington Wood of the U.S. Court of Appeals for the Seventh Circuit, Randall T. Shepard, Chief Justice of the Indiana Supreme Court, and Linda L. Chezem of the Indiana Court of Appeals. In nearly every year since, sitting judges from Judge Swygert’s court, the Seventh Circuit, have come to Valparaiso to be on the panel for the final round of the annual competitions. These include Judges Richard D. Cudahy, Michael S. Kanne, William J. Bauer, Frank Easterbrook, and Dianne Wood. Justice Antonin Scalia of the United States Supreme Court headed the panel in 1994 which also included

---

1758 The Judge Luther M. Swygert Memorial Moot Court Competition, THE AMICUS (VUSL), 1989, at 12.
Judge Guido Calabresi of the United States Court of Appeals for the Second Circuit, and a former Dean and Professor of Law at the Yale Law School. In addition, Justice Clarence Thomas of the United States Supreme Court has twice headed Swygert Moot Court panels. Other judges have come from the Indiana Supreme and Appellate Courts, the Illinois Supreme Court, and United States District Courts in Indiana, Illinois, and Minnesota. One, Judge Joan Gotschall of the U.S. District Court for the Northern District of Illinois, had been a law clerk to Judge Swygert after graduating from law school.1759

4. An Innovative Academic Support Program"

Dean Bodensteiner established an Ad Hoc Committee on Minority and Diversity Programs in the fall of 1989.1760 The purpose was to aid students perceived to be “at-risk” in pursuing their legal education and thereby to improve the retention and recruitment of minority students.1761 The committee made recommendations which grew into a formal “Academic Support Program” ("ASP") which commenced the following fall, 1990.1762 Dean Bodensteiner wrote that he anticipated that participants in the ASP program would be many “non-traditional” students admitted despite a lower prediction index because of special qualities, experiences, and characteristics which “add to the diversity of the student body.”1763

The ASP program consisted of:

Summer Preparatory Program: VUSL invited students who had a prediction index below a certain level to a one-week preparatory program in August of each year. The summer program drew anywhere from twenty-five to thirty-five students and consisted of three classes:


1761 Id.

1762 Id.

Legal Method, Anatomy of a Lawsuit, and Introduction to Legal Writing and Research. Fall Tutorials: During fall semester, each first-year professor conducted four tutorials with these selected students. In the first year, student tutors were used but later dropped because they provided to be ineffective. Spring Tutorials: First-year students achieving below a certain grade-point average for the fall semester were invited to participate in the spring program, in which all first-year professors conducted three to four tutorials.\textsuperscript{1764}

In the spring of 1994, the Faculty Curriculum Committee reviewed the Academic Support Program. The Co-Directors of ASP—Professors Richard Hatcher and Sy Moskowitz—instituted the following additions: "Counseling: Each Co-Director assumed regular counseling responsibility for one-half of the participants in Fall ASP. Improvements: The Co-Directors undertook to contact other law schools to discuss ways to improve VUSL's program."\textsuperscript{1765}

By the fall of 1994, the Curriculum Committee revamped ASP. Although the summer preparatory program was deemed a success, there were several concerns about the effectiveness of the program's other components. The Committee came up with recommendations which were adopted by the faculty in the spring of 1995.

First: Expansion of the summer preparatory program to two weeks, to incorporate additional work in legal method, legal analysis, & legal writing. Second: Adoption of a program for giving every first-year student the opportunity to write a practice examination during the Fall semester, with faculty evaluations of the answers. This program involves a mandatory, one-hour, one-question examination, taken under realistic exam-taking conditions.\textsuperscript{1766}

Beginning in August 1995, the School of Law conducted a two-week summer preparatory program, directed by Professor Mark Adams. The program included sessions on Legal Method, Anatomy of a Lawsuit,
Introduction to Legal Writing, Legal Writing Tutorials, Introduction to the Law Library, Products Liability (two weeks), and optional WordPerfect Training. During the fall semester, first-year faculty continued to conduct three to four tutorials for these selected students. In the fall of 1996, writing workshops offered by the legal writing staff were added.

Stephanie Vetne was appointed Director of ASP in 1999. She was charged with restructuring it and placing more emphasis on skills training than on faculty tutorials. The invitation-only nature of the program remained the same: fall participants were drawn from the summer program while the spring participants were drawn from students with unsatisfactory fall term grades. The counseling meetings included sessions on outlining, effective case reading, exam-taking tips, legal-writing tips, issue spotting, and time management. Vetne arranged for review sessions with first-year professors, but those sessions were a minor component of the new paradigm and were conducted on a voluntary basis.\textsuperscript{1767}

In August 2000, the School of Law's Strategic Plan included the following: implement an academic support program similar to that used at the UCLA School of Law. This required hiring or designating a faculty member who would devote his or her full-time efforts to academic support for identified students throughout the students' three years of study. As a result, Professor Susan Stuart took over in 2001 as Director of the Academic Support Program on a half-time basis.\textsuperscript{1768} Spring attendance proved to be a problem because the program remained voluntary. Consequently, Stuart proposed and the faculty accepted—the institution of a mandatory spring legal writing section for ASP students who had below a 2.0 grade-point average.\textsuperscript{1769}

Today, there are five components to the fall ASP: (1) eight to ten skills sessions; (2) five to six specific skills sessions for summer ASP participants and members of the Minority Law Students Association; (3) faculty review sessions for ASP participants and members of the Minority Law Students Association only; (4) practice examinations for all first-year students with faculty review; (5) bar prep for third-year students.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{1767} \textit{id.} at 3.
\item \textsuperscript{1768} \textit{id.} at 3.
\item \textsuperscript{1769} \textit{id.} at 3.
\end{itemize}
\end{footnotesize}
During spring semester, all students achieving below a 2.0 during fall semester are required to transfer to a legal writing class conducted by the Director. The class includes writing trial court and appellate briefs, oral argument, and six to seven exam problems that emphasize exam-writing and issue-spotting.\footnote{Id. at 4.} Teaching assistants give special assistance in exam-taking and exam preparation skills. Faculty review sessions are still available for any ASP participant, past or present, and third-year students are invited to bar preparation sessions. In an exit interview, Dean Bodensteiner commented that he was pleased that the law faculty had implemented the Academic Support Program for students whose credentials suggest they may need help during the first year of law school or whose performance in their first semester demonstrates a need for special faculty assistance.\footnote{Bodensteiner Exit Interview, supra note 1744, at 12.}

At the same time ASP was being put together in the spring of 1989, the Valparaiso University School of Law along with the U.S. Department of Housing and Urban Development ("HUD"), jointly put on a "Fair Housing—Fair Lending Seminar" at the School of Law.\footnote{Ivan Bodensteiner, Letter from the Dean, THE AMICUS (VUSL), 1989, at 1.} The seminar's focus was on the 1988 amendments to the Fair Housing Act of 1968, in particular, new protections afforded handicapped persons.\footnote{Id.}

Finally, two footnotes to the Bodensteiner deanship are briefly noted. First, the first academic associate dean in the School of Law's history was appointed, Professor Bruce Berner. Second, a part-time program was begun which allowed the School of Law to accept a limited number of applicants who desired part-time law study.

The five years that Ivan Bodensteiner served as dean were financially lean years for the School of Law but not when it came to innovative new programs to assist students, and especially as regards the greater emphasis placed on the public service role of lawyers and law students. It is not an insignificant achievement that the law school at Valparaiso was one of the first two law schools in America to require pro bono service as a condition for graduation from the School of Law.

At the end of his deanship, the staff, alumni, and faculty held a special recognition dinner to honor Ivan Bodensteiner at the Spa Restaurant in Porter, Indiana. The program for the event was titled: \textit{In}

\footnotesize{\textit{Id.} at 4.}
Recognition of IVAN E. BODENSTEINER, Ninth Dean of Valparaiso University School of Law, 1985–1990, Monday, June 4, 1990. Among the speakers praising his leadership were Professor Charles Gromley, staff member Fran Rushnok, and alumnus John D. Lee.

T. Dean Edward M. Gaffney, Jr.

During Ivan Bodensteiner's deanship, a new president of Valparaiso University took charge, Dr. Alan F. Harre. Formerly president of Concordia College, St. Paul, Minnesota, Dr. Harre was inaugurated as the seventeenth president of Valparaiso University on October 26, 1988. He earned his B.A. degree from Concordia Senior College at Fort Wayne, Indiana, then a Master of Divinity degree from Concordia Seminary, St. Louis, followed by an M.A. from the Presbyterian School of Christian Education, and finally a Ph.D. degree in psychology from Wayne State University. Before becoming president of Concordia College, St. Paul, Dr. Harre taught on the faculty of Concordia College, Seward, Nebraska. At the time of this writing, President Harre has served as president of the University for fifteen years. During this period, he has led the University forward in many areas, not the least of which has been in raising a substantial endowment for the long-term security and betterment of the institution. Dr. Harre throughout his presidency, has been supportive of the School of Law and cognizant of its special attributes.

One of President Harre's early appointments to the University's administration was that of Edward M. Gaffney, Jr., to be the tenth dean of the Valparaiso University School of Law, succeeding Ivan Bodensteiner. At the time of his 1990 appointment to VUSL, Gaffney was associate professor of law at Loyola University Law School—Los Angeles, and a Scholar-in-Residence at Stanford Law School, Palo Alto, California. Gaffney had received a B.A. degree magna cum laude from St. Patrick's College, Menlo Park, California, in 1963. He then went to Rome where he earned in 1967 a Licentiate in Sacred Theology degree, cum laude, from Gregorian University. He earned his J.D. degree in 1974, then a Master of Arts in legal history from Catholic University of America, Washington, D.C., in 1975, followed by an LL.M. from the Harvard Law School in 1976.

Dean Gaffney began his teaching career at the Notre Dame University Law School where he served as Director of the Center for Constitutional Studies and associate professor of law. In 1981, he joined the Loyola University Law School—Los Angeles, as the James P. Bradley Professor of Constitutional Law and visiting professor of law. At the time of his appointment, Dean Gaffney served as a member of the Society of Christian Ethics, the American Academy of Religion, and the American Law Institute, and was on the board of editors of the Journal of Law and Religion, and a member of the board of directors of the Center for Church-State Studies and the Counsel on Religion and Law. In addition, he has served on the board of advisors for Religious Freedom Reporter. He also served as chairperson of the AALS Sections on Law and Religion and Law and Education. Professor Gaffney continues to assist religious and other non-profit organizations in matters involving the First Amendment to the Constitution and has written extensively about religious freedom.

U. A New Ecumenical Emphasis

1. Pro Bono Publico Revisited

Recall that the era of Lutheran emphasis, which began when the Lutheran University Association purchased the University in 1925 including its School of Law, reached its height during the deanships of Stalland, Bartelt, and Meyer, roughly the three decades of the 1950s, 1960s, and 1970s. But, as we have seen, beginning during the deanship of Charles Ehren a more secularized and less religious culture overtook the School of Law. This is not to say that religion generally, or Lutheranism in particular ceased to be important or to be an influence. It is to say that these factors became less important in the transformation of the School of Law into a “modern” law school reflecting the demands of the ABA and AALS as well as the needs of a growing and rapidly changing legal profession.

But with the coming of Dean Gaffney to the School of Law in 1990 there came a renewed awareness of the relationship of law and religion. But this time, the emphasis was not predominantly Lutheran, it was ecumenical. Gaffney was a Roman Catholic, the third Catholic dean at the School of Law, McGovern being the first and Bodensteiner the

\[1776\] Id.

second. Moreover, Gaffney's focus and activity when it came to religion was encompassing. This was exemplified early on in his deanship when in December 1990 it was announced that Dean Gaffney had received the "Menorah Award for Work in Religious Liberty" from the American Forum for Jewish-Christian Cooperation. Gaffney was one of five recipients in the United States to be recognized at the "Feast of Lights and Religious Liberty" on the second night of Hanukkah.

That a Catholic dean of the Lutheran Valparaiso University School of Law would be awarded this honor by a national Jewish organization in itself was both deserved and symbolic. Deserved, because Gaffney had worked to advance better relations between Jews and Christians as well as pursuing litigation to safeguard religious minorities in the United States. Symbolic, because the School of Law by 1990 itself constituted a mixture of various Protestant, Christian, and Jewish members. The VU full-time law faculty, for example, included at least six Roman Catholics, three Jewish members, and a dozen Protestants of which six were Lutheran. The student body had a similar breakdown in religious preferences.

Gaffney's work to assist religious minorities became nationally recognized. Over the years, he has represented various religiously-based groups and churches including Jehovah's Witnesses, fundamentalists, and the International Society for Krishna Consciousness ("Hare Krishnas"). He was one of the signers of the Williamsburg Charter, a bicentennial document that proclaimed a "renewed national compact, in the sense of a solemn mutual agreement between parties, on how we view the place of religion in American life and how we should contend with each other's deepest differences in the public sphere." The Dean's ecumenical focus and activities continued since he first came to the University in 1990. In 1991, he filed an amicus curiae ("friend of the court") brief with the United States Supreme Court on behalf of the Christian Legal Society, National Association of Evangelicals, and the Fellowship of Legislative Chaplains, in a case which sought to relax the

---

1778 Id.
1780 Id.; see also Gaffney Given Menorah Award for Work in Religious Liberty, VAL. U. ALUMNI NEWS, Jan. 1991.
Then, in 1992, Dean Gaffney filed *amicus curiae* briefs on behalf of a broad coalition of religious organizations with the United States Supreme Court in the case of *ISKON v. Lee*, involving New York Port Authority’s attempt to ban the distribution of religious literature at New York City airports which it operated. The groups he represented included the American Jewish Congress, Americans United for Separation of Church and State, the Baptist Joint Committee on Public Affairs, the Catholic League for Religious and Civil Rights, the Christian Legal Society, the General Conference of Seventh-day Adventists, the National Association of Evangelicals, and the National Council of the Churches in Christ, U.S.A.

The coalition asked Gaffney to draft and file another set of *amicus curiae* briefs in a second case in which petitioners were seeking to have reviewed by the U.S. Supreme Court, *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*. The issue which Gaffney wanted the Court to review was a city ordinance which prohibited any and all animal sacrifices, but which prevented an ancient and sincere religious practice by a legitimate religious group. In his brief, Gaffney argued that the ordinance violated the Free Exercise Clause of the First Amendment to the U.S. Constitution.

Gaffney’s activism in pursuit of protecting the free exercise of religion mandate of the First Amendment to some extent was reflected in activities at the School of Law. The Christian Legal Society (“CLS”), a student organization, grew in numbers and in sponsored programs. The CLS had been first established at the School of Law in the 1980s. Besides encouraging worship, Bible study, and other religious-related activities, the organization from time to time sponsored symposia or conferences pertaining to religion. For example, in 1987, CLS sponsored a symposium on “The Sanctuary Movement—Christians in Conflict with U.S. Central American Policy.”

---


1782 *VU Law Dean Files Briefs with U.S. Supreme Court*, VIDE TTE MESSENGER (Valparaiso, Ind.), Feb. 21, 1992, at 9A; see also *Law School Dean Files Two Briefs in U.S. Supreme Court*, VAL. U. ALUMNI NEWS, Mar. 18, 1992, at 3.

1783 *See Brief Amicus Curiae of Americans United for Separation of Church and State, Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993) (No. 91-948).*

group of mainly religious organizations which harbored refugees in violation of U.S. immigration laws. Speakers who came to the School of Law included Rev. Michael McConnell of Wellington Avenue United Church of Christ in Chicago, Rev. Joseph W. Ellwanger, pastor at Cross Lutheran Church in Milwaukee, and Sister Darlene Nicgorski, of the School of Sisters of St. Francis.1785

The CLS has continued its activities and programs. In 1989, along with the School of Law, CLS sponsored a “Symposium on Church/State Relationships in the Public Schools.”1786 In 1991, it invited several speakers from outside the University to speak at the School of Law. Included were Bradley P. Jacobs, Director of the Membership Ministries for the National Christian Legal Society, and Professor Thomas Shaffer, the Robert and Marion Short Professor of Law at Notre Dame Law School.1787 The same year, the VUSL CLS chapter hosted the first “Christian Legal Society Midwest Regional Conference” at the School of Law. The theme was “Making a Difference.”1788 Representatives from six Midwest states attended. Among the speakers was Dean Gaffney, who spoke on “The Spirituality and Constitutionality of the Lord’s Prayer.”

VUSL alumnus David Allan, class of 1977, has served a three-year term as national President of the Christian Legal Society (2000-2003). He is a long-time supporter of the VUSL chapter of CLS.1789

2. The Faculty Confronts Serious Issues

Despite Gaffney’s ecumenical perspective, the faculty during his deanship in the 1990s had sharp disagreements on two issues: the claimed legal right of abortion and the issue of non-discrimination based

1786 Law School Briefs: Symposium on Church/State Relationships in the Public Schools, THE AMICUS (VUSL), 1989, at 5. The participants included Judge Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit; VU President Alan Harre; VUSL professors Bruce Berner, Charles Gromley, and Seymour Moskowitz; Dean Ivan Bodensteiner; Professor Michael McConnell of the University of Chicago Law School; Professors William Marshall and Richard Myers, both of Case Western Reserve College of Law; and Attorney David Llewellyn of the Rutherford Institute of California. Id.
1789 See E-mail from Jay Conison, Dean, VUSL, to Michael Swygert (Oct. 19, 2003, 10:36 CST).
on sexual orientation. The pro-life activities of Professors Potts and Stith have been noted earlier.\textsuperscript{1790} Even before Gaffney joined the VUSL faculty, several of its members held deeply and sincerely-felt positions as regards whether abortion should be legalized. Not surprisingly, the polar-positions on the faculty mirrored the sharp divisions of American society. On one occasion, certain faculty members believed the pro-life advocates had gone too far by mentioning abortion in classes where, it was claimed, the subject matter did not pertain to criminal or constitutional law.\textsuperscript{1791}

Moreover, certain pro-choice advocates also found certain language occasionally used by pro-life advocates to be repugnant and took personally, for example, the emotive charge that people who favor a right of abortion “sanction the killing of babies.” All of this reached a head just prior to Gaffney becoming dean. The faculty considered a motion to censure certain pro-life advocates for their allegedly emotive language as well as a policy prohibiting any professor from discussing abortion in class unless the matter being taught involved a legal issue pertaining directly to abortion, which would be expected to come up in constitutional and criminal law courses. Not surprisingly, the mere discussion of such controversial measures caused pro-life advocates to believe that their rights of free speech as well as the academic freedom rights acknowledged as norms in higher education through the Association of American University Professors (“AAUP”) had been violated.

In time the faculty remembered that they were at a university, one that espouses not only strong religious values, but one too which espouses those values which O.P. Kretzmann spoke about back in 1940, the freedom to explore and debate truth at all times within the University setting, indeed, academic freedom.\textsuperscript{1792} Gaffney was aware of the necessity for tolerance and freedom of religious and intellectual thought as well the academic freedom to raise what a teacher perceives to be important and relevant matters in his or her class, and that all of these norms should apply to all those within the School of Law

\textsuperscript{1790} See supra notes 1624-29 and accompanying text.
\textsuperscript{1791} The information in this paragraph is based on confidential memoranda the author received in August and September 2003 from VUSL faculty members who were involved in these matters as well as minutes of faculty meetings during the period. Because of the confidential nature of the memoranda and the “personal” nature of the “debate,” no attributions to specific members of the faculty are being made.
\textsuperscript{1792} See supra notes 821-38 and accompanying text.
community. In a letter written to alumni, but which seemed to be for the faculty as well, Gaffney in 1991 wrote:

One of the things that makes this law school truly distinctive is its Lutheran character. We exist within a university under the cross. Although agreement might break down when one attempts to apply this general claim to particular aspects of life in this law school, it should be indisputable that connections between law and religion may be explored carefully and fruitfully here.¹⁷⁹³

Connections between law and religion clearly included the issue of legalized abortion, and Gaffney may have been emphasizing that the issue of abortion was one to be "carefully"—which in context of recent "hard" feelings at the School of Law, could have been construed as "calmly"—and fruitfully explored, i.e., debated. His letter was actually concerned about a debate over war and peace in the Middle East, yet, the opening paragraph could have applied to the "war" over abortion as well.

A second issue which divided the faculty dealt with the University’s and the School of Law’s official position on the issue of sexual orientation, again reflecting a division existing across the country, especially in church-related universities such as Notre Dame and Valparaiso. The origin of the sexual orientation issue at the School of Law began in 1989 when the Executive Committee of the AALS proposed amendments to the bylaws relating to the requirements for membership. By late 1990, the new bylaws were adopted. They added two new areas in which member schools had to have an expanded non-discriminatory policy if they were to remain eligible for membership in the AALS—"handicap or disability" and "sexual orientation."¹⁷⁹⁴

Unlike discrimination based on gender, race, color, age, veteran status, national origin, religion, and disability, which with very minor exceptions was unlawful under federal statutes, discrimination based on sexual orientation at the time was not unlawful. Nonetheless, the

¹⁷⁹⁴ Memorandum No. 90-20 from Betsy Levin, Executive Director, Association of American Law Schools, to Deans of Member Schools and Members of the House of Representatives, concerning Proposed Executive Committee Regulations 1-5, apps. (Mar. 15, 1990).
revised AALS Bylaw Section 6-4, titled “Diversity: Non-Discrimination and Affirmative Action,” explicitly declared that “a member school shall provide equality of opportunity in legal education ... without discrimination or segregation” on grounds which now include “handicap and disability” and “sexual orientation.” Wisely or not, once again the AALS was prescribing additional requirements that American law schools had to adopt as a condition for their continued membership.

The new requirements were brought to the attention of Dean Gaffney by Admissions Director Kathy Wehling in January 1991. At a March 1991 faculty meeting, Professor Bodensteiner presented a draft of a proposed non-discrimination policy for the School of Law, including the AALS required language to the effect that all employers coming to or contacting the School of Law would be informed of the policy and be expected to observe its principle of equal opportunity.

The critical meeting took place on March 20, 1991, and the faculty adopted the new statement, which barred discrimination on grounds which included religion as well as sexual orientation. Although the new policy passed overwhelmingly, a few members were outraged and proceeded to send a flurry of memoranda sharply criticizing the newly-adopted policy. What concerned them was, first, that the School of Law appeared to be abandoning its religious heritage by saying explicitly that it would not discriminate on the basis of religion. But to a few, even more offensive was the non-discrimination language regarding the matter of sexual orientation. They insisted that a Christian-affiliated institution should not in effect condone behavior which was Biblically proscribed. The memo wars escalated over the next few weeks.

1795 Id. at app. B (Current Bylaws and Proposed Regulations).
1796 Memorandum from Kathy Wehling to E Gaffney, Dean, VUSL (Jan. 29, 1991) (regarding VUSL Nondiscrimination Statement).
1797 Memorandum from Ivan E. Bodensteiner, Professor of Law, VUSL, to Deans, Faculty, and Student Representatives (Mar. 15, 1991) (regarding VUSL Nondiscrimination Statement).
1798 See VUSL Faculty Minutes (Mar. 20, 1991).
1799 One faculty member at the time, Professor Philipp Brockington, responded to another faculty member’s earlier memorandum by describing it as “so far beyond the bounds of propriety that I believe the author owes us all an apology,” adding, “It is more than [twenty] years since Stonewall.” Dean Gaffney entered the exchange and in a memorandum to the faculty titled “Collegiality,” stated that he hoped “a calmer spirit will prevail in all our future deliberations.”
Subsequent to the School of Law's passage of its new non-discrimination policy, that very policy was adopted by the College Concerns Policy Committee, and then by the University Senate, but it was vetoed by President Harre on advice from the Board of Directors. This was particularly upsetting to Professor Philip Brockington. Writing Harre, Brockington noted that he was extremely disappointed with the University's failure to ban discrimination based on sexual orientation.\textsuperscript{1800}

Nonetheless, the non-discrimination policy regarding sexual orientation did become adopted in 2002 by the University, although in a format that attempted to respond to the concerns of all over the issue. School of Law Dean Jay Conison worked with President Harre and the University Board of Directors to craft a policy for the School of Law.\textsuperscript{1801} Within days, the University and the Board of Directors adopted this "unified non-discrimination statement for the University," which reads:

Valparaiso University provides equality of opportunity to its applicants for admission, enrolled students, graduates, and employees. The University does not discriminate with respect to hiring continuation of employment, promotion, and tenure, other employment practices, applications for admission, or career services and placement on the basis of race, color, age, disability, national origin or ancestry, sexual orientation, or (as qualified herein, religion). An institution committed to its Lutheran tradition, the University reserves its right to promote the teaching of the church and to exercise preferences in admissions and employment-related practices in favor of Lutherans.\textsuperscript{1802}

The lengthy debate over the issue of non-discrimination in reference to sexual orientation was an issue which came up at many law schools across the country. Once again, what happened at the School of Law reflected issues and debates throughout society and within legal education.

\textsuperscript{1800} Letter from Philipp Brockington, Professor of Law, VUSL, to Alan Harre, President, VU, reprinted in a "Letter to the Editor" column of a newspaper which is unidentifiable, but which was given to the author by Brockington during the summer of 2002, and which is on file in the VUSL archives.


\textsuperscript{1802} Board of Directors Re-elect Chair, Members, VAL. U. CAMPUS CHRON., Nov. 1, 2001, at 1-2.
V. The Cambridge Program and International Law

The law school at Valparaiso would not escape the globalization of law. Gaffney understood the growing importance of international law. In a letter to alumni, he wrote that international law was unknown before the emergence of the modern nation-state: "[T]he law was thought to be universal—derived from the principles of rationality and coherence found in all persons." He pointed out that this natural law perspective was historically prior to the positivist understanding of law as a dictate of a nation-state's sovereignty, which he described as a "recent invention in the history of jurisprudence."

During Gaffney's deanship, several international visitors came to the School of Law, including in 1991 two women law teachers from the then Soviet Union: Professor Olga Djujeva, a teacher of criminal law at Moscow State University, and Professor Tatiana Zaharchenko of the Kharkov Law Institute in the Ukraine. Another example is the visit in 1992 of Dr. Polona Konchar, vice-dean of the Ljubjana Faculty of Law in Slovenia. In the fall of 1994, the School of Law devoted an entire issue of its publication, The Amicus, to international law. Featured were several alumni who were engaged in international law practice. These included George Liu, VUSL class of 1974; Jackie Leimer, VUSL class of 1981; Gordon Hsin, VUSL class of 1993; and VUSL Professor Jack Hiller.

But what brought the international law perspective sharply into focus at the School of Law was the establishment of summer programs for VUSL students in Cambridge, England as well as in other countries. Valparaiso University had first established foreign programs in Germany and England beginning in 1967. The England program was at Cambridge and included a large house near Huntingdon Road, not far from Cambridge's Magdalen College. Known as the VU Cambridge Center, undergraduate students spent one or two semesters in Cambridge each year. The facility, however, was unoccupied during the summers until Dean Gaffney seized the opportunity to make it the home base for a summer program in law. The VUSL summer law program

---

1804 Id.
1806 Stanley Wruble, VU Law School Hosts Dean from Slovenia, THE TORCH (VU), Nov. 6, 1992, at 9.
commenced in Cambridge in 1991. Also that same summer, a second VUSL foreign law program directed by Professor Jack Hiller was held, this one at Ningbo University, Zhejiang Province, in the People’s Republic of China. The faculty and Dean Gaffney carefully put together programs which met all the criteria for ABA/AALS approval. After the approval was received in 1990, the two programs went forward. The Cambridge program went forward and continues today. Associate Dean Bruce Berner was the first director of the Cambridge program, followed by Professor David Vandercoy, then by Professor Rosalie Levinson. Vandercoy was able to gain access to the Squire Law Library at Cambridge University for the visiting students enrolled in the VUSL summer program at Cambridge.

If a summer studying law in Cambridge, England were in itself special, Gaffney added a real coup. With funding to underwrite the costs provided by alumni Herb Stride, VU class of 1957, and his wife, Delores, VU class of 1955, along with Richard Duesenberg, VUSL class of 1953, and his wife, Phyllis, VU 1953, Dean Gaffney invited sitting justices on the United States Supreme Court to Cambridge to assist in teaching the VUSL program. Three accepted the invitations.

The first to serve as a Distinguished Visiting Lecturer in Law at VUSL was Justice Antonin Scalia, who with his wife went to Cambridge in the summer of 1993 when Professor Levinson was Director. Dean Gaffney noted later that “Justice Scalia’s presence added greatly to our [summer] program.” Justice Scalia on one occasion had lunch with VUSL alumnus G. Allen Andreas, class of 1968, who was based in the United Kingdom and served as Chief Financial Officer for the European operations of Archer-Daniels-Midland Company. Also present were Richard and Phyllis Duesenberg, who subsequently traveled together with Justice Scalia and his wife on a week’s tour of Ireland.

The following summer, 1994, Justice Ruth Bader Ginsburg arrived in Cambridge on July 11th, and lectured to the thirty-nine students in the VUSL program (twenty from VUSL and nineteen from seventeen other
law schools. Justice Ginsburg said that she had chosen the VUSL summer program over thirty other ones she had been invited to attend because of the "tenacious and charming Dean Gaffney," who had persuaded her to come to the VUSL program.

Then, in the summer of 1995, the Chief Justice of the United States, William H. Rehnquist, came to the VUSL summer program to teach a course on the "History of the United States Supreme Court" over a one-week period. Two months earlier, the Chief Justice had given the commencement address at the 1995 graduation of the 171 graduates of the Valparaiso University School of Law. Addressing the largest class in the School of Law's then 116-year history, Chief Justice Rehnquist stressed that the new law graduates had to understand the value of time in their professional lives. Time is not an inexhaustible supply, he noted. Time can be a wasting asset, he pointed out, do not spend it unwisely, he advised the class of new lawyers. Professor Emeritus Jack Hiller believes that Dean Gaffney's bringing several U.S. Supreme Court Justices into the summer teaching program "put the VU Law School on the map."

W. Innovations

1. The Legal Writing, Reasoning, and Research Program

Recall that when historian Robert Stevens spoke at the 100th anniversary of the founding of the Valparaiso University School of Law, he commented that the law school, being relatively small, was well-positioned to be innovative in legal education. For the quarter of a century since Stevens suggested this opportunity, many innovative programs have been developed at the School of Law. One area in particular stands the School of Law above most other law schools in the country – the VUSL legal writing program.

---

1813 Id.
1816 Id.
1817 Interview with Jack A. Hiller, Professor of Law, VUSL (Oct. 21, 2003).
1818 See supra notes 1579-91 and accompanying text.
The first serious attention given to establishing a quality legal writing program at the School of Law took place during the mid-1970s under the direction of Professor Gene Hennig. At that time the course was called "Legal Problems" and included a syllabus. Hennig was the only legal research instructor and he used teaching assistants, called "TAs." During the first semester, students had to prepare a case-synthesis assignment, then an intra-office memorandum of law, and finally a judicial memorandum. In Legal Problems Two, second semester, students drafted an appellate brief, took part in an appellate argument, and finally drafted a complaint. Although the basic structure was similar to most schools' programs, the use of a syllabus and teaching assistants at the time was uncommon. Professor Jeff Bork took over the program beginning in 1976.

In 1979, Professors Marcia Gienapp and Ivan Bodensteiner began teaching a new legal writing program at the School of Law called "Legal Problems and Perspectives on the Law." It combined legal writing with the first-year required course in Civil Procedure. Librarians would come to classes to explain legal researching methods. TA's were used for drafting and subsequently grading writing assignments. Although strikingly innovative, the faculty felt that the new combined writing/substance program was a failure and abandoned the experiment after one year.

In the fall of 1986, Ruth Vance and Michael Straubel were hired to teach legal writing. Thus, for the first time, two full-time instructors were involved. Six years later, the number of full-time legal writing instructors had grown to four. The faculty voted to make Legal Writing a specialized tenure-track position. No longer did TAs grade student papers; all evaluations were now done by the professors. "Legal writing specialists" were hired to assist the professors. The first person to be hired as a "specialist" was Susan Adams. Others have included Linda Kibler, Sue Collins, and Stephanie Vetne. The School of Law along with the Law School at Puget Sound were among the first schools in America to hire "writing specialists" as a denominated category of instructors.

1819 Letter from Ruth Vance, Professor of Law, VUSL, to Michael Swygert 1 (Sept. 5, 2003).
1820 See Memorandum from Gene Hennig to VUSL Faculty 1-19 (Aug. 3, 1976) (regarding the administration of Legal Problems during the 1975-1976 academic year).
1821 Letter from Ruth Vance to Michael Swygert, supra note 1819, at 1.
1822 ld.
1823 ld. at 2-3.
In 1994, Mark Adams was hired as the third full-time legal writing professor. That year, the program underwent a major expansion and revision. Legal drafting and advanced legal writing segments were added. Up to six adjuncts were hired each spring semester to teach drafting under the supervision of a legal writing professor. In the fall, each legal writing professor began to teach a section of Appellate Advocacy, an elective law course, and help with the briefing and legal analysis of the Legal Research & Introduction to Legal Writing Course required of all entering first-year students in their first semester. In the spring semester, each legal writing professor began to teach a section of Legal Writing to the first-year students and would teach either Advanced Legal Writing, Drafting, or an upper level elective course. An important new feature of the expanded program was that each student in his or her fourth semester of law school had to take one of four advanced courses: Advanced Legal Writing, Drafting, Advanced Legal Research, or Advanced Appellate Advocacy. In fact, when the existing third-year seminar requirement involving a major research paper was included, under the 1994 revised legal writing, research and drafting program, by the time a student graduated from VUSL, he or she would have taken eleven hours in legal writing-related courses. It is not clear whether any other of the country’s 180 plus ABA-approved law schools required such an extensive emphasis on the critical skills of research, drafting, writing, and appellate advocacy.

In 1996, the program was again modified by the faculty. More emphasis was placed on legal reasoning and on increasing the number of written assignments, particularly in the first semester. The first required course in the legal writing sequence was Semester One’s Legal Writing, Reasoning & Research three-credit-hour course, followed by Semester Two’s Legal Writing, Reasoning & Appellate Advocacy three-credit-hour course, followed by a Semester Three or Semester Four choice of one of the following four courses: Advanced Legal Writing, Drafting, Advanced Appellate Advocacy, or Advanced Legal Research. Professor Susan Stuart, who today directs the Academic Success

2 Memorandum from Michael Straubel, Ruth Vance, Mary Persyn, and Linda Kibler, Professors of Law, VUSL, to the VU Curriculum Comm. 1-3 (Feb. 16, 1996) (regarding VUSL’s Legal Research and Writing Modifications); see also Minutes of the VUSL General Faculty Meeting 1-2 (Feb. 28, 1996) (indicating the proposal passed).
Program, also came aboard the legal writing train in 2001, followed in 2002 by Professor Clare Nuechterlein. She was hired to replace Mike Straubel as a legal writing instructor (the latter moving full time into the doctrinal curriculum). Consequently, the legal research and writing program at the Valparaiso University School of Law today, having four full-time professors, plus professional librarians, along with "writing specialists," remains one of the most comprehensive and innovative in the country according to the dean of the School of Law.

2. The Development of Elder Law Specialization

In the fall of 1991, "Elder Law" was first offered at the School of Law. Professor Linda S. Whitton, an alumna of the University (1979) and law school (1986), was among a small group of professors in the country who spearheaded the addition of elder law offerings to law school curriculums, recognizing the growing importance of legal issues associated with a rapidly aging population. Professor Whitton was Chair of the AALS Section on Aging and Law and currently serves as the Supervisory Council member for the Elder Law and Disability Planning Committees of the ABA Section of Real Property, Probate and Trust Law.

She developed a pilot project for community education programs on the topics of advanced directives and planning for end-of-life health care decisions and trained students to assist her in providing pro bono services to the community. This program served as the model for National Health Care Decisions Week, an annual public education campaign sponsored by the ABA Section of Real Property, Probate and Trust Law, The Health Resources and Services Administration of the U.S. Department of Health and Human Services, the American Medical Association, the National Bar Association, and the National Medical Association. Through this program, thousands of individuals nationwide receive access to legal assistance for end-of-life health care planning each year. Professor Whitton is also involved in national law reform efforts and serves as the Reporter for the Drafting Committee to Revise the Uniform Durable Power of Attorney Act.

Due to the growing student enthusiasm for elder and health law, the Elder/Health Law Concentration was added to the law school

---

1826 See infra text accompanying note 1989.
1828 Telephone Interview with Jay Conison, Dean, VUSL (Sept. 29, 2003).
curriculum in 2000 by Professors Whitton and Moskowitz. The concentration offers students the opportunity to develop synergy between classroom offerings, externship experiences, and supervised scholarly writing projects. The School of Law has been on the cutting edge in the expanding and increasingly important area of elder law.

3. Institute on Law and Pastoral Ministry

During the deanship of Ivan Bodensteiner (1985-1990), Valparaiso University and the School of Law founded an “Institute on Law and Pastoral Ministry” for the purpose of updating pastors, church executives, and other church leaders on the critical issues of law, especially exposure to legal liability as it affects churches.\textsuperscript{1829} The two-day institute is held at the School of Law annually. The Institute brings together church attorneys, pastors, and leaders, as well as VU law and theology professors.

The first Institute took place in 1985 and focused on the issue “Church and Pastoral Liability,” and included presentations on areas of potential liability, insurance, and confidential communications.\textsuperscript{1830} Other topics over the years have included “Our Abusive Culture,” “Issues Attending Death,” “Church, Government, and the Local Pastor,” “Pastoral Practice and Legal Limitations,” and, in 1990, after Dean Gaffney was at the School of Law, his specialty topic, “First Amendment Reassessed: The Significance of Its ‘Free Exercise Clause’ for the Church and Its Clergy.”\textsuperscript{1831} Dean Gaffney was a strong supporter of the Institute on Law and Pastoral Ministry throughout his seven-year deanship.

4. Jointly-Taught Interdisciplinary Courses

A potentially huge benefit of a university-related school of law, especially if the law school is located on the campus of the university, is the possibility of having interdisciplinary instruction and courses with experts from two or more fields teaching jointly. Surprisingly, this rarely happens at many law schools. At VUSL, there have over the years been opportunities for such cross-discipline classes.

\textsuperscript{1829} Institute on Law and Pastoral Ministry, Val. U. Sch. of L. Bull. 75 (1994-1995).
\textsuperscript{1830} Id.
\textsuperscript{1831} Id.
Perhaps the best example is a course on "Nihilism," which was offered to both undergraduate and law students during 1991. The course involved four disciplines: Law, Theology, English, and Psychology. The four VU professors who jointly taught the course were Dr. Thomas Droege (Theology); Dr. Tom Hall (English); Dr. John Harris (Psychology); and VUSL Professor, Linda Whitton. The class consisted of thirty students, fifteen from VUSL and fifteen from the undergraduate university.

The course met in the fall semesters on Saturdays, three hours in the morning, followed by three hours in the afternoon. Students were assigned to both disciplinary and interdisciplinary discussion groups. Questions for each day's discussion had been distributed previously and each student came to his or her morning small group sessions with a two-page written response. Then the professors would do a plenary presentation of the subject, followed by a discussion by the plenary group. In the afternoons, literature related to the topic of the day would be discussed or on occasion films would be shown, followed by meetings of the disciplinary subgroups to again consider the question for the day. Professor Whitton writes her recollections about the course:

Although this class took place twelve years ago, my colleagues and I continue to be gratified by the communication that we still receive from those class members expressing their appreciation for the rich and unique educational experience. From our experience as teachers, it was certainly one the high points of our collective teaching careers.

Many interdisciplinary courses involving students in the VU Honors College, Christ College, and law students have also taken place from time to time. They have included courses in legal history, jurisprudence, and philosophy. VUSL professors have also on occasion taught courses in the undergraduate curriculum. These professors have included over the years Jack Hiller, Al Meyer, Lou Bartelt, as well as more recent members of the faculty. More recently, Professor JoEllen Lind taught a course on feminist theory in the University's philosophy department.

---

1832 E-mail from Linda Whitton, Professor of Law, VUSL, to Jay Conison, Dean, VUSL, with a copy to Michael Swygert (Aug. 25, 2003).
1833 Id.
1834 Id.
1835 Faculty & Staff Activities: Professor JoEllen Lind, THE AMICUS (VUSL), Fall 1993, at 25.
Professor Richard Stith team-taught courses with Professor Bill Olmstead in Christ College, including a course called "Law and Society," which had both law and undergraduate students.1836

5. The 100th Anniversary of the First Woman Admitted to the Indiana Bar

In 1884, Antoinette Dakin Leach became the first woman to be admitted to the Indiana Bar. One-hundred years later, the Valparaiso University School of Law conducted a year-long celebration of women in law. The year’s highlight was an address by United States Supreme Court Justice Sandra Day O’Connor to 3,500 students, alumni, guests, faculty, and staff of the School of Law in the Chapel of the Resurrection.1837 Justice O’Connor was the first woman and 102nd justice appointed to the highest court in the nation. She was appointed by President Ronald Reagan to the Court in 1981.1838

The Associate Justice of the United States Supreme Court spoke on the topic, "Female Pioneers in the Legal Profession." She knew from own experience how difficult it had been for women lawyers. Even though she graduated at the top of her Stanford Law School class in 1952, no major law firm would offer O’Connor a job, according to VUSL Professor Rosalie Levinson.1839 O’Connor herself said: “In my own time and own life, I’ve witnessed a revolution in the legal profession. Women now constitute thirty percent of the bar and forty percent of law school graduates.”1840 Today, nearly ten years later, women make up forty-nine percent of the nation’s law school population. For the incoming class of 181 full-time students at VUSL in the fall of 2003, ninety-three, or fifty-one percent, were females.1841

To honor her presence at the School of Law, Dean Gaffney presented Justice O’Connor with the Valparaiso University School of Law Leach Centennial Award, named after the pioneer Indiana woman lawyer of

1836 E-mail from Richard Stith, Professor of Law, VUSL, to Michael Swygert (Sept. 9, 2003).
1839 Shied, supra note 1837, at 1.
1840 Id.
1841 VUSL Annual Report on Strategic Plan 3 (Sept. 2003) [hereinafter Strategic Plan].
the nineteenth century. Justice O'Connor was also presented with Indiana's highest civic award, The Sagamore of the Wabash.

Justice Sandra Day O'Connor was far from the first U.S. Supreme Court Justice to speak at VU, let alone in the Chapel of the Resurrection. In fact she has been one of nine. The first was Chief Justice Earl Warren at the dedication of the first Wesemann Hall in 1963. He was followed by Justices Tom Clark, John Paul Stevens, Ruth Bader Ginsburg, Clarence Thomas, Antonin Scalia, Chief Justice William Rehnquist, and Justice Arthur Goldberger. The year-long celebration of the 100th anniversary of the first woman to be admitted to the Indiana Bar included several special occasions. One was the honoring of VUSL alumna, Frances Tilton Weaver, the oldest living woman graduate of the School of Law. Others included presentations by Indiana Court of Appeals Judge Vivian Sue Shields, who spoke about both Sarah Evans Baker, the first woman to serve as a United States Attorney in Indiana then first to be a federal judge, and Pamela Carter, the State's first woman attorney general and the country's first African-American woman to hold such a post. Also being honored in 1994 was VUSL Professor Rosalie Levinson, who received a Leach Award for being the first woman to receive tenure on the Valparaiso University School of Law faculty.

Another major anniversary celebration took place at the School of Law a few years earlier in 1991, the bicentennial of the ratification of the first ten amendments to the United States Constitution. Occurring on December 15, 1791, the ratification of what today we call the Constitution's "Bill of Rights" was a truly historic occasion in the history of the United States. Dean Gaffney made this clear in a letter to alumni

1842 Shied, supra note 1837, at 1.
1843 Id.
1844 See supra notes 1159 et seq. and accompanying text.
1845 See supra note 1346-48 and accompanying text.
1846 See infra note 1583 and accompanying text.
1849 See supra notes 1814-15and accompanying text.
1851 See supra notes 557-74 and accompanying text.
published in *The Amicus*. In the letter, he noted that the Bill of Rights "has come to be one of the most important documents in history." Throughout the 1991-1992 academic year, several events were scheduled related to the Bill of Rights, ending with a reaffirmation by national, state, and local officials of their sworn duty to support and defend the Bill of Rights on the day of the bicentennial—December 15, 1991.

6. Martin Luther King Conference on Discrimination: Putting the Pieces Together

In January 1993, to celebrate Martin Luther King Day, the VUSL BALSA in association with the Valparaiso University Black Students Organization, Multi-cultural Leadership Center and Martin Luther King, Jr., Challenge Class, International Student Organization, VUSL faculty, the Knight Foundation Task Force, Feminists Ready for Enlightenment and Equality, VU Department of Theology faculty, VU Department of Media faculty, and the Gary, Indiana Human Relations Counsel, together put on a day-long conference on racial discrimination in contemporary American society.

A "Law School Session" included a panel which focused on how issues of race affect the School of Law in particular, and the legal profession in general. Issues of affirmative action regarding law school admissions were discussed as were concerns about placement of minority students. Also on the agenda were race relations among the law students and how racism affects the School of Law and the professional practice of law. Speakers included the Rev. Jesse Jackson and VUSL graduate Richard Hatcher.

BALSA has remained an active and important student organization since its founding in the early 1970s. In the spring of 1991, BALSA hosted an open house to honor the contributions of three distinguished alumni of the School of Law: Justice John Rucker, VUSL class of 1977; Judge Bernard A. Carter, VUSL class of 1984; and the former Mayor of

---

1854 Id.
1855 See *Martin Luther King Program on Discrimination: Putting the Pieces Together* (Jan. 1993).
1856 Id.
1857 See infra notes 1858-59 and accompanying text.
President of BALSA, Cynthia Taylor, VUSL class of 1992, made the presentations. She also acknowledged the support and guidance received from VUSL Professor Cheryl Stulz, one of the first African-American law professors hired on the School of Law faculty, but who announced that she was leaving VU to return to her home in Washington, D.C. after the summer 1991 session.

X. The Faculty Further Expands

During the Gaffney deanship, several significant new faculty members became associated with the Valparaiso University School of Law. The first was Laura Gaston Dooley, who came to the law school in 1990 from the University of Chicago where she had been a Bigelow Teaching Fellow and Lecturer in Law. After receiving her B.A. degree in 1982 from the University of Arkansas Phi Beta Kappa, she went on and earned her J.D. degree from Washington University School of Law in St. Louis where she was elected to the Order of the Coif, an academic honor limited to the top ten percent of law graduates at selected law schools which have a record of superior scholarship.

Upon completing her law school training, Professor Dooley clerked for two years with a United States District Court Judge, the Honorable John W. Oliver, for two years, and then became a judicial clerk to the Honorable Pasco M. Bowman, a judge on the United States Court of Appeals for the Eighth Circuit. She teaches in the areas of Civil Procedure, Complex Litigation, and Criminal Procedure, and has instituted at the School of Law a new course titled "Women and the Law." The course explores feminist legal theory in the context of issues of concern primarily to women. She has written on feminist theory. Professor Dooley is co-author with Professor Ian Ayres of Yale Law School and Robert Gaston of the University of Alabama Medical School of a book chapter on racial equity in kidney transplantation. The book is published by the University of Chicago Press under the title

---

1858 BALSA Open House, THE AMICUS (VUSL), May 1991, at 5.
1859 Id.
1861 Id.
Since joining the law faculty at Valparaiso, Professor Dooley has been among its leading scholars. The placements of her numerous articles have been impressive. Besides the Vanderbilt Law Review and the American Medical Society Journal, she has published in the Cornell Law Review, University of Illinois Law Review, the Indiana Lawyer, the Fordham Law Review, and the Washington University Journal on Urban and Contemporary Law. Professor Dooley has received recognition from her peers. Both the Stanford Law School faculty and the faculty of the University of Chicago Law School have invited her to come and speak to them on the topic of “women and juries.” Neither has her research gone unnoticed by the media. Her work has been referred to in the Washington Post, Boston Globe, Newsday, Wall Street Journal, Chicago Tribune, and Investors Business Daily. Because of her outstanding scholarship, in 1999 Professor Dooley was elected to the American Law Institute, an invitation-only national group of scholars, judges, and practitioners which, among other responsibilities, is responsible for the compiling and promulgation of the Restatements of the Law. As regards teaching, she is among the students’ favorite instructors. “She has so much confidence in us,” one student reportedly said, a sentiment “proven in the tone with which Dooley conducts every class meeting.”

Several new faculty joined the VUSL faculty in 1991, among them Professor Derrick Carter, who earned his B.S. degree from Eastern Michigan University in 1972, followed by his J.D. degree from VUSL in 1975. Carter represented indigent defendants for seventeen years at the Michigan Appellate Defender Office, a division of the Michigan Supreme Court. In this capacity, he handled hundreds of criminal

---

1864 Fraley, supra note 1862, at 9.
appeals in both state and federal courts, including cases before the United States Supreme Court.\textsuperscript{1866}

Professor Carter joined the faculty as a visiting professor in 1991 and was made a regular member in the fall of 1992. At the School of Law he teaches courses in Criminal Law, Criminal Procedure, Appellate and Trial Advocacy, and Law Office Management. Professor Carter has served on the editorial board of \textit{The Criminal Justice Magazine}, published by the ABA. He is co-author of an ABA report on the reduction and prevention of violence and has served as chair of the Criminal Law Section of the National Bar Association\textsuperscript{1867}. In 1991, the Law Review of Cooley Law School in Michigan awarded Professor Carter the "Distinguished Brief Award" in recognition of his brief filed before the Michigan Supreme Court in the case of \textit{People v. Collins}\textsuperscript{1868}. The selection of Carter's brief was made by a panel of jurists. The brief is published in Volume Eight of the \textit{Cooley Law Review}. Professor Carter was the second African-American to join the law faculty at Valparaiso. The first was Cheryl Stulz, who was hired in 1989 and remained for two years before returning to her native Washington, D.C.

Also joining the faculty in 1991 was JoEllen Lind. She earned her B.A. from Stanford University Phi Beta Kappa in 1972, followed by her J.D. degree from the University of California, Los Angeles in 1975, where she served on the \textit{UCLA Law Review}\textsuperscript{1869}. Professor Lind's career prior to joining the VUSL faculty included both teaching and practice. After graduation from UCLA Law School, she worked for a Los Angeles law firm in the area of commercial litigation. She then joined the McGeorge School of Law at the University of the Pacific. In 1984 she left teaching to become a partner in a Salt Lake City law firm. Leaving practice in 1987, she next pursued her interest in the philosophy of law at the University of Utah. She also served as a visiting professor of law at the University of Utah Law School before joining the VUSL faculty\textsuperscript{1870}.

Besides having participated in \textit{pro bono} litigation involving issues of mental health law and prisoners' rights, Professor Lind is a strong

\textsuperscript{1866} Id.
\textsuperscript{1867} Id.
\textsuperscript{1868} 475 N.W.2d 684 (Mich. 1991).
interdisciplinary scholar, publishing in the areas of law, philosophy, feminism, and political science on the VUSL faculty since her arrival. She has published an article on the woman suffrage movement in the *UCLA Women's Law Journal*. To research that subject, she traveled to Smith College in Northampton, Massachusetts to examine the College's extensive women's history archives.\textsuperscript{1871} To illustrate the breadth of her scholarship, about the same time she published an article on Karl Llewellyn's jurisprudence as it related to his drafting of Article Two of the Uniform Commercial Code.\textsuperscript{1872} She has also published articles in the area of banking history and regulation.

In a 2003 published profile, Professor Lind commented that she teaches "to help train great lawyers who can change the world."\textsuperscript{1873} She also was quoted as to her feelings about the School of Law: "It is a unique place where students and faculty become a close community exploring law from a values perspective."\textsuperscript{1874} Students respect her enormously as a challenging and invigorating classroom teacher. She certainly carries on the tradition of teaching excellence at the School of Law.

Linda S. Whitton became a full-time member of the VUSL faculty in 1991, although she had been an adjunct professor at the School of Law previously. As noted above,\textsuperscript{1875} Whitton began the elder law program at the School of Law. In addition, she teaches property law and business planning. A double VU graduate, B.A. in 1979 and J.D. in 1986, Whitton prior to attending law school was the communications director for the Federal Loan Bank of Chicago. In law school, she was an executive editor of the *Valparaiso University Law Review*. After graduation, she clerked for United States District Court Judge Hugh Dillon in the Southern District of Indiana.\textsuperscript{1876}

Professor Whitton has concentrated her professional efforts in the emerging area of eldercare law and has become one of the country's...
recognized leaders in this field. Not only has she written articles in the area, for example in the *Elder Law Journal*, she also has organized *pro bono* workshops designed to respond to legal needs of the elderly.\(^{1877}\) She has served as chair of the ABA's Health Care Decisions Committee. Whitton has also chaired programs for the National Aging and Law Conference and has participated in numerous national conferences, for example, one held in Athens, Georgia in 2000 titled, "Joint Conference on Legal and Ethical Issues in the Progression of Dementia."\(^{1878}\)

In 2000, Whitton was the recipient of the annual "Distinguished Faculty Award" that is given each year to an outstanding member of the law faculty. Named to honor Professor Emeritus Jack A. Hiller, a 1955 VUSL alumnus, the award was instituted by Robert Beer, a 1963 alumnus of the School of Law. Among many reasons why Professor Whitton won this honor, one had to be her being "largely responsible" for a national initiative to provide information to attorneys and the public on advanced health care directives.\(^{1879}\)

In 1992, the VUSL alumnus and former mayor of Gary, Indiana, Richard Gordon Hatcher was invited to join the VUSL faculty as a full-time member, after he had served several years as an adjunct professor. He accepted. His historical significance not only to the School of Law but to America at large has been discussed previously.\(^{1880}\) At VUSL, he taught courses in constitutional law, local government law, and employment discrimination.\(^{1881}\) Because of extensive outside activities and commitments, Professor Hatcher in 1998 became "Senior Research Professor," allowing him to spend considerable time away from the School of Law. Today he serves as special consultant to the Dean of the School of Law.

James R. Smoot joined the VUSL law faculty in 1993, after fifteen years of law practice involving corporate legal matters, and after teaching for a short time at the Memphis State University School of Law.\(^{1882}\) He received his B.A. degree from the University of Southern California in 1968 summa cum laude and Phi Beta Kappa, and his J.D.

\(^{1877}\) See supra note 1876.

\(^{1878}\) *Faculty News: Linda Whitton, VALPO LAW. (VUSL), 2001.*

\(^{1879}\) Id.

\(^{1880}\) See supra text accompanying notes 1354-62.


\(^{1882}\) *New Faculty Join VUSL, THE AMICUS (VUSL), Fall 1993, at 22.*
degree in 1974 from Yale Law School. While a student at Yale, he served as an executive editor of the *Yale Law Journal*. Subsequently, he served as law clerk to the late Judge Henry J. Friendly of the United States Court of Appeals for the Second Circuit in New York City. Judge Friendly was among the most respected appellate jurists in the United States. He then practiced with the New York City firm Cravath, Swaine and Moore in both its NYC and Paris, France offices. At Valparaiso, Professor Smoot taught courses in Business Associations, Corporate Finance, Banking Law, Secured Transactions, and Contracts. He left the VUSL faculty after five years.

In the fall of 1995, a bright, energetic graduate of the University of Chicago Law School joined the faculty, Mark L. Adams. Earning his B.A. degree in 1983 from Williams College and his J.D. in 1988 from Chicago, he taught history, coached basketball, and directed the Wilderness Program at Holland Hall School in Tulsa, Oklahoma between attending undergraduate and law school. After law school, he practiced with a Seattle, Washington law firm, where he concentrated in labor and employment law. At the same time, he was a staff attorney at the Neighborhood Legal Services of King County, Washington.\footnote{Mark L. Adams, *Val. U. Sch. of L. Admissions Guide & Profiles of Faculty & Staff* 27 (1994-1995).}

At VUSL, Professor Adams initially taught legal research and writing, but soon expanded into the doctrinal areas of contracts as well as labor and employment law. He also became the Director of the School of Law's masters of law program, known as the LL.M. program. He developed into an excellent scholar, having several articles published. Adams is respected by colleagues and students alike.

Y. The VUSL Alumni

1. "The Golden Gavel Society"

In the summer of 1995, two VUSL graduates of the class of 1952, Harold Couillard and Ken Roeh, began a tradition that continues today—the annual dinner of "The Golden Gavel Society." The dinner is only open to those VUSL graduates who graduated from the School of Law at least forty ago. Writing about the founding, Roeh explained:

Couillard and I resurrected the [traditional law alumni] dinner but decided to limit the attendance to ancients.
like us. We would convene at the Strongbow Turkey Inn—where God always intended the dinner to be located. Our fervent hope is that the life of the GGS will be perpetual. If all older law grads love the school and their classmates with the same passion as we do, its future is assured.\textsuperscript{1884}

The first dinner held at the VU Homecoming weekend in the fall of 1995 drew twenty six "greybeards" as the Society members sometimes call themselves. Subsequent years drew many more "oldies but goodies" back to the School of Law, close to seventy attending in the fall of 1996 and also in the fall of 2003.\textsuperscript{1885}

2. Corporate Executives to Pro Bono Lawyers

The 4,000 plus alumni of the Valparaiso University School of Law have followed various career paths. Many have gone into business, some ending up with Fortune 500 corporations, others starting their own, while others have become bankers, leaders of the bar in their states, public interest litigators, educators, public officials, and jurists. Still, the majority, not surprisingly, have become practicing lawyers. There are far too many success stories to be included in this volume. Still, to give the reader a sampling of the kinds of positions graduates of the School of Law have attained in recent decades, a few graduates are listed below as being representative.

VU law graduates in present or past corporate positions include, for example, Randy Dessau, 1985, former Senior Vice President, First Data Corporation; Jack Allen, 1962, President, United Consumers Club of America; G. Allen Andreas, 1968, Corporate Compliance Officer, Archer Daniels Midland; Jon Walton, 1969, Senior Vice President, Chief Legal and Administrative Officer, and Secretary, Allegheny Technologies; Ann Bowman, 1977, General Counsel, WhiteCo; Bruce Yungman, 1969, Chief Executive Officer, Nature's Resources; Ron Pelligrino, 1994, President, The Marlin Group; Barbara Sutherland, 1979, Vice President, Secretary, and General Counsel, PMA Insurance Group; Joe Pomeroy, 1976, General Counsel, Mercury Marine.\textsuperscript{1886}

\textsuperscript{1884} The Golden Gavel Society, VALPO LAW. (VUSL), 2001, at 27 (emphasis added).
\textsuperscript{1886} Information in these paragraphs comes from several sources, including: Kristin Jass, Fortune 500, THE AMICUS (VUSL), Summer 1995, at 12-27; Harry Karabel, Where the Court
Other representative examples include David Kundert, 1967, Chairman and Chief Executive Officer, Banc One Investment Management; Stephen Krigbaum, 1983, Vice President and Chief Legal Counsel, Kraft Foods International; Richard Kippen, 1956, Senior Vice President, Legal Counsel, and Secretary, Hiram Walker & Sons, Ltd.; Dieter H. Nickel, 1959, Chairman, Alliance of America Insurers; Dee M. Brueing McKinney, 1974, Deputy Chief Counsel, McDonnell Douglas; Richard W. Duesenberg, 1953, Senior Vice President, General Counsel, and Secretary, Monsanto Corporation; Robert Duesenberg, 1953, General Counsel, General Dynamics; Jay Johnson, 1971, Vice President, General Litigation Counsel, Texas Instruments; Stephen K. Todd, 1970, General Counsel, Secretary, United States Steel Group, then a unit of USX; Cornell Boggs III, 1985, formerly Americans Counsel Intel, and General Counsel, Tyco Plastics, Inc., and Associate General Counsel, Anheuser-Busch.

At least two of the School of Law’s alumni purchased banks. Dominic Farina, one of the few students to graduate from the School of Law in 1942, grew up in the depression in New Buffalo, Michigan. He went from shining shoes to being a barber to a successful businessman in Southwest Michigan, owning numerous properties including the New Buffalo Savings Bank.

Earl McNaughton bought into a family-owned business, the First National Bank of Fremont, Indiana. He expanded it to nine branches. He has collected an extensive array of Civil War memorabilia including the death mask of Abraham Lincoln and a uniform which belonged to General Custer. For many years he has been a collector par excellence. To walk through any of his bank lobbies is like walking through a museum. McNaughton then went to the law school at Valparaiso, receiving his J.D. degree in 1991.

In a special issue of The Amicus focusing on public interest law, the editors noted that “one of the clearest contributions of the University’s ‘Christian community,’ is the Law School’s historic commitment to public service.” Many VUSL graduates have chosen public interest
law or have engaged in significant pro bono work. Examples include: Patricia Surovick, 1982, Indian Pueblo Legal Service in New Mexico; Ronald Gother, 1956, pro bono work for the Children’s Hospital of Los Angeles; Susan Kellock, 1979, who worked with Ralph Nader in Washington, D.C., until her untimely death; Deborah Renay Hawkins, 1980, Good Gifts Ministry; and Don Evans, 1974, and Kathy Evans, 1974, Gary Legal Aid, Project Justice and Equality, and Prisoners and Community Together (“PACT”). Scores of other VUSL alumni have worked throughout the country in legal services programs, in privately funded public interest law firms, and especially, in devoting a portion of their profession time to rendering pro bono services to those unable to afford attorneys.  

One of the most nationally-publicized cases involving pro bono representation by a VUSL alumnus was about Ryan White, a seventh grade, thirteen-year-old hemophiliac boy who had contracted the Acquired Immune Deficiency Syndrome (“AIDS”) from a contaminated blood product he was required to take for his disease. White was not allowed to attend public school because of his having AIDS. Charles R. Vaughan, VUSL class of 1957, challenged his exclusion from school on a pro bono basis, a long process since it involved a complex administrative process in which White finally prevailed due to Vaughan’s efforts, then only to have parents of children in the school bring new appeals. By this time, Vaughan’s son, Charles V. Vaughan, had graduated in 1966 from the School of Law and joined his father in working on this case. Ryan White, meanwhile, told his attorney: “Don’t give up, Mr. Vaughan.” He did not and justice and reason ultimately prevailed over fear and prejudice.  

Among VUSL alumni who have both practiced and taught in pro bono areas are current VU law faculty members—Barbara Schmidt, Linda Whitton, Ruth Vance, Rosalie Levinson, Marcia Gienapp, and Clare Nuechterlein. Add to these people, Professors Bodensteiner, Martz, Moskowitz, Potts, Stith, and Vandercoy, and the claim that there has been an “uncommon commitment to public interest law [which] runs through generations of VUSL alumni,” is clearly understandable. 

1890 Id.  
1891 See “Don’t Give Up, Mr. Vaughan . . . .”, THE AMicus (VUSL), 1989, at 7-9; see also All in the Family, THE AMicus (VUSL), Summer, 1996, at 18-21.  
1892 Id.
The number of well-known and respected practitioners who have graduated from the School of Law over the last few decades is vast, too many to attempt to list a few as representative at the risk of offending alumni by omission. Two references, however, seem justified, because their career path at the time was in a sense breaking down barriers. Except for Francis Tilton Weaver, whose story has been related earlier, few graduates of the School of Law entered large law firms in major U.S. cities during the 1930s, 1940s, or 1950s. That began to change, however, when Sharon King, 1957, the only woman in her class, and classmates Herb Stride, 1957 and Bill Theiss, 1958, paved the way. All three in time joined major Chicago law firms. What started as a trickle within years became a steady stream. Stride commented in 2001: "When I graduated from law school, there were no practicing lawyers in Chicago. Now, Valpo law grads are in every major firm in this city." They are also in nearly every major city in America including New York City, San Francisco, Seattle, Portland, Los Angeles, Miami, Tampa, St. Louis, Minneapolis, St. Paul, Detroit, Cleveland, Boston, Philadelphia, Dallas, Houston, Kansas City, Denver, Lincoln, Milwaukee, Indianapolis, Nashville, Louisville, Memphis, New Orleans, and Atlanta.

Z. Jay Conison Becomes Dean

Dean Edward Gaffney resigned as dean of the School of Law in 1997, having served seven years in office. He remains today a valuable member of the law faculty and continues to contribute scholarship and influence in protecting the "free exercise of religion" clause of the First Amendment of the United States Constitution. For the 1997-1998 academic year, Professor Ivan Bodensteiner served as interim-dean, during which a nation-wide search was conducted for a successor to Dean Gaffney.

Among many strong candidates, Jay Conison was selected and was named by President Alan Harre the eleventh Dean in the long history of the School of Law. Conison earned a B.A. degree from Yale University in 1975, followed by an M.A. degree in philosophy from the University of Minnesota in 1978. He was accepted into a Minnesota
Ph.D. program in philosophy that fall, but changed direction and instead enrolled in the University's Law School, realizing that he would have broader opportunities with a professional law degree than with a doctor of philosophy degree. Three years later, Conison graduated from the University of Minnesota Law School with a J.D. degree magna cum laude, and with Order of the Coif. While in law school, he served as Notes and Comments Editor of the *Minnesota Law Review*.

After law school, Jay Conison joined the Chicago law firm Sonnenschein Nath & Rosenthal where he practiced for nine years. He became admitted to the United States Supreme Court, Seventh and Eighth U.S. Courts of Appeals, and the State of Illinois and U.S. District courts in Illinois, Wisconsin, and Oklahoma. Although a successful practitioner, Conison decided to enter legal education where he would have intellectual freedom to pursue his scholarly ambitions. In 1990 he joined the Oklahoma City University School of Law faculty, becoming Associate Dean in 1994 through 1997. He has taught courses in civil procedure, federal jurisdiction, copyright, intellectual property, employee benefit plans, legal method, and legal reasoning. While at Oklahoma City, Conison also served on a Federal Administrative Law Judge Screening Panel for the states of Oklahoma and Arkansas. During the 1997-1998 academic year, Dean Conison served as interim Dean of the Oklahoma City University School of Law. He was in that position when he was selected for the School of Law deanship at Valparaiso.

Not only did his practice, law teaching, and decanal experience make him an appealing candidate for the VUSL deanship, so did his extensive record of scholarship. He is the author of West Publishing Company's *Employee Benefits Plan in a Nutshell*. The third edition was published in 2003. He has authored chapters in several books, including a book on state antitrust practice and secured transactions under the Uniform Commercial Code, published by Matthew Bender in 1994.

The author of several major articles, Conison's most recent is *Financial Management of the Law School: Costs, Resources, and Competition*,...
a timely article on the competing demands on a law school's financial resources, including expending large sums of money to hire "well-known" faculty and to "buy" good students to enhance the perceived reputation of the institution.\footnote{Jay Conison, Financial Management of the Law Schools: Costs, Resources, and Competition, 34 U. Tol. L. Rev. 37 (2002).} Articles within his academic areas of expertise (which include employee and retirement benefits, as well as franchises and antitrust) have been published in various journals and law reviews, such as Southern California Interdisciplinary Law Journal, Washington University Law Quarterly, Rutgers Law Review, University of Pittsburgh Law Review, Syracuse Law Review, and the Franchise Law Journal.\footnote{See Conison CV, supra note 1899, at 2-3.} In the latter Franchise Law Journal, Conison has authored or co-authored seventeen articles and updates in thirteen years.\footnote{Id. at 4.} He served as Notes and Comments Editor of the Journal from 1990 through 1996.\footnote{Id.}

Since coming to VUSL, Dean Conison has been active in the work of the AALS, serving on the ABA Section on Legal Education Committee on Clinical and Skills Education, being its co-chair since 2001.\footnote{Id. at 4.} He also served as chair of the AALS Section on Employee Benefits, Executive Committee, a position he has held since 2002, in addition to holding positions on several other AALS committees. Since 1998, he has been a member of the ABA/AALS Inspection Teams, which inspect law schools to see if they are meeting the ABA/AALS approval and membership criteria.

A Fellow and Trustee of the Indiana Bar Foundation, and a Director of the Indiana Continuing Legal Education Forum, Dean Conison also is a member of the Porter County Inns of Court. In the Valparaiso community, he is a member of the Board of Directors of the Chamber of Commerce and has been a member of the Valparaiso Rotary Club.\footnote{Id. at 5.} Conison is the first Jewish dean in the history of the School of Law. He follows three Roman Catholics (Gaffney, Bodensteiner, and McGovern), who followed four Lutherans (Ehren, Meyer, Bartelt, and Stalland), who followed a Methodist (Morland), who followed a Baptist (Bowman), who followed the founding dean, a Methodist (DeMotte). Dean Conison

\footnote{See Conison CV, supra note 1899, at 2-3.}
\footnote{Id. at 4.}
\footnote{Id.}
\footnote{Id. at 5.}
serves as a member of the Board of Directors of the Jewish Federation of Northwest Indiana.\textsuperscript{1908}

Within the first year of Conison's deanship, the School of Law commenced an "Honors Program" to be discussed below.\textsuperscript{1909} The new dean was pleased to see the faculty actively promote new programs. But not all was well. The faculty members at the School of Law were not in high spirits when Conison arrived in 1998. Their low morale had nothing to do with Conison, it had to do with the School of Law's ongoing "problem" with the University regarding funding.

1. Conison Inherit a Faculty Morale Crisis

As noted several times earlier, the financial underpinnings of the School of Law had been wobbly for long stretches during its history. Near the end of Bodensteiner's deanship during the years 1987-1990, enrollment began to climb after years of falling. This allowed the school to accumulate a small surplus, referred to as "a rainy day fund," which would be available should tuition revenues in the future once again drop due to falling enrollments. The accumulation of a surplus continued into the Dean Gaffney administration.

Yet throughout these and previous years, going back at least to the Ehren administration, the annual budgeting process involving the dean of the School of Law and central administrators was never an easy one and, as time marched on, became more difficult. Unfortunately, by the time Conison arrived as dean in the fall of 1999, many faculty members had developed a shared mistrust of the University budgetary process.

Why? The law school's "rainy day fund," which by 1992 had accumulated to $1.6 million dollars, reportedly was directed by a University vice president to subsidy shortfalls in other areas of the University's budget.\textsuperscript{1910} Folks at the School of Law, of course, were not pleased. Besides the University's spending what the School of Law considered its surplus funds, the University also was insistent upon School of Law paying off an asserted debt which was still outstanding on the new Wesemann Hall. That seemed fair given the gamble the
University had taken back in 1982 when it authorized the construction of the new law school building and had to direct money allocated to other divisions of the University to the School of Law.

It should be understood that all university-related law schools, with few exceptions (one is Stetson University College of Law in Gulfport/Tamps, Florida), give back to their university a portion of the gross revenues the school generates from tuition, fees, and in some cases, gifts. This pay back is referred to as the "overhead assessment." Typically, the charge is either a flat annual amount, or it is based on a percentage of the law schools' gross revenues. The theory is that the law school must pay its fair share of the university's general overhead costs. But how is the "fair share" to be determined?

Although using a flat percentage formula as the basis to calculate the overhead assessment seems simple, applying it can become a nightmare. The problem became acute between the University and the School of Law during the 1990s. How should the overhead assessment be calculated? What should or should not be included? What about University programs that produce no benefits for the School of Law or its students, for example, undergraduate career placement, dormitory maintenance, or the undergraduate registrar's office, etc.? Reasonable minds, as lawyers tend to say, can and often do disagree, but sometimes, reasonable people on both sides of an issue perceive those on the other as being unreasonable. The problem often is one of perception rather than reality. But perceptions can cause genuine problems of low morale.

And that is what happened staring around 1985 and continuing until 2002, a sixteen year period where many—not all—on the law faculty strongly felt that the central administration of the University was treating the School of Law unfairly when it came to the annual assessment demanded of the School of Law for overhead and for repayment of the assessed debt on the new Wesemann Hall. Certain law faculty members considered it a matter of accounting gamesmanship, a few attributed unkind motives to the central administrators, and some became so agitated about the budgetary problems that they wanted the School of Law, if it could, to secede from the University. In a nutshell, the issue to many members of the faculty was who was subsidizing whom?

The University's central administrators believed that it was morally right for the School of Law to pay for its own facilities and thus repay what it determined to be the remaining debt on the building and for the
deficits on paper occurring in prior years. Not all on the law faculty agreed, some claiming that the fine arts students did not have to pay for their new building on east campus. Moreover, to recoup overhead costs, the University in the early 1990s either negotiated or imposed—depending on whom you talk to—a formula which required the School of Law to remit at one time twenty-two percent of its gross revenues to the University.

When twenty-two percent of the School of Law’s revenues were subtracted from its generated revenues, the School of Law ended up in many years during the 1980s operating on a “deficit.” To its credit, the University did not, as a result, cut the School of Law’s budget. What disturbed the faculty, nonetheless, was the University’s stressing to the School of Law that the latter was operating at a deficit and that the University was consequently “subsidizing the Law School,” when the law faculty saw it just the opposite because its gross revenues exceeded its gross expenditures prior to the assessment. Such disagreements over scarce resources did not make for altogether harmonious relations.

University President Alan Harre, to his credit, understood the funding problem involving the School of Law and its impact on morale. In April 1993, he appointed a group of University and School of Law representatives to study the law school funding problem and, it was hoped, come up with a compromise which both sides would find acceptable. Known as the “Schwehn Commission,” the group was chaired by Dr. Mark Schwehn, Dean of Christ College. Schwehn was a good choice because he was (and is) respected both as a highly productive scholar and as a competent administrator who would value fairly the interests of all the divisions and schools within the University. Besides Schwehn, the Commission had three members from the School of Law and three from the University’s other divisions. In late 1993, the Commission recommended a new funding arrangement that was hoped would be an acceptable and workable resolution of the issues. These issues included the School of Law’s disappearing surplus “Rainy Day Fund,” as well as the method of calculating its overhead assessment payable to the University by the School of Law, and finally, the issue of the School of Law’s responsibility for repayment of a charged outstanding indebtedness attributable to the construction of Wesemann Hall.

After extensive meetings and scrutiny of budgets, the Commission reached a consensus. The agreement consisted of three principal parts:
(1) the "Overhead Assessment" charged the School of Law against its gross revenues would drop from twenty-two percent to an amount to be calculated by a cost-accounting method; (2) the University’s previous expenditure of the $1.6 million School of Law surplus would no longer be claimed by the School of Law; (3) in return for the School of Law dropping its $1.6 million reimbursement claim, the University would "forget about" the Wesemann Hall building debt owed the University by the School of Law.\textsuperscript{1911}

Following the Schwehn Commission’s recommended resolution of the School of Law funding problems in late 1993, most law school faculty members initially were satisfied. A few remained unhappy, however, over the requirement that the law school had to give up any claim to the $1.6 million previously appropriated by the University.

The relative calm was not to prevail, however, for within only a few months, the entire law faculty became displeased over an unexpected development. In early 1994, the University Board of Directors rejected portions of the Schwehn Commission recommendations, modified the Report, and then approved it as modified. The old flat-percentage rate method of calculating overhead was re-imposed and the cost-accounting method of calculation recommended by the Commission was rejected. Although the flat percentage of gross revenues was lowered slightly, the faculty’s belief that a flat percentage formula had previously resulted in overpayments to the University, re-ignited their displeasure with what now was clearly a University imposed vis-a-vis negotiated arrangement. The flat percentage figure was again adjusted downward in 1996, which during the latter years of the 1990s, resulted in modest School of Law surpluses. At this point, morale was starting to improve, especially with the arrival of a talented and respected new dean.

Unaware of the faculty morale implications of the previous fourteen years of the history or morale implications of the previous years of funding disagreements, Jay Conison became Dean of the School of Law in the fall of 1998. As noted above, the School of Law had that fall initiated an “Honors Program,” which gave full-tuition “scholarships” to those applicants who qualified and accepted. The tuition revenue was "written off." Except for the Stride fellowships to be discussed

\textsuperscript{1911} See Commission on the School of Law, Final Report 1-12 (Dec. 15, 1993). The Schwehn Commission members from the School of Law were Professors Jack Hiller, Bruce Berner, and Ivan Bodensteiner. \textit{Id.}

Produced by The Berkeley Electronic Press, 2004
subsequently, there was no available endowment, the earnings of which would pay the Honors students' forgiven tuition. Initially, the University agreed not to charge any overhead assessment on these "tuition revenues," which appeared only on paper.

Beginning in 1997, one year before Conison came to VU and continuing through the year 2000, the School of Law's annual enrollments declined significantly, resulting in incurred deficits from 1999 through 2002. New disagreements between University budgetary personnel and the School of Law concerning calculation of overhead charges arose. The most serious was when, from 1999 to 2001, the School of Law's financial aid budget was dramatically increased to write off the loss of tuition attributable to students admitted into the Honors Program and other increases in non-funded merit aid. At first, the University did not charge overhead on the waived tuition, but then it began to "tax" at 18% the non-existent Honors students' tuition, thereby "changing the rules." Given this new University policy of assessing overhead on the entire revenue base including non-funded financial aid, the School of Law ended up running significant deficits on this accounting basis. The law faculty members almost unanimously were disturbed because they considered the University to be charging the School of Law overhead on "phantom" dollars. Faculty mistrust of those within the administration in charge of finance and budgeting reached a new high.

Compounding the faculty's concerns, by the 2000-2001 academic year, VUSL faculty average salaries had again fallen in comparison with national averages. It was not just that the mean salary level remained far below the national mean, what really upset the faculty was that the School of Law's mean also had fallen below the 80 percent level of the mean for law schools, which the University had been using as "comparable schools" for comparison purposes, a group which traditionally had a mean pay scale significantly below the national mean. The faculty thought it had been a University goal not to allow the School of Law mean to fall below that of the comparison-school benchmark.

Thus, it is not altogether surprising that the law faculty's morale hit "rock bottom" in the years 1999 through the beginning of 2001. The

1912 See infra note 1975 and accompanying text.
1913 The information in this section comes by way of several sources, including discussions with former Deans Alfred Meyer and Ivan Bodensteiner, and present Dean Jay Conison and Associate Dean Bruce Berner.
budgetary quagmire of 1993-1994 appeared to be repeating itself. Something had to be done and soon.

The recently-appointed new dean of the Valparaiso University School of Law—Jay Conison—found himself in what appeared to be an impossible situation. On one hand, Conison had to try to calm down and dissuade the faculty from considering rash reactions. On the other, he had to calmly persuade the University administration that a mutually workable long-term solution to the situation had to be struck through serious discussions. President Harre and Provost Austensen also perceived the necessity for a clarification of the budgetary policies affecting the School of Law.

2. School of Law Reaches a Funding Agreement with the University

As a result of efforts of these three administrators to bring both sides together, negotiations ensued. As part of the preparations, Dean Conison and the faculty, with input from the National Council of the Law School, prepared a detailed Financial Plan for the School of Law. The National Council reviewed the plan and held discussions at its semi-annual meeting about the critical necessity of resolving the funding dilemma given the plummeting morale (and salaries) at the School of Law.

Then, in early 2002, after extensive discussions, Dean Conison and the University's central administration reached a breakthrough. An entirely new concept of shared revenues went into place, one that continues today, and one which both sides tell the author is to their mutual satisfaction. This time an informal committee was assembled. Involved were Valparaiso University Provost Roy Austensen; Law School Dean Jay Conison; Christ College Dean Mark Schwehn; Law School Associate Deans Curt Cichowski and Rosalie Levinson; Law School Professor Bruce Berner; along with Charley Gillespie, University Vice-President for Financial Administration; Dianne Woods, University Comptroller; and Susan Scroggins, of the Office of Financial Administration. All worked diligently.\textsuperscript{1914}

The committee reached an agreement for a flat annual overhead amount based on what seemed fair to both the University and to the School of Law. The flat fee payable to the University included a $50,000

\textsuperscript{1914} Telephone Interview with Jay Conison, Dean, VUSL (Oct. 7, 2003).
annual charge to be deducted from the law school’s obligation to pay the accumulated debt. The agreement also provided that in any fiscal year in which the School of Law had an annual operating surplus after the deduction of the flat-fee overhead charge, one third would go to paying off the School of Law’s debt, and the remaining two-thirds would remain with the School of Law for its own allocative and investment purposes.\textsuperscript{1915}

The agreement called for it to be reviewed in fiscal year 2006 for possible changes. At the same time, it provided a way for the School of Law to budget for annual surpluses, at least in years of steady enrollment, and thus allowed for the accumulation of needed funds. Although all the members of the Committee worked hard to arrive at the consensus, Roy Austensen, Jay Conison, Charley Gillespie, and Bruce Berner perhaps best understood the necessity to forge this milestone in the history of the relationship of the School of Law with its University.

Following years of misunderstandings and mistrust over funding, a workable and mutually fair resolution was finally reached. In retrospect, one of the obstacles to reaching a solution earlier may have been the University’s perception, understandably difficult to jettison, that since the University was primarily an undergraduate institution (in terms of the proportion of students and programs), all units and departments should be treated in similar fashion.

But not all segments within the University have similar costs or similar per-student revenues or similar requirements for accreditation. The situation at the Law School is accounting-wise different; consequently, what might seem fair and equitable to undergraduate schools and departments within the University, may not be fair to the School of Law. Incidentally, the problem of subsidies when it comes to university-related law schools is not unique to Valparaiso University and its School of Law. Legal education commentators have written about law schools’ allegedly “overpaying” overhead.\textsuperscript{1916}

In conclusion, if the University failed to be fully empathetic with and sensitive to the School of Law’s perceptions, so, too, did the law faculty fail to understand and be empathetic to the central administration’s

\textsuperscript{1915} Id.

perceptions and concerns. Fortunately, throughout this stressful period the VU law students and faculty continued to advance the reputation and interest of the School of Law.

AA. Students and Faculty Enhance the School of Law’s Reputation

1. The Valparaiso University Law Review

Since its founding in 1966, the Valparaiso University Law Review has grown in quality and readership. Student editors have consistently put out a scholarly journal which has made significant contributions to the academic and professional worlds of law. One example is a symposium published in 1991 on the bicentennial of the Bill of Rights.1917 The editors along with Dean Edward Gaffney arranged for an impressive list of authors, including Justice William J. Brennan, Jr., who wrote on Why Have a Bill of Rights. Contributing tributes to Justice Brennan in the issue were the Honorable Richard S. Arnold, the Honorable Constance Baker Motley, and distinguished Professors Owen M. Fiss, Geoffrey R. Stone, Mark V. Tushnet, and Stephen L. Carter.1918

Beside Justice Brennan’s lead article, other authors and their topics included: U.S. Supreme Court Associate Justice Thurgood Marshall, Reflections on the Bicentennial of the United States Constitution; Indiana Supreme Court Chief Justice Randall T. Shepard, A Bill of Rights for the Whole Nation; Harvard Law Professor Morton J. Horwitz, Is the Third Amendment Obsolete?; Yale Law Professor Ian Ayres, Pregnant with Embarrassments: An Incomplete Theory of the Seventh Amendment; and VUSL Professor, Laura Gaston Dooley, Sounds of Silence on the Civil War.1919 Dean Edward McGlynn Gaffney, Jr., wrote the foreword to the nearly 500-page issue. The symposium was widely distributed and was discussed by “many prominent people.”1920

The previous year, 1990, the VULR had published a series of essays in a special “Symposium on Church/State Relationships in the Public Schools.”1921 The essays grew out of a one-day conference held at the

1918 Id.
1919 Id. at i-ix.
1920 See E-mail from Laura Dooley, Professor of Law, VUSL, to Michael Swygert (Sept. 12, 2003).
law school. Then in 1994, the VULR published a timely topic titled, "Professionalism in the Practice of Law: A Symposium on Civility and Judicial Ethics in the 1990s." Following a foreword authored by Mary M. Devlin, the lead article titled, The Search for Renewed Civility in Litigation, was contributed by U.S. District Judge Marvin E. Aspen. Then in 1996, the VULR published "The New Judicial Federalism: A New Generation Symposium Issue," with the lead article authored by Indiana Supreme Court Chief Justice Randall T. Shepard. Several prominent scholars of federalism were also included.

Besides a much earlier symposium on "Women in the Law," in 1997 the Valparaiso University Law Review put together a major symposium on the topic "Juvenile Crime: Policy Proposals on Guns & Violence, Gangs & Drugs." Resulting from a two-day conference at the University, the issue resulted from a year's planning by VULR Symposium Editor Michael Terwilliger. The 450-page issue included articles by twenty-nine experts as well as two student-authored notes. One was written by Andrew P. Massmann, titled Drug Testing High School and Junior High School Students after Virginia School District 473 v. Acton: Proscribed Guidelines for School Districts. The other student note was authored by Camille Waters, titled A. B. C.'s and Condoms for Free: A Legislative Solution to Parents' Rights and Condom Distribution in Public Schools. Incidentally, in recent years, two students have won the national "Burton" prize, awarded annually to authors of outstanding law review notes authored by students.

A symposium on the subject "Cloning: Public Policy in Legal, Religious & Philosophical Perspective" featured the Seegers Lecture, presented in 1998, by world-renowned professor of natural law and

1094 VALPARAISO UNIVERSITY LAW REVIEW [Vol. 38

http://scholar.valpo.edu/vulr/vol38/iss3/1
philosophy, John Finnis, who holds joint appointments at Oxford University and at the University of Notre Dame.\textsuperscript{1931} The foreword to the issue was written by VUSL Professor Geri J. Yonover.\textsuperscript{1932} In recent years, the \textit{VULR} has published symposia on "Dispute Resolution in Sports," with a foreword by VUSL Professor Michael S. Straubel:\textsuperscript{1933} "Rights with Responsibilities: Land Use Law Symposium";\textsuperscript{1934} and, most recently, "Operation Enduring Freedom and the War on Terrorism,"\textsuperscript{1935} which included a student note on \textit{Declaring War on the War Powers Resolution}.\textsuperscript{1936}

It should be noted that the \textit{VULR} in its regular, non-symposia issues has published numerous respected scholars as well. One example is a debate on the issue of whether law and economics as a area of analysis has a moral dimension.\textsuperscript{1937} On one side was Richard A. Posner, Chief Judge of the United States Court of Appeals for the Seventh Circuit, arguably the most prolific authors on law, economics, and philosophy in the country.\textsuperscript{1938} On the other side was Professor Robin Paul Malloy of the University of Syracuse School of Law, also a recognized scholar in the area of law and economics. Malloy began the debate with the subject \textit{Is Law and Economics Moral? – Humanistic Economics and a Classical Liberal Critique of Posner’s Economic Analysis.}\textsuperscript{1939} Judge Posner, naturally, countered with his argument that \textit{Law and Economics is Moral}.\textsuperscript{1940}

It was noted previously that many of the authors who have made major contributions to legal scholarship by publication of their research in the \textit{VULR} were the Seegers and Monsanto lecturers at the Valparaiso University School of Law.\textsuperscript{1941} One example was Professor Richard D.
Parker’s 1993 Seegers Lecture titled “Here the People Rule”: A Constitutional Populist Manifesto, subsequently published in the VULR.\textsuperscript{1942}

2. The VUSL Law Clinics: An Update

Since the VUSL Law Clinic was founded,\textsuperscript{1943} it has served as an important social force in the greater Valparaiso community. According to a story published in the Valpo Lawyer, 700 people sought legal assistance from the VUSL Law Clinic during the year 1999.\textsuperscript{1944} The Clinic Director at that time was Professor Barbara J. Schmidt, who joined the staff in 1986. She remains today as head of VUSL’s Mediation Clinic.

The 1969-founded VUSL Law Clinic by three decades later had increased to six divisions: “Civil,” directed by Marcia Gienapp; “Criminal,” directed by David Welter; “Juvenile Advocacy,” directed by E. Gail Tegarden; “Mediation,” directed by Barbara Schmidt; “Environmental,” directed by Alex Geisinger; and “Domestic Violence,” directed by Ann Staley.\textsuperscript{1945} Later, a seventh division was added, “Law Income Tax Payor Representation Clinic,” for people who need legal representation before the Internal Revenue Service or Tax Court.

Approximately ten student lawyers each work in the Criminal Clinic on average 140 hours each per semester for which they receive three credit hours.\textsuperscript{1946} The Criminal Clinic handles an average of 200 cases per year.\textsuperscript{1947} The Civil Clinic also handles about 200 cases a year.\textsuperscript{1948} Another active clinic is the Mediation Clinic. Professor Barbara Schmidt, along with three Porter County, Indiana, Superior Court judges Nancy M. Vaidik (later, a judge on the Indiana Court of Appeals), VUSL class of 1980; Julia M. Jent, VUSL class of 1982; and Jeffrey L. Thode, VUSL class of 1985, established the program to involve not only “walk ins,” but also referrals from the Porter County Superior Court.\textsuperscript{1949} Free to clients, the Mediation Clinic operates today both as a service to the courts and to the


\textsuperscript{1943} Valpo Law Clinic Offers Vital Community Service, VALPO LAW. (VUSL). Winter 2000, at 1-4 [hereinafter Valpo Law Clinic].

\textsuperscript{1944} Id.

\textsuperscript{1945} Id. at 2.

\textsuperscript{1946} Id. at 3.

\textsuperscript{1947} See E-mail from David Welter, Director of the Criminal Clinic, VUSL, to Michael Swygert (Apr. 16, 2003).

\textsuperscript{1948} Id.

\textsuperscript{1949} See Valpo Law Clinic, supra note 1943, at 2.
community. With the assistance of VUSL student lawyers, Professor Schmidt is able to get the parties to settle a large majority of the mediation cases. The cases range from generalized small-claims to landlord/tenant, employer/employee, consumer/merchant, and intra-family disputes. In 2001, the Mediation Clinic expanded to include family law disputes referred to it from the Lake County, Indiana, Circuit Court, located in Crown Point, Indiana.

Under the Juvenile Advocacy Clinic program, VUSL students are appointed guardians ad litem on behalf of children who are victims of abuse or neglect. The students also work with Indiana Department of Welfare officials and parents. Students often go into Juvenile Court to protect the children's interests. They handle approximately sixty to seventy clients a year. In contrast, an earlier-in-time Environmental Clinic worked with the Indiana Department of Environment and with various environmental groups, investigating numerous complaints of air and water pollution in the state.

Given the high levels of service and typically operating "on a shoestring," the Valparaiso Law Clinics are always in need of additional funding. In early years, the clinics received "seed" money from the CLEPR and from the U.S. Department of Education. But those funding sources have not been recently available. In July 2000, the VUSL Law Clinic received a one-time grant $74,198 federal grant from the U.S. Department of Justice Domestic Violence Victims Civil Legal Assistance Program, due in part to the efforts of U.S. Representative Peter Visclosky. Domestic abuse victims are sheltered at The Caring Place and the St. Jude House. Many victims come to the Clinic by way of referrals from local police and welfare agencies. The services are free.

As a consequence of the public good achieved by the VUSL Law Clinic's staff and students, in the year 2000, three Clinic professors shared the Mabel Burchard Fisher Grant Foundation "Outstanding Faculty Member Award," the first time it was awarded at the School of Law. The deserving recipients were Professors Schmidt, Gienapp, and

---

1950 Id.
1951 E-mail from Barbara Schmidt, Professor of Law, VUSL, to Michael Swygert (Mar. 7, 2003, 12:16 CST).
1952 Id.
1953 See infra note 1955 and accompanying text.
1954 Grant Opens Clinic Door, VALPO LAW. (VUSL), Winter 2000, at 4.
Welter.\textsuperscript{1955} The teaching award was the result of a foundation established to benefit the School of Law by VUSL alumnus Robert A. Beer, class of 1962, trustee of the Mabel Burchard Fisher Grant Foundation. The School of Law's outstanding teacher award so funded was named in honor of Professor Emeritus Jack A. Hiller.\textsuperscript{1956} Later recipients have been Professors Linda Whitton, Bruce Berner, and Rosalie Levinson.

In 1996, the School of Law community began what is now an established tradition to raise funds for the Law Clinics—the staging of an annual musical benefit by the School of Law's students, staff, and faculty.\textsuperscript{1957} Alumni and friends are invited to a special performance, typically a black-tie affair, which includes both dinner and the musical production. The attendees pay a price for admission, a sizeable portion which goes beyond the expense of the dinner and constitutes a tax-deductible donation to the Clinic.

The first musical benefiting the Clinic occurred in 1966. In attendance was the Chairwoman of the First National Bank of Valparaiso. More about her in a moment. The production was Gilbert and Sullivan's, \textit{Pirates of Penzance}.\textsuperscript{1958} Strongly supporting the idea of using the School of Law's own musical production to benefit the Clinic were Dean Gaffney, a life-long Gilbert and Sullivan fan, and Professor Gienapp. Also backing the innovative proposal was Professor Bruce Berner. He had starred in a VUSL production of \textit{Penzance} back in 1974. For many years, students and faculty occasionally staged musical productions at the School of Law.\textsuperscript{1959}

The second year of the law school Clinic benefit, faculty, students, and staff put on another Gilbert and Sullivan opera, \textit{H.M.S. Pinafore}. Other benefit productions followed yearly and have included \textit{You're a Good Man, Charlie Brown}, \textit{The Fantastiks}, \textit{Trial by Jury}, a repeat of \textit{Pirates of Penzance}, which starred former VUSL Law Clinic Professor Hugh Martz, \textit{Guys and Dolls}, and, most recently, \textit{Bye, Bye, Birdie}.\textsuperscript{1960} Many of the

\textsuperscript{1955} \textit{Clinic Professors Share Award}, VALPO LAW. (VUSL), Winter 2000, at 4.
\textsuperscript{1956} \textit{Id}.
\textsuperscript{1957} E-mail from Marcia Gienapp, Professor of Law, VUSL, to Michael Swygert (Oct. 22, 2002).
\textsuperscript{1958} \textit{Id}.
\textsuperscript{1959} \textit{Law Students Present Opera}, THE TORCH (VU), Apr. 19, 1974, at 9. Is this an example of history moving in cycles, or, of the old adage—what goes around comes around?
\textsuperscript{1960} \textit{Id}.
productions have been directed by Professor Gienapp, who Professor Berner describes as "a very talented director."1961 Other directors have included VUSL graduate Jason Glick and Valparaiso Community Theater Guild member Jo Beth Cruz.1962 On more than one occasion, area attorneys have joined the casts. The scripts are always "tweaked" to include local School of Law references and humor. Most importantly the music, acting, and humor all go to a wonderful cause—the Clinic. Dean Jay Conison has described the Law Clinic at VUSL as "one of our most valuable programs."1963

3. Donna Draper Welter’s Connections with the School of Law

In addition to the monies raised by the annual "musical extravaganza" at the School of Law, the Clinic in recent years has benefited significantly from the generosity of a gracious and compassionate woman—Donna Welter.1964 Chairwoman of the Board of Directors of the First National Bank of Valparaiso, Donna Welter’s father, Alfred P. Draper, and her uncle, Floyd S. Draper, graduated from the School of Law. Her father graduated in 1922 in the midst of the “years of crisis,” while her uncle graduated nine years earlier in 1915 when VU was thriving and the School of Law was the largest law school in Indiana.1965 The two brothers eventually established a law practice together in Gary, Indiana. Subsequently, Donna Draper married William J. Welter in 1947. His father, William H. Welter, was also a VUSL graduate, class of 1908, the first full year when Milo Jessie Bowman was dean.1966 Welter and a group of investors ended up purchasing the First National Bank of Valparaiso. Donna Welter’s husband passed away in 1991, but she and their two sons, Chuck and Wayne Welter have continued to run the bank through today.1967

After attending the 1996 musical benefit for the Clinic, Donna Welter made the decision to become a benefactor. "I feel that my family has been very successful and I believe the foundation for that success

1961 Interview with Bruce Berner, Associate Dean, VUSL, in Valparaiso, Ind. before the performance of Bye, Bye, Birdie (Mar. 2003)
1962 E-mail from Marcia Gienapp to Michael Swygert, supra note 1957.
1963 Dono Law Clinic, supra note 1943, at 2.
1965 Id. at 8.
1966 Id. at 11.
1967 Id.
stemmed from the Valparaiso University School of Law," she said.\textsuperscript{1968} "The Clinic can provide legal help to people who can't afford it. These are worthy people who sometimes just need a hand to get over this bump in their lives and move on to better things."\textsuperscript{1969}

Valparaiso's First National Bank was built in 1889, ten years after the School of Law first opened its doors. The Bank's historical tie to the School of Law would eventually be established. After William H. Welter graduated from the School of Law, he married and became the father of William J. Welter, who later married Donna Draper. As noted above, Donna Draper was the daughter of a VUSL alumnus of 1922. Since 1966, she has been the VUSL Law Clinic's "leading benefactor."\textsuperscript{1970}

The support of the School of Law from the Welter family and the First National Bank of Valparaiso continues today. In 2003, the Bank made a sizeable gift to the School of Law to help fund the restoration of Heritage Hall, the home of the VUSL Law Clinic.\textsuperscript{1971} Heritage Hall, incidentally, was erected in 1882, three years after the law school at Valparaiso was founded.\textsuperscript{1972}

\section*{BB. Law School Competition and Comparisons}

1. "Best Students" as Defined by a Magazine

Recent years have seen a sharp increase in competition among law schools to attract and admit what are called "best students."\textsuperscript{1973} Wisely or unwisely, a school's reputation in large measure relates to the quality, or the perceived quality, of its faculty and students. A school's student average and median LSAT scores and what its student average and median undergraduate GPA constitute the two most weighted criteria, or "numbers," used today in comparing the quality of law students.

Of course, there exists no numerically scored test which reveals comparisons in motivation, ethical principles, moral behavior, compassion for fellow human beings, personal integrity, religious conviction, importance of family, or the understanding that law is a

\begin{footnotesize}
\begin{footnotes}{
\begin{footnotestext}{1968}Id. at 12.\end{footnotestext}
\begin{footnotestext}{1969}Id.\end{footnotestext}
\begin{footnotestext}{1970}Id. at 8.\end{footnotestext}
\begin{footnotestext}{1971}Telephone Interview with Jay Conison, Dean, VUSL (Sept. 22, 2003).\end{footnotestext}
\begin{footnotestext}{1972}Heritage Hall, Reflecting VU History, VALPO LAW. (VUSL), Fall 2002, at 11.\end{footnotestext}
\begin{footnotestext}{1973}Conison, supra note 1902.\end{footnotestext}
\end{footnotes}
\end{footnotesize}
service profession and not one primarily to maximize income or status. Nonetheless, presumed analytical reasoning potential and measures of prior grade success are the presumed "markers" of law student quality. Character traits, motivation, aspirations to be in a service vis-à-vis self-serving profession are ignored in law school rankings. True, it is impossible to measure comparatively on a numerical scale character attributes.

Given the limited focus on numbers, especially those of the LSAT and GPA, one can understand why nearly every law school dean in the country at one time signed a letter protesting the "numerical ranking" of America's law schools like the one which shows up every fall in U.S. News & World Report. The magazine's explanation of its ranking methodology makes it clear that the quality of a student body depends in large measure on the median and mean undergraduate GPA and LSAT scores.

When it comes to ranking faculties, the ratings are made primarily by surveying deans and professors on the faculty's "reputation." The reputation is based for the most part on the perceived quality and quantity of published scholarship and participation in scholarly conferences, in other words, on the "visibility" of the faculty outside their law schools.

Faculties which might emphasize teaching and counseling students are, it seems, unfairly penalized. They may be respected and admired by present and former students of the school, but the faculties' internal contributions tend not to be known outside their academy. In legal education today, professors who consider teaching to be their overriding primary obligation (for example, as did the late Professor Charles Gromley), do not help the school's reputation as reflected in today's ranking schemes.

Unfortunately, many applicants have been brought into the GPA and LSAT tunnel-vision game. More unfortunately, in the last few years, many within the legal academies have also started to believe in the game themselves. Any attempt at meaningful rankings is doomed, especially when intangible issues of a school's climate—its atmosphere, character, opportunities for religious experiences, accessibility to faculty, faculty's willingness to spend significant time with students, an emphasis on ethics, an emphasis on a lawyer's pro bono moral responsibilities, the pursuit of social justice, the strengths of a school's clinic, and the number of disadvantaged people in the community who the faculty and
students help through legal aid—are totally disregarded in the ranking scheme.

Nonetheless, law school deans for the most part have concluded that they have no choice but to play the ranking game. This means there exists even more pressure today for law schools to try to emulate each other. One of the things all law schools try to do today is to seek the best students primarily as determined by some combination of an applicant's GPA and LSAT numbers.

2. The School of Law Seeks "Best Students"

It should be no surprise, therefore, that the School of Law has not been an exception to the overwhelming stratagem of schools seeking the "same" best students as defined primarily by numbers. There are those outside the School of Law who care deeply about its future and have recognized this necessity. One such person is VUSL alumnus, Herbert F. Stride, VU class of 1954, and VUSL class of 1957. Herb Stride and his wife, Dolores Stride, VU class of 1955, in 1994 began the financial support of scholarships for outstanding students, and have increased the amount of the annual contributions ever since.1974 (A few years earlier, the Strides had made another significant gift to the School of Law which resulted in the courtroom in the new Wesemann Hall being named the Herbert and Dolores Stride Courtroom.)1975 The "best students" by the 1990s were making choices on where to attend law school in many instances on the basis of the financial assistance they were offered in the form of merit scholarships. This is the reality in the modern competitive world of legal education.

Then, beginning in 1997 under interim Dean Ivan Bodenstetiner, the School of Law began an "Honors Program" in part to add another inducement to nudge "the best" to choose to come to the School of Law, and in part to attract top employers to hire VUSL graduates.1976 "Designed for students of exceptional ability and promise," the program sought to admit twenty to twenty-five students each year having higher numerical credentials than the School of Law's traditional norms, attracting them also by offering full-tuition scholarships along with a $5,000 stipend.

1975 Id.
New features under the Honors Program allowed such students to take an "honors" section of legal research and writing; to write a case comment in their first year under an individually assigned faculty member; to enroll during their second year in a "Great Books Program" in which the student chooses and reads a great book related to the law and, under a professor's guidance, writes a paper on that book; and to engage in small group sessions on current legal topics from time to time, moderated by members of the faculty. In the year 2000, the average GPA of entering "honors students" was 3.7 on a 4.0 scale, and the average LSAT score was 162, approximately nine points above the School of Law's mean. The highest LSAT score of an honor student that year was 176, the ninety-ninth percentile. The Honors Program continues today. It is a vital part of the School of Law's need to get the best students it can.

3. Curriculum Concentrations

Also designed in part to attract strong and ambitious students, a program modeled on the practice group concept used in many modern law firms was commenced in 1999 with the support of the law faculty and Dean Conison. It is called "The Academic Concentrations Program." Professor David Myers was named the director of this innovative curriculum development, especially innovative to be undertaken by a relatively small law school. Under the program, the School of Law offers what Conison describes as "a cutting edge upper-level curriculum in which students may choose to specialize or concentrate in a distinct area of law." Conison also points out that by providing a structured and focused education in one field, the concentration exposure also provides knowledge and skills that will allow the student to master other fields.

Although the list of available concentrations changes from year to year, the fields initially available were: Alternative Dispute Resolution, Child/Family Law, Civil Practice, Criminal Practice, Elder and Health Law, Employment and Labor Law, Entertainment Litigation and Intellectual Property, Environmental Law and Policy, International Law,

1977 Id.
1978 Id.
1979 Id. at 10.
1980 Id.
1981 Id.
and State and Local Government/Civil Rights. The list reflects to a large degree the specialties of many of VUSL's faculty members. It also reflects the availability of clinical courses in several of the areas of concentration in addition to advanced substantive offerings.

4. A Master of Laws Degree for Foreign Lawyers

In recognition of the globalization of law, in the late 1990s, the School of Law at Valparaiso made plans for, and then implemented, its first Master of Laws ("LL.M.") program. Several American law schools offer similar programs. Designed to give a thorough exposure of American law to foreign lawyers from around the world, the program won approval from the ABA. (The ABA must approve any "new program" which a law school designs before the program can be implemented.) The initial director was Professor Mark Adams. In the first year of the advanced-degree program, foreign lawyers came from Japan, Romania, Saudi Arabia, Thailand, United Arab Emirate, and Qatar. In certain respects, VUSL's LL.M. program for international lawyers is modeled after the long-standing LL.M. program offered to foreign lawyers at Yale Law School. For decades, the Yale Law School admitted foreign lawyers each year into its LL.M. program.

CC. Recent Faculty and Staff Hires

In 1996, Alex Geisinger joined the faculty. A 1987 graduate of Franklin and Marshall College, he earned his J.D. in 1992 from the University of Connecticut, followed by an LL.M. in 1966 from Harvard Law School. His principal interests are environmental law and civil procedure including complex litigation. Professor Geisinger has authored articles on environmental law. On leave during the 2002-2003 academic year, his most recent published article is titled, A Belief Change Theory of Expressive Law. In 2003, Professor Geisinger was named the first chair of the AALS's "New Law Professors Section," a section he helped organize.

In 1999, Rebecca Huss joined the law faculty. Professor Huss received her B.A. degree from the University of Northern Iowa in 1989,

1982 Id.
1983 Id.
1984 Id.
followed by a J.D. from the University of Richmond in 1992, and an LL.M. from the University of Iowa in 1995. Before joining the VUSL faculty, she practiced law with two large law firms.\textsuperscript{1986} Her teaching areas include Business Planning, Mergers and Acquisitions, Business Associations, and International Commercial Dispute Resolution. Professor Huss has developed an expertise and has established a national reputation in the area of Animal Law. She has presented several papers on law in veterinary practice. She also actively participates in national conferences on animal law.

Adam J. Myers, III, also joined the faculty in 1999, but he left after the 2002-2003 academic year. He taught in the areas of securities regulation and trusts and estates. He also had been appointed by the Porter County Board of Commissioners to the Porter County Hospital Research and Advisory Committee.\textsuperscript{1987}

Beginning with the academic year 2000-2001, Karen Kole has been a member of the VUSL Clinic faculty, joining professors David Welter, Marcia Gienapp, Barbara Schmidt, and Elizabeth Tegarden. Kole earned her B.S. in 1975 from the University of Southern California, her J.D. in 1980 from Northwestern University School of Law, and her M.B.A. in 1983 from the University of Chicago.\textsuperscript{1988} Also joining the faculty the same year was Susan Stuart, who was mentioned earlier in reference to the School of Law's Academic Success Program.\textsuperscript{1989} Stuart earned her J.D. degree from the Indiana University School of Law in 1982. Professor Stuart has authored various professional articles, including one on the topic\textit{ Voluntary Early Retirement Incentive Plans and Teacher Collective Bargaining}.

Finally, Clare Nuechterlein, a VUSL graduate of 1978, joined the law faculty on a full-time basis beginning with the 2003-2004 academic year. Previously she had been a part-time instructor at the School of Law for three years. Professor Nuechterlein served as an assistant United States Attorney for the Eastern District of California for eleven years. She also worked in Washington, D.C. as an attorney advisor to the Assistant Secretary of Education for Civil Rights in the U.S. Department of

\textsuperscript{1986} Id. at 11.  
\textsuperscript{1987} See Adam Myers, INSIDE VALPO L. (VUSL), Summer 2000, at 7.  
\textsuperscript{1988} Id. at 13.  
\textsuperscript{1989} See supra notes 1762 et seq. and accompanying text.
She has recently edited the fourth edition of Volume I of the Federal Forfeiture Guide.

At the 125-year milestone of the Valparaiso University School of Law, the law library staff includes five professional librarians. In addition to head Librarian and Associate Professor of Law Mary G. Persyn, the others are Michael J. Bushbaum, Associate Law Librarian for Access Services; Naomi J. Goodman, Technical Services Librarian; Sally Holterhoff, Government Information and Reference Librarian; and Gail Hartzell, Acquisitions Librarian. Ms. Holterhoff, incidentally, has served in various capacities several years with the American Association of Law Libraries. Naomi Goodman is serving as editor of the American Association of Law Libraries publication titled Spectrum. She also is serving as Secretary of the Chicago Association of Law Libraries.

In 2004, the School of Law’s staff consists of Lisa Cannon, Director of Career Counseling; Laurie Hartman, Director of Employer Relations; Jane Scarpellino, Public Interest Counselor; Melissa Bertig, Career Services Administrative Assistant; Joan White, Director of Development; Francie Thomas, Development Associate; Debbie Gleason, Director of Student Services and Registrar; Linda Canada, Assistant Registrar; Marilyn Otis, Director of Annual Fund and Alumni Relations; Paige Reichardt, Administrative Assistant for Alumni Relations and Development; Lisa Todd, Administrative Assistant to the Dean; Zahra Nwabara and Tony Credit, Admissions Directors; Darlene Leatz, Admissions Administrative Assistant; Ann Weitgenant, Financial Aid; Jan Zoladz, Administrative Assistant for Finance; and John Obermann, Director of Information Technology.

The Clinic staff includes Sandy Tengblad, Sharon Wyatt, and Sue Hefner. Library Support Staff includes Debbie Blennerhassett, Jerry Boyd, Joyce Freeman, Pat Glenn, Kitty June, Steve Probst, and Susan Waldschmidt. Faculty and Law Review support staff includes Karen Koelemeyer, Debbie Bercik, Melissa Mundt, and Nancy Young.

Counting the deans, professional librarians, and Clinic Director, in 2003-2004 the School of Law had forty support personnel. In comparison, in 1969-1970, the first year of Alfred Meyer’s deanship,
there was one secretary for the dean and assistant dean, one faculty secretary, one non-professional librarian and one assistant—a total of six support staff. Of course, there were only 150 students that year compared with 570 in the 2003-2004 academic year.\footnote{1993}

**DD. The Tabor Institute and the Supreme Court Lecture Series**

Glenn Tabor, a 1956 alumnus of the School of Law, in 1997 endowed an Institute in Legal Ethics at the School of Law. Tabor and his late law partner, Quentin Blachly, founded the Valparaiso law firm Blachly, Tabor, Bozik & Hartman in 1961. All the lawyers in this small firm located in the relatively small community of Valparaiso, “care about one another” and live by the “same ethical commitments in the law office that they do in their homes.”\footnote{1994} It is this caring and ethical professional/family ethos which the Tabor Institute seeks to instill and encourage in the law students.

In addition to providing grants to VUSL students who have demonstrated an understanding of, and excellence in, legal ethics and professional responsibility, the Tabor Institute each year sponsors an annual lecture to enrich the curriculum on the subject of professional responsibility and ethical living.\footnote{1995} Recently, Tabor and his wife, Ann, a 1962 VUSL alumna, gave an additional quarter of a million dollars to support the Institute.\footnote{1996} In response to Tabor’s long-term support of the School of Law, in 2002 he was awarded the “Duerr Award.” Named after its first recipient, Robert K. Duerr, a VUSL alumnus of 1953, the award is presented to graduates of the School of Law “whose personal and professional lifestyles enhance the reputation of the Law School.”\footnote{1997}

The first Tabor lecturer in 1997 was Thomas L. Shaffer, the Robert E. and Marion D. Short Professor of Law at the University of Notre Dame, who spoke *On Living One Way in Town and Another Way at Home*, subsequently published in the *Valparaiso University Law Review*.\footnote{1998} Other lecturers have included Deborah L. Rhode, the Ernest W. McFarland

\footnote{1993 The information in this paragraph was taken from a one-sheet spreadsheet titled, “Valparaiso University School of Law Faculty and Staff,” dated 2003, a copy of which is in the VUSL archives.}
\footnote{1994 VUSL, TABOR INSTITUTE IN LEGAL ETHICS 2 (Apr. 24, 2003).}
\footnote{1995 Id.}
\footnote{1996 2003 Dean’s Message, supra note 1992, at 3.}
\footnote{1997 Glenn Tabor Receives Duerr Award, VALPO LAW. (VUSL), Fall 2002, at 27.}
Professor of Law at Stanford University; Susan R. Martyn, Professor of Law at the University of Toledo College of Law; Samuel Dash, Professor of Law at Georgetown University Law Center; Charles W. Wolfram, the Charles Frank Reavis, Sr., Professor of Law Emeritus at Cornell Law School; Randall T. Shepard, Chief Justice, Indiana Supreme Court; and in 2003, Thomas D. Morgan, the Oppenheim Professor of Antitrust and Trade Regulation Law at George Washington University Law School. Professor Morgan in fact gave two addresses. The first was titled, “New Challenges in Business Counseling,” and the second Creating a Life as a Lawyer, both on the same day.1999

Only two years after commencement of the Tabor Lectures, another lecture series, the third, began at the School of Law in 1999. Known as the “Indiana Supreme Court Lecture,” the annual presentations are made possible by the support of the Indiana Supreme Court. The first lecture in the series was given by Professor Cass R. Sunstein, the Karl N. Llewellyn Professor of Jurisprudence at the University of Chicago Law School. The following year, the lecturer was Douglas M. Branson, the W. Edward Sell Professor at the University of Pittsburgh School of Law. In 2002, Adeno Addis, the W. Ray Forrester Professor of Public and Constitutional Law at Tulane University, presented the Indiana Supreme Court Lecture at the School of Law. Most recently, in October 2003, the fourth annual lecture in the series was presented by Charles Ogletree, Jr., the Jesse Climenko Professor at Harvard Law School, who spoke on “Recurring Threats to Judicial Independence.”2000

EE. A Special Year in the School of Law’s History

1. A $10 Million Campaign

Efforts to raise substantial funds from alumni and friends of the Valparaiso University School of Law have not always been as successful as hoped. For example, the campaign begun in 1982 to raise monies to finance the new Wesemann Hall did not reach its goal. This in turn caused the VU administration to redirect significant resources away from other divisions within the University to the School of Law, the basis for the “debt” assessed to the School of Law discussed earlier.2001 Part of the difficulty may have once again been the University’s perception that

1999 TABOR INSTITUTE, supra note 1994, at 1, 4.
2000 Telephone Interview with Lisa Todd, Administrative Assistant to the Dean, VUSL (Oct. 9, 2003).
2001 See supra notes 1910 et seq. and accompanying text.
fundraising was primarily the central administration’s responsibility, not that of any division or school within the university. Even though a School of Law development director was first appointed back in the 1970s, his job was a joint position with the University’s development office. This was true of his successor as well.

The School of Law’s current Director of Development, Joan White, has worked closely with Dean Conison in visiting alumni from coast to coast, renewing their connections to the law school and encouraging them to have a renewed enthusiasm and pride in their alma mater. Marilyn Otis, Director of Alumni Relations and Director of the Annual Fund, has been another tireless worker and invaluable person in the successful endeavor to develop stronger and wider relations between the School of Law and its alumni. The Annual Fund, which seeks contributions from alumni of the School of Law, has grown significantly under the Conison administration. All the contacts made by Joan White, Francie Thomas, Marilyn Otis, Associate Deans Bruce Berner and Curt Cichowski among others, and especially Dean Jay Conison himself, have made an enormous difference. The Annual Fund monies raised increased substantially within three years.

The success of the significant increase in giving by alumni to the Annual Fund encouraged the leaders of the University and the Dean to propose to the School of Law’s National Council, a group of thirty alumni and friends of the School of Law who serve as an advisory body to the Dean, a major four-year fund campaign. The National Council in September 2002 tentatively approved a campaign which would consist of a two-year “silent” phase, followed by a two-year “public phase,” subject to the plan being better developed and a “Case for the Law School” statement being drafted. Then, in May 2003, the Council formally recommended a campaign, urging that it be approved by the University and by the University’s Board of Directors, but still wanting to wait a few months to have a more realistic idea of how much could reasonably be raised. In March, 2004, Dean Conison announced that $8.4 million had already been raised or pledged during the first year of the “silent” phase, and suggested that the Board approve a $10 million drive, to be publicly announced following the Board of Trustee’s approval. The Council unanimously endorsed the Dean’s suggestion.

Among the $8 million pledged were two major gifts from major donors in the past—Richard and Phyllis Duesenberg, and Herbert and the late Delores Stride. Each couple gave $1.5 million to help establish
two additional academic chairs for the School of Law, to be named after the donors. Other major gifts raised the first year included one exceeding $1 million from the Swygert family, and another in excess of $600,000 from VUSL alumnus Larry Evans and his wife Laura Evans. The name of the campaign is "Building Connections—The Campaign for Valparaiso University School of Law."

1. Celebration at Chicago's Field Museum: May 1, 2004

Although the actual 125th anniversary of the founding of the Valparaiso University School of Law will not occur until November 11, 2004, in late 2003, University and School of Law officials were planning for a gala celebration to be held the evening of May 1, 2004, in Chicago's Field Museum of Natural History. Beneath the bones of tyrannosaurus rex, over 1,400 alumni, dignitaries, and guests are expected to come to a black-tie "gala." The Honorable George H.W. Bush, 41st President of the United States, has agreed to give the address.

"The 125th anniversary is a significant milestone for the School of Law," according to Dean Jay Conison, "and our alumni leadership felt a very special event to mark the anniversary was in order." Cocktails will be followed by a meal created by Chicago caterer, George Jewell. Former President Bush will offer remarks during the dinner hour. Throughout the evening guests will have the opportunity for a private viewing of the prime exhibition at The Field Museum, Splendors of China's Forbidden City: The Glorious Reign of Emperor Qianlong. The exhibit reportedly is an unprecedented display of nearly 400 artifacts from eighteenth-century imperial China, featuring pieces never before seen outside China. Law Alumni Director Marilyn Otis has written, "This is a once-in-a-century event for the Law School and its friends. We're looking forward to an unforgettable evening."

CONCLUSION: "AND WE MUST MAKE THEM NOBLE"—THE CONDITION OF THE SCHOOL OF LAW IN 2004

If one considers numbers to be a measurement of a law school's strength, than the Valparaiso University School of Law has never been stronger than it is near the end of its 125th year of existence. Consider

E-mail from Marilyn Otis, Director of Alumni Relations, VUSL, to Michael Swygert (Oct. 10, 2003).
the student body: In the fall of 2003, 572 students enrolled, including 202 new students. Applications for the 2003 entering class were the highest in the School of Law's history, a total of 1,620. Of this number, the School of Law received 261 minority and twenty-nine international applications. Minority students represented 12.7% of the full-time entering class, a total of twenty-three students, consisting of ten African Americans, one Native American, four Hispanics, three Asian/Pacific, and five “multiracial.” The average LSAT scores for both the entire class and for minority students were above the national median, although not by much. Seventeen percent of the entering class had LSAT scores in the 90th percentile or higher.

Several Chicago area schools were significant sources of applications: University of Illinois, Chicago (seventeen); Loyola (eleven); DePaul (ten); and Northern Illinois (ten). The largest “feeder” schools were Purdue, Indiana, and Valparaiso universities. Slightly more than half of the class, 51%, were women. The number of matriculating “Honors Students” was twenty. The School of Law’s bar passage rate was very respectable, 100% versus a state average of 77% in Illinois, and 80% versus a state average of 73% in Indiana in February 2003. In July 2002, the VUSL bar passage rate was 81% in Indiana and 93.5% in Illinois. The nine-month employment after graduation rate for the 2002 VUSL class was 93% compared with a national average of 89%. Approximately 83% of the 2002 graduates accepted jobs in the states of Illinois, Indiana, Michigan, Ohio, and Wisconsin, 17% going outside this upper-Midwest area.

The full-time faculty including the academic deans and the law librarians numbers twenty-eight. There are six professional law librarians, many of whom teach in the legal research and writing program. The administrative and support staff within the School of Law totals forty-one. The total counts on books in the Library are 166,571

---

2004 Strategic Plan, supra note 1841, at 1.
2005 Id. at 2.
2006 Id.
2007 Id. at 3.
2008 Id. at 4.
2009 Id. at 5.
2010 Id.
2011 Id. at 5-6.
2012 Id. at 8.
bound volumes and 149,699 in microfiche, for a total of 316,200 volumes. The library subscribes to 2,482 periodicals.

At the 125th anniversary of the founding of the School of Law, it is performing well its educational function of training men and women to become competent lawyers, qualified to enter the legal profession upon graduation. The Dean of the School of Law, Jay Conison, says that the School of Law still sees as its primary obligation service to its consumers—the students and the legal profession which offers them jobs. The Dean adds that School of Law strives to be “one of America’s great small law schools.”

As this historical work has revealed, the School of Law today is very different from the one which opened its doors in 1879 with nine students and three part-time instructors. And, it is far different today from what it was before the Lutherans purchased Valparaiso University in 1925. But of equal significance, the Valparaiso University School of Law in 2004 is significantly different when compared to the institution it was twenty-five years ago.

Is it a stronger School of Law today in terms of student body, faculty, and staff than it was in 1979? Yes. Is it operated on a sounder financial base? Absolutely. Have the faculty doubled in size, the staff tripled, and the students grown in numbers? Yes. Can it be classified as a modern law school within the “elite-school model”? Without question. Does it provide a sound legal education in lawyering skills as well as in substantive areas of law? Yes. Has it achieved diversity in the student body and staff? The School of Law has come a very long way. Does it recognize and then reflect in its programs the globalization of law? Yes. Do most of the faculty research, write, and have their scholarship published? Yes. Is the School of Law as personal and caring as it seems to have been in the 1940s, 1950s, and 1960s? To a degree, yes, but scholarly pursuits by faculty translates into lesser accessibility and diminished time for student counseling. Is the Lutheran culture and heritage of Valparaiso University as strong in the School of Law today as it used to be, especially in the 1950s, 1960s, and for much of the 1970s? No, but it still exerts a positive influence on attitudes and programs.

---

2013 E-mail from Mary Persyn, Librarian and Professor of Law, VUSL, to Michael Swygert (Oct. 14, 2004).

http://scholar.valpo.edu/vulr/vol38/iss3/1
One Lutheran-raised faculty member describes the law faculty's overall attitude about the School of Law's connection to Lutheran culture and heritage as "a tradition of values inquiry." The phrase is attributed to Professor Emeritus Jack A. Hiller. Another faculty member, a Roman Catholic, has written that the School of Law "has changed radically" since 1978, "becoming especially concerned with its national pecking order (externally) and with achieving higher faculty salaries (internally)," adding that he considers the Lutheran character of the University to be close to "non-existent" on the law faculty. Still another professor, a Missouri-Synod Lutheran who received her law degree from VUSL in 1979, writes:

While Valpo law continues to be a small, quality law school where the faculty nurtures students to become ethical attorneys, it appears to me that a distinctive Lutheran perspective in the faculty is becoming has become more of an historical factor than a present-day force. . . . The Lutheran tradition does continue in the VUSL student body and active alumni base . . . . However, the Lutheran imprint on the faculty is fading.

Assuming that the "Lutheran imprint" at the School of Law has diminished, it must be said that one key influence that remains is a "tradition of values inquiry." This emphasis on searching for the best values comports with Martin Luther's Christian "liberty principle" where "every man is a perfectly free lord, subject to none."

An example emphasizing the value of human compassion is the School of Law's pro bono program. The pro bono requirement for law students to graduate continues. Shortly after its initiation, Washington Post columnist Mary McGrory, in commenting on the pro bono program at the School of Law (and at two other schools at the time) wrote:

It's enormously encouraging, and not only to the poor people who will directly benefit from expert, free

---

2004 E-mail from Paul Brietzke, Professor of Law, VUSL, to Michael Swygert (Aug. 27, 2003).
2005 E-mail from Richard Stith, Professor of Law, VUSL, to Michael Swygert 1 (Sept. 9, 2003).
2006 E-mail from Clare Kragel Nuechterlein, Professor of Law, VUSL, to Michael Swygert 1 (Sept. 5, 2003).
intervention in their hitherto hopeless quarrels with landlords or bureaucrats. The rest of us can look forward to having lawyers who have been exposed to the real, raw needs of the community and may even understand that there is more to life than a berth at a posh Wall Street firm.2017

Whether the tradition of values inquiry concerns a lawyer’s professional responsibility to devote a portion of his or her practice to those who cannot afford to hire legal assistance, the right to life, the morality of capital punishment, the protection of the First Amendment’s “Free Exercise” clause in reference to religious liberty, or to act upon one’s conscience, the tradition of examining values continues today at the Valparaiso University School of Law. The recent symposia in the Valparaiso University Law Review further reflect this tradition of values inquiry. The topics have included the Bill of Rights, the professional responsibility of lawyers, civility and judicial ethics, new policy approaches to juvenile crime, the religious and philosophical issues regarding cloning, and the ethical and international legal implications of the War Powers Resolution.

Since the Lutherans purchased Valparaiso University in 1925, they have nourished its Lutheran culture and have built up its academic reputation. At the School of Law, however, a question asked throughout the past seventy-nine Lutheran years still remains: “What is the mission of a church-related law school?” Over the years the answer has changed. Today, the answer may be to maintain the tradition of values inquiry. But this is not necessarily the final, but only the latest answer. As Dean Emeritus Alfred W. Meyer said in teaching contracts, questions are more important than answers. True. Answers may change and be fleeting, but important questions endure and deserve to be repeatedly raised.

Occasionally, a great question precipitates a timeless response from a wise and visionary statesman. Such a man was the Rev. Otto Paul Kretzmann. At his 1940 inaugural address, the newly-appointed president of Valparaiso University asked those in attendance what a church-related university has to offer students. He responded to his own question:

We have something to offer which you can find nowhere else. Others may try to make men scientific; we must do that—and make them wise. Others may give men knowledge; we must give that that—and understanding. It has to do what secular universities do and more. Others try to make them useful; we must do that, and, we must make them noble.

Professor O.P. Kretzmann was challenging the entire University community, the School of Law included, to offer something deeper and more meaningful than what was available at even the best secular institutions. That something deeper at Valparaiso University and its School of Law has included a special linkage between knowledge and faith; a place of intense work side-by-side one of religious heritage, tradition, and culture; and an atmosphere which encourages the development of human skills and the nourishment of human compassion. Yes, the wise statesman and cleric, the one who kept the Valparaiso University School of Law open during the darkest of times, has for all future generations challenged the men and women who are, and will be, connected with Valparaiso University, to offer something which can be found nowhere else. The challenge remains as crucial today as it was fifty-four years ago when O.P. uttered the memorable words "and we must make them noble."
<table>
<thead>
<tr>
<th>Table One: Deans of the Valparaiso University School of Law</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>First</strong>: Col. Mark L. DeMotte</td>
</tr>
<tr>
<td><strong>Second</strong>: Milo Jessie Bowman</td>
</tr>
<tr>
<td><strong>Third</strong>: John W. Morland</td>
</tr>
<tr>
<td>O.P. Kretzmann, Acting</td>
</tr>
<tr>
<td><strong>Fourth</strong>: Knute D. Stalland</td>
</tr>
<tr>
<td><strong>Fifth</strong>: Louis F. Bartelt, Jr.</td>
</tr>
<tr>
<td><strong>Sixth</strong>: Alfred W. Meyer</td>
</tr>
<tr>
<td>Louis F. Bartelt, Jr., Acting</td>
</tr>
<tr>
<td>Alfred W. Meyer</td>
</tr>
<tr>
<td><strong>Seventh</strong>: Charles A. Ehren, Jr.</td>
</tr>
<tr>
<td>Alfred W. Meyer, Acting</td>
</tr>
<tr>
<td><strong>Eighth</strong>: Peter McGovern</td>
</tr>
<tr>
<td><strong>Ninth</strong>: Ivan Bodensteiner</td>
</tr>
<tr>
<td><strong>Tenth</strong>: Edward W. Gaffney</td>
</tr>
<tr>
<td>Ivan Bodensteiner, Acting</td>
</tr>
<tr>
<td><strong>Eleventh</strong>: Jay Conison</td>
</tr>
</tbody>
</table>
TABLE TWO: VALPARAISO UNIVERSITY LAW REVIEW EDITORS-IN-CHIEF

<table>
<thead>
<tr>
<th>Volume</th>
<th>Year</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1966-1967</td>
<td>Michael I. Swygert</td>
</tr>
<tr>
<td>2</td>
<td>1967-1968</td>
<td>Raymond T. Nimmer</td>
</tr>
<tr>
<td>3</td>
<td>1968-1969</td>
<td>Douglas P. Roller</td>
</tr>
<tr>
<td>4</td>
<td>1969-1970</td>
<td>Gary Pearch</td>
</tr>
<tr>
<td>5</td>
<td>1970-1971</td>
<td>James F. Roegge</td>
</tr>
<tr>
<td>6</td>
<td>1971-1972</td>
<td>Robert M. Keenan</td>
</tr>
<tr>
<td>7</td>
<td>1972-1973</td>
<td>John R. Stoller</td>
</tr>
<tr>
<td>8</td>
<td>1973-1974</td>
<td>Alfred Y. Kirkland</td>
</tr>
<tr>
<td>9</td>
<td>1974-1975</td>
<td>Richard R. Hammar</td>
</tr>
<tr>
<td>10</td>
<td>1975-1976</td>
<td>Barbara A. Young</td>
</tr>
<tr>
<td>11</td>
<td>1976-1977</td>
<td>George W. Carberry</td>
</tr>
<tr>
<td>12</td>
<td>1977-1978</td>
<td>Stanley J. Stek</td>
</tr>
<tr>
<td>13</td>
<td>1978-1979</td>
<td>Robert R. Clark</td>
</tr>
<tr>
<td>14</td>
<td>1979-1980</td>
<td>Donald Paul Seberger</td>
</tr>
<tr>
<td>17</td>
<td>1982-1983 (4 issues)</td>
<td>Kenneth R. Bruce</td>
</tr>
<tr>
<td>19</td>
<td>1984-1985 (4 issues)</td>
<td>Randy S. Dessau</td>
</tr>
<tr>
<td>20</td>
<td>1985-1986</td>
<td>Laura Munster Sever</td>
</tr>
<tr>
<td>21</td>
<td>1986-1987</td>
<td>Linda J. Kibler</td>
</tr>
<tr>
<td>22</td>
<td>1987-1988</td>
<td>Larry E. Thrall</td>
</tr>
<tr>
<td>23</td>
<td>1988-1989</td>
<td>Jayme S. Walker</td>
</tr>
<tr>
<td>24</td>
<td>1989-1990</td>
<td>David M. Welter</td>
</tr>
<tr>
<td>25</td>
<td>1990-1991</td>
<td>James M. Kapitan</td>
</tr>
<tr>
<td>26</td>
<td>1991-1992</td>
<td>Amy Lawrence Mader</td>
</tr>
<tr>
<td>27</td>
<td>1992-1993</td>
<td>Matthew F. Roberts</td>
</tr>
<tr>
<td>29</td>
<td>1994-1995</td>
<td>Robert D. Null</td>
</tr>
<tr>
<td>30</td>
<td>1995-1996</td>
<td>Elizabeth A. Ellis</td>
</tr>
<tr>
<td>31</td>
<td>1996-1997</td>
<td>Andrew P. Massman</td>
</tr>
<tr>
<td>32</td>
<td>1997-1998</td>
<td>Michael John DeBoer</td>
</tr>
<tr>
<td>33</td>
<td>1998-1999</td>
<td>Stephen James Wolma</td>
</tr>
<tr>
<td>34</td>
<td>1999-2000</td>
<td>Charla Hausler</td>
</tr>
<tr>
<td>35</td>
<td>2000-2001</td>
<td>Clinton P. Hansen</td>
</tr>
<tr>
<td>36</td>
<td>2001-2002</td>
<td>Matthew S. Tarkington</td>
</tr>
<tr>
<td>37</td>
<td>2002-2003</td>
<td>Cheri Lichtensteiger Baden</td>
</tr>
<tr>
<td>38</td>
<td>2003-2004 (4 issues)</td>
<td>Julie C. Frymark</td>
</tr>
</tbody>
</table>
INDEX OF NAMES

Able, Ellie
Abraham, Kenneth S.
Achor, Harold E.
Adams, Mark L.
Adams, Susan
Addis, Adeno
Agar, E.W.
Albers, Joanne H.
Albrecht, Lawrence
Alderman, Wise
Allen, David
Allen, Jack R.
Allen, Julian B.
Amstutz, Noah Steiner
Anderson, Edward A.
Andreas, G. Allen
Andrew, William
Anthony, Samuel
Aquinas, Thomas
Arnold, Richard S.
Arnold, Thurman
Arterburn, Norman F.
Aspen, Marvin E.
Attlee, Clement
Auerbach, Jerold
Ault, Peter
Aungst, Barbara
Austensen, Roy
Ayres, Ian
Baepler, Richard
Baker, Andy
Baker, Charles C.
Baker, Edgar
Baker, Sarah Evans
Baker, Tim
Baldwin, Samantha
Baldwin, Simeon E.
Bartelt, Jr. Louis F.
Barzun, Jacques
Bauer, John C.
Bauer, William J.
Bayh, Birch
Bayh, Evan
Beale, Joseph
Beamer, George
Beasey, Wright
Beecher, Catherin
Beer, Robert A.
Bell, Alexander Graham
Bell, Derrick
Benken, John W.
Bercik, Debbie
Bergstrom, Harry E.
Bergstrom, Barry C.
Berman, Harold J.
Bernecker, Ralph
Berner, Bruce G.
Bernthal, Harold
Bernthal, E.T.
Berry, Virgil Edwin
Bertig, Melissa
Billings, Bryce
Blachly, Quentin
Blackburn, Julie
Blackstone, William
Blaine, John J.
Blennerhassett, Debbie
Bloom, Alan
Bloom, Bruce
Blomquist, Robert Frank
Bodensteiner, Ivan E.
Bogarte, Martin
Bogert, George
Boggs, Cornell
Bok, Derek
Bolling, Barbara
Bomberger, Louden L.
Bone, S.M.
Bontrager, Max
Boone, Richard G.
Boras, Maxwell
Bork, Jeff
Bornholdt, Robert W.
Bosch, Burton
Boucher, C. W.
Bowden, Katharine Ertz
Bowen, Otis R.
Bowman, Ann
Bowman, John
Bowman, Milo Jesse
<table>
<thead>
<tr>
<th>Bowman, Milo Judson</th>
<th>Chase, Anthony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bowman, Pasco M.</td>
<td>Chaspelle, Myrtle</td>
</tr>
<tr>
<td>Boyd, Jerry</td>
<td>Chezem, Linda L.</td>
</tr>
<tr>
<td>Bradley, Hilbert L.</td>
<td>Choe, Young-Hi</td>
</tr>
<tr>
<td>Bradley, Justice</td>
<td>Christy, Elizabeth</td>
</tr>
<tr>
<td>Bradwell, Myra</td>
<td>Chroust, Anton-Hermann</td>
</tr>
<tr>
<td>Branson, Douglas M.</td>
<td>Churchill, Winston</td>
</tr>
<tr>
<td>Bredell, Harold H.</td>
<td>Cichowski, Curtis</td>
</tr>
<tr>
<td>Brennan, Stephen W.</td>
<td>Clark, Charles</td>
</tr>
<tr>
<td>Brennan, William J.</td>
<td>Clark, Ramsey</td>
</tr>
<tr>
<td>Brietzke, Paul H.</td>
<td>Clark, Tom C.</td>
</tr>
<tr>
<td>Briggs, Nellie</td>
<td>Claudon, Roger K.</td>
</tr>
<tr>
<td>Brock, Christine A.</td>
<td>Cleveland, Grover</td>
</tr>
<tr>
<td>Brockington, Jr.,</td>
<td>Cockerill, Tom</td>
</tr>
<tr>
<td>Brockopp, Daniel C.</td>
<td>Coco, Alfred</td>
</tr>
<tr>
<td>Broeder, Dale W.</td>
<td>Colliers, Hanna Reed</td>
</tr>
<tr>
<td>Brown, Clarence R.</td>
<td>Collins, Sue</td>
</tr>
<tr>
<td>Brown, Henry Baker</td>
<td>Compton, Arthur H.</td>
</tr>
<tr>
<td>Brown, Henry Kinsey</td>
<td>Conison, Jay</td>
</tr>
<tr>
<td>Brown, Margaret</td>
<td>Conover, William G.</td>
</tr>
<tr>
<td>Brownell, Herbert</td>
<td>Corboy, Catharine</td>
</tr>
<tr>
<td>Bryan, William</td>
<td>Corley, Gale C.</td>
</tr>
<tr>
<td>Jennings</td>
<td>Cosentino, Michael</td>
</tr>
<tr>
<td>Buchanan, Paul H.</td>
<td>Couillard, Harold</td>
</tr>
<tr>
<td>Buche, Craig</td>
<td>Cox, Paul N.</td>
</tr>
<tr>
<td>Burgan, Jack</td>
<td>Cox, Robert</td>
</tr>
<tr>
<td>Burger, Warren</td>
<td>Crampton, Roger</td>
</tr>
<tr>
<td>Burgman, Diedre A.</td>
<td>Credit, Tony</td>
</tr>
<tr>
<td>Burkan, Nathan</td>
<td>Cross, Perry W.</td>
</tr>
<tr>
<td>Burns, William</td>
<td>Crumpacker, E.D.</td>
</tr>
<tr>
<td>Cullen</td>
<td>Crumpacker, Grant</td>
</tr>
<tr>
<td>Burns-Doran-Brown, Margaret</td>
<td>Cruz, Beth</td>
</tr>
<tr>
<td>Bush, George H.W.</td>
<td>Cunningham, William</td>
</tr>
<tr>
<td>Bushbaum, Michael J.</td>
<td>Czike, Stephen</td>
</tr>
<tr>
<td>Butler, Harold L.</td>
<td>Daly, William</td>
</tr>
<tr>
<td>Butterworth,</td>
<td>Dandridge, John B.</td>
</tr>
<tr>
<td>Benjamin</td>
<td>Daniels, Robert</td>
</tr>
<tr>
<td>Cabranes, Jose A.</td>
<td>Darrow, Clarence S.</td>
</tr>
<tr>
<td>Cadahy, Richard D.</td>
<td>Dash, Samuel</td>
</tr>
<tr>
<td>Cagen, Philip M.</td>
<td>Dau, William H.T.</td>
</tr>
<tr>
<td>Calabresi, Guido</td>
<td>De Young, Frederick R.</td>
</tr>
<tr>
<td>Campbell, Alexander</td>
<td>Dean, Orville James</td>
</tr>
<tr>
<td>Canada, Linda</td>
<td>DeBrueker, Roger</td>
</tr>
<tr>
<td>Cannon, Lisa</td>
<td>DeFord, Mary Lucile</td>
</tr>
<tr>
<td>Cardozo, Michael H.</td>
<td>Delafiield, Lewis</td>
</tr>
<tr>
<td>Cardwell, Frank</td>
<td>DeLaurenti, John</td>
</tr>
<tr>
<td>Carter, Bernard</td>
<td>DeMotte, Daniel</td>
</tr>
<tr>
<td>Carter, Derrick</td>
<td></td>
</tr>
<tr>
<td>Carter, Stephen L.</td>
<td></td>
</tr>
<tr>
<td>Carver, H.N.</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>Name</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Gibbs, Hazel Dean</td>
<td>Hasebe, Shizuka</td>
</tr>
<tr>
<td>Gienapp, Marcia L.</td>
<td>Hass, George</td>
</tr>
<tr>
<td>Gilkison, Frank E.</td>
<td>Hastings, John</td>
</tr>
<tr>
<td>Gillespie, Carley</td>
<td>Hatcher, Richard</td>
</tr>
<tr>
<td>Gillett, Emma</td>
<td>Hawkins, Deborah Renay</td>
</tr>
<tr>
<td>Gillett, Hiram A.</td>
<td>Heard, T.H.</td>
</tr>
<tr>
<td>Gillett, John J.</td>
<td>Hector, Harold C.</td>
</tr>
<tr>
<td>Ginsburg, Ruth Bader</td>
<td>Hefner, Sue</td>
</tr>
<tr>
<td>Givan, Richard</td>
<td>Heilman, S. Earl</td>
</tr>
<tr>
<td>Gleason, Debbie</td>
<td>Heimberg, Richard</td>
</tr>
<tr>
<td>Gleen, Pat</td>
<td>Hembroff, T.M.C.</td>
</tr>
<tr>
<td>Glick, Jason</td>
<td>Henig, Gene</td>
</tr>
<tr>
<td>Glickstein, Howard Alan</td>
<td>Henning, Beth</td>
</tr>
<tr>
<td>Goodman, Naomi J.</td>
<td>Henrichs, Karl H.</td>
</tr>
<tr>
<td>Goodnight, David</td>
<td>Hershey, Lewis B.</td>
</tr>
<tr>
<td>Goodrich, Herbert F.</td>
<td>Hervey, John G.</td>
</tr>
<tr>
<td>Goodwin, Bert Z.</td>
<td>Herzberg, Gilbert</td>
</tr>
<tr>
<td>Gother, Ron</td>
<td>Hesburgh, Theodore M.</td>
</tr>
<tr>
<td>Gother, Susan Ronald</td>
<td>Higgins, Florence</td>
</tr>
<tr>
<td>Gottschall, Joan</td>
<td>Hiller, Jack A.</td>
</tr>
<tr>
<td>Gram, Harold</td>
<td>Hills, James</td>
</tr>
<tr>
<td>Gramhofer, Jon</td>
<td>Hodgdon, Daneil Russell</td>
</tr>
<tr>
<td>Grant, Robert</td>
<td>Hof, August</td>
</tr>
<tr>
<td>Gray, Don</td>
<td>Hoffman, David Murray</td>
</tr>
<tr>
<td>Gray, Terry</td>
<td>Hoffman, Jr., George B.</td>
</tr>
<tr>
<td>Green, Leon</td>
<td>Hoffman, Oswald C.J.</td>
</tr>
<tr>
<td>Griffith, Grace L.</td>
<td>Holste, Elizabeth</td>
</tr>
<tr>
<td>Gromley, Charles</td>
<td>Holtan, Mark</td>
</tr>
<tr>
<td>Hadwiger, Gus</td>
<td>Holterhoff, Sally</td>
</tr>
<tr>
<td>Hall, Edgar G.</td>
<td>Homan, Dick</td>
</tr>
<tr>
<td>Hall, Stanley</td>
<td>Hoops, Ira</td>
</tr>
<tr>
<td>Hall, Tom</td>
<td>Hoover, Calvin S.</td>
</tr>
<tr>
<td>Halleck, Charles A.</td>
<td>Hoover, Dennis</td>
</tr>
<tr>
<td>Hamilton, William S.</td>
<td>Hoppe, Walter N.</td>
</tr>
<tr>
<td>Hane, C.M.</td>
<td>Horack, Claude</td>
</tr>
<tr>
<td>Hanley, J. Frank</td>
<td>Horack, Dean</td>
</tr>
<tr>
<td>Harms, O.W.</td>
<td>Horwitz, Morton J.</td>
</tr>
<tr>
<td>Harno, Albert</td>
<td>Hovde, Frederick L.</td>
</tr>
<tr>
<td>Harper, Robert</td>
<td>Howe, Mark Dewolfe</td>
</tr>
<tr>
<td>Harre, Alan F.</td>
<td>Hsin, Gordon</td>
</tr>
<tr>
<td>Harris, Frederick</td>
<td>Hubbard, Mildred &quot;Lucy&quot;</td>
</tr>
<tr>
<td>Harris, John</td>
<td>Huber, Peter W.</td>
</tr>
<tr>
<td>Harrison, Benjamin</td>
<td>Hubert, Dave</td>
</tr>
<tr>
<td>Hart, Henry</td>
<td>Hudson, Edward G.</td>
</tr>
<tr>
<td>Hartke, Vance</td>
<td>Huegli, Albert G.</td>
</tr>
<tr>
<td>Hartzell, Gail</td>
<td>Hughes, Charles</td>
</tr>
<tr>
<td>Harvey, Vada</td>
<td>Huiner, Donald W.</td>
</tr>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td></td>
</tr>
<tr>
<td>Hunter, Donald H.</td>
<td></td>
</tr>
<tr>
<td>Hurley, Thomas J.</td>
<td></td>
</tr>
<tr>
<td>Hurst, James Willard</td>
<td></td>
</tr>
<tr>
<td>Huss, Rebecca</td>
<td></td>
</tr>
<tr>
<td>Hutchins, Robert Maynard</td>
<td></td>
</tr>
<tr>
<td>Hutchinson, Flavius</td>
<td></td>
</tr>
<tr>
<td>Hutchinson, Ida</td>
<td></td>
</tr>
<tr>
<td>Huxley, Thomas</td>
<td></td>
</tr>
<tr>
<td>Hyer, James L.</td>
<td></td>
</tr>
<tr>
<td>Inbau, Fred E.</td>
<td></td>
</tr>
<tr>
<td>Jackson, Amos W.</td>
<td></td>
</tr>
<tr>
<td>Jackson, Andrew</td>
<td></td>
</tr>
<tr>
<td>Jackson, Edward</td>
<td></td>
</tr>
<tr>
<td>Jackson, Jesse</td>
<td></td>
</tr>
<tr>
<td>Jacobs, Bradley P.</td>
<td></td>
</tr>
<tr>
<td>Jeffer, Peter</td>
<td></td>
</tr>
<tr>
<td>Jefferson, Thomas</td>
<td></td>
</tr>
<tr>
<td>Jeffrey, Charles</td>
<td></td>
</tr>
<tr>
<td>Jeffries, Joseph</td>
<td></td>
</tr>
<tr>
<td>Jeffries, Thomas</td>
<td></td>
</tr>
<tr>
<td>Jent, Julia M.</td>
<td></td>
</tr>
<tr>
<td>Jesse, Paul</td>
<td></td>
</tr>
<tr>
<td>Jewell, George</td>
<td></td>
</tr>
<tr>
<td>Johnson, Jay</td>
<td></td>
</tr>
<tr>
<td>Johnson, Jeff</td>
<td></td>
</tr>
<tr>
<td>Johnson, Lyndon</td>
<td></td>
</tr>
<tr>
<td>Joiner, Charles</td>
<td></td>
</tr>
<tr>
<td>Jones, A. Lytle</td>
<td></td>
</tr>
<tr>
<td>Jones, Andrieus A.</td>
<td></td>
</tr>
<tr>
<td>Jones, Erwin</td>
<td></td>
</tr>
<tr>
<td>Jones, Ronald</td>
<td></td>
</tr>
<tr>
<td>Jox, Marshall</td>
<td></td>
</tr>
<tr>
<td>June, Kitty</td>
<td></td>
</tr>
<tr>
<td>Kade, Max</td>
<td></td>
</tr>
<tr>
<td>Kading, Charles A.</td>
<td></td>
</tr>
<tr>
<td>Kaesebier, Carol Colby</td>
<td></td>
</tr>
<tr>
<td>Kalven, Jr., Harry</td>
<td></td>
</tr>
<tr>
<td>Kanne, Michael S.</td>
<td></td>
</tr>
<tr>
<td>Katz, Martin</td>
<td></td>
</tr>
<tr>
<td>Katz, Wilber G.</td>
<td></td>
</tr>
<tr>
<td>Kaul, Felix A.</td>
<td></td>
</tr>
<tr>
<td>Kauper, Paul</td>
<td></td>
</tr>
<tr>
<td>Keefe, Arthur John</td>
<td></td>
</tr>
<tr>
<td>Keener, Professor</td>
<td></td>
</tr>
<tr>
<td>Kellock, Susan</td>
<td></td>
</tr>
<tr>
<td>Kennedy, John F.</td>
<td></td>
</tr>
<tr>
<td>Kent, James</td>
<td></td>
</tr>
<tr>
<td>Kibler, Linda</td>
<td></td>
</tr>
<tr>
<td>Kiely, Terrence</td>
<td></td>
</tr>
<tr>
<td>King, Jr., Martin Luther</td>
<td></td>
</tr>
<tr>
<td>King, Sharon</td>
<td></td>
</tr>
<tr>
<td>Kinsey, Oliver Perry</td>
<td></td>
</tr>
<tr>
<td>Kippen, Dick</td>
<td></td>
</tr>
<tr>
<td>Kirkegaard, Sven</td>
<td></td>
</tr>
<tr>
<td>Kirkwood, Chris C.</td>
<td></td>
</tr>
<tr>
<td>Kmiec, Douglas</td>
<td></td>
</tr>
<tr>
<td>Koelemeyer, Karen</td>
<td></td>
</tr>
<tr>
<td>Koepke, Jack</td>
<td></td>
</tr>
<tr>
<td>Kohloff, Nancy</td>
<td></td>
</tr>
<tr>
<td>Kole, Karen</td>
<td></td>
</tr>
<tr>
<td>Konchar, Polona</td>
<td></td>
</tr>
<tr>
<td>Korfist, Norman</td>
<td></td>
</tr>
<tr>
<td>Kowalski, Joe</td>
<td></td>
</tr>
<tr>
<td>Kreinheder, Oscar C.</td>
<td></td>
</tr>
<tr>
<td>Kretzmann, Otto Paul</td>
<td></td>
</tr>
<tr>
<td>Kretzmann, Walter</td>
<td></td>
</tr>
<tr>
<td>Krigbaum, Stephen</td>
<td></td>
</tr>
<tr>
<td>Kisliowski, Mildred</td>
<td></td>
</tr>
<tr>
<td>Kroencke, Frederick</td>
<td></td>
</tr>
<tr>
<td>Kruger, Esther</td>
<td></td>
</tr>
<tr>
<td>Kruse, Harold</td>
<td></td>
</tr>
<tr>
<td>Kuhlmann, Fred</td>
<td></td>
</tr>
<tr>
<td>Kundert, David</td>
<td></td>
</tr>
<tr>
<td>Lacy, Arthur J.</td>
<td></td>
</tr>
<tr>
<td>Lacy, Paul</td>
<td></td>
</tr>
<tr>
<td>LaFollett, Bob</td>
<td></td>
</tr>
<tr>
<td>Lamson, Tex</td>
<td></td>
</tr>
<tr>
<td>Landgrebe, Earl</td>
<td></td>
</tr>
<tr>
<td>Landis, Frederick</td>
<td></td>
</tr>
<tr>
<td>Landmeier, Alan L.</td>
<td></td>
</tr>
<tr>
<td>Lane, Don</td>
<td></td>
</tr>
<tr>
<td>Langdell, Christopher Columbus</td>
<td></td>
</tr>
<tr>
<td>Laser, Gary</td>
<td></td>
</tr>
<tr>
<td>Lasky, Dale</td>
<td></td>
</tr>
<tr>
<td>Lasswell, Harold</td>
<td></td>
</tr>
<tr>
<td>Lattimore, Martha E.</td>
<td></td>
</tr>
<tr>
<td>Leatz, Darlene</td>
<td></td>
</tr>
<tr>
<td>Lee, John D.</td>
<td></td>
</tr>
<tr>
<td>Lee, Robert D.</td>
<td></td>
</tr>
<tr>
<td>Lee, Robert E.</td>
<td></td>
</tr>
<tr>
<td>Leimer, Jackie</td>
<td></td>
</tr>
<tr>
<td>Lempke, H.D.</td>
<td></td>
</tr>
<tr>
<td>Levinson, Rosalie</td>
<td></td>
</tr>
<tr>
<td>Lewis, William Draper</td>
<td></td>
</tr>
</tbody>
</table>

http://scholar.valpo.edu/vulr/vol38/iss3/1
Lincoln, Abraham
Lind, JoEllen
Linde, Hans A.
Link, A.J.
Liu, George
Llewellyn, Karl
Lockhart, William
Loehr, William G.
Long, Linda L.
Loring, H.H.
Luecke, Martin
Luther, Martin
Lutze, Esther
Lutze, Karl
Lyons, John
Lyons, Mary
MacCormack, Neil
MacDougall, Earnest David
MacKibben, Stuart
Mallers, George P.
Malloy, Robin Paul
Mandela, Nelson
Mansfield, Belle A.
Markel, Erich
Marsh, Robert L.
Marshall, John
Marshall, Leon
Marshall, Thurgood
Martin, Don
Martyn, Susan R.
Martz, Hugo
Mason, Jim
Massmann, Andrew P.
Matthias, Russell H.
Maxwell, Leonard
McCabe, Robert
McCain, David
McCain, Trent
McConnell, Michael
McCurdy, Sarah
McDonell, Duncan
McDougal, Myres
McGilvray, D.H.
McGovern, Peter J.
McGrory, Mary
McGuflin, James A.
McKibbin, Stewart
McKinley, William
McNaughton, Earl
McNutt, Paul V.
Meeker, Ken
Meekison, George
Meekison, Vada Harvey
Meltzer, Bernard D.
Menicke, August
Mentschikoff, Soia
Messer, Frank F.
Metzger, Roy M.
Meyer, Alfred W.
Meyer, Michael
Miertschin, Robert
Miller, C.A.
Miller, E.A.
Miller, E.H.
Miller, Jacob W.
Miller, Janette
Miller, W.W.
Milroy, Robert H.
Moll, Walter Louis
Moellering, Michael
Monks, L.J.
Moore, Mary
Moore, Philip S.
Moore, Powell A.
Moore, Robert H.
Moore, Underhill
Moran, Daniel J.
Moreland, John Thomas
Morgan, Thomas D.
Morland, John Wallace
Morrison, Carolyn
Morrison, Alan
Moskowitz, Linda M.
Moskowitz, Seymour
Motley, Constance Baker
Moyle, Olin
Mullenix, Linda S.
Mundt, Melissa
Murphy, Jocelyn
Murray, William J.
Mussey, Ellen Spencer
Myers III, Adam
Myers, David E.
Myers, Ned
Myers, Walter
Nadar, Laura
Nadar, Ralph
Nagan, Winston P.
Neal, James
Nelson, Tom
Neuhaus, Richard John
Nicgorski, Darlen
Nickel, Dieter H.
Niebuhr, H. Richard
Niehaus, Harry
Nimmer, Ray
Nixon, Russell
Norris, George W.
Norton, E. Miles
Nuechterlein, Clare
Nwabara, Zahra
O’Connor, Sandra Day
Oare, Lenn J.
Oberman, Heiko A.
Obermann, John
Ogletree, Jr., Charles
Oliphant, Herman
Oliver, John W.
Olmstead, Bill
Olsen, Nils
Orico, Joseph R.
Orr, Grant
Osann, Jr., Edward W.
Osterman, Carl A.
Otis, Marilyn
Owen, Zora
Packer, Herbert L.
Palmer, Geoffrey
Pannkoke, O.H.
Parker, Isaac
Parker, Richard D.
Parkinson, W. Lynn
Patner, Marshall
Patnersen, Monrad G.
Pelican, Jaroslav
Pelligrino, Ron
Perbix, James
Perkins, Frances
Perrine, Benjamin
Persyn, Mary G.
Peshel, Gail
Petersen, Dave
Peting, Glen
Pivarnik, Alfred
Pomeroy, Joe
Pomeroy, John Norton
Posner, Richard
Potts, John J.
Pound, Roscoe
Powers, Caleb
Pratter, Harry
Prescott, Suzanne
Pretchett, Henry S.
Prevallet, Don
Priest, George L.
Probst, Steve
Quinn, James
Rabin, Robert
Radigan, Joseph
Ralson, Arthur
Ralston, Samuel J.
Ray, Sarah
Rathke, Steven
Ratliff, Wesley W.
Rawlings, Maurice
Raymond, R.D.
Reading A.H.
Reagan, Ronald
Redlich, Josef
Reed, Alfred Z.
Rees, Benjamin Clifford
Reeve, Tapping
Reeves, Floyd
Rehnquist, William H.
Reichardt, Paige
Rekeweg, William
Rennick, Frederick W.
Rentner, Otto C.
Reymer, Mark
Reynolds, Edmund J.
Rhode, Deborah L.
Rhodes, James
Richardson, Jim
Ricker, John
Ripple, Kenneth F.
Rockne, Knute
Rockwell, Mark B.
Rodel, Fred
Weschler, Herbert
Wesemann, Adolph A.
Wesemann, Janette G.
Wheeler, Lawrence
White, Helen
White, James
White, Joan
White, Ryan
Whitmore, John A.
Whitton, Linda S.
Whitted, Ken
Wickersham, George
Wigmore, John H.
Will, Don
Will, Hubert L.
Willard, Emma
William, E.A.
Williams, Lucy
Willis, Russell
Wills, Gary
Wilson, Elmer C.
Wilson, James
Wilson, Peter K.
Wing, Herman
Winterhoff, William
Winters, Glen R.
Wolfram, Charles W.
Wood, Dianne
Wood, Harlington
Woods, Dianne
Worstell, Avis
Wray, Donny
Wyatt, Lisa
Wyatt, Sharon
Wyeth, George
Yakimow, John W.
Yohn, W.A.
Yonover, Geri J.
Young, H.G.
Young, Jr., Howard Sloan
Young, Leslie
Young, Nancy
Yungman, Bruce
Yuon, Thomas
Zaharchenko, Tatiana
Zimmerman, Alice Van
Zoladz, Jan
CONTENTS

ARTICLE

EVOLUTION, POLITICS AND LAW
Bailey Kuklin 1129

MONSANTO LECTURE

IMPROVING LAWS, DECLINING WORLD: THE TORT OF CONTAMINATION
William H. Rodgers, Jr. 1249

NOTES

WHAT DO I DO NOW? A LAWYER'S DUTY POST-SARBANES-OXLEY
Samantha Ahuja 1263

FOR GOD OR GRADES? STATES IMPOSING FEWER REQUIREMENTS ON RELIGIOUS HOME SCHOOLERS AND THE RELIGION CLAUSES OF THE FIRST AMENDMENT
Laura J. Bach 1337

COURTING DEATH: 30 YEARS SINCE FURMAN, IS THE DEATH PENALTY ANY LESS DISCRIMINATORY? LOOKING AT THE PROBLEM OF JURY DISCRETION IN CAPITAL SENTENCING
Jill M. Cochran 1399

IT'S ALL IN THE TIMING: RETHINKING REMAND OF SUPPLEMENTAL CLAIMS TO PRESERVE COURT RESOURCES
Curtis T. Jones 1459

GIVING DOMA SOME CREDIT: THE VALIDITY OF APPLYING DEFENSE OF MARRIAGE ACTS TO CIVIL UNIONS UNDER THE FULL FAITH AND CREDIT CLAUSE
Anita Y. Woudenberg 1509
The law begins and ends with human behavior. The ends of the law focuses on human flourishing, and the means of the law is to channel human conduct. The needs and wants of humans ground the norms of the law, from the overarching to the secondary. Hence, for the law to be suitable and effective, it must be based on a clear vision of the human condition. Evolutionary psychology is a discipline that helps to meet this requisite, for it is a powerful, but controversial, vehicle for analyzing and understanding human behavior, and hence, legal and social doctrine. The aim of this article is to demonstrate the potential usefulness of evolutionary psychology. To achieve this, I discuss the
controversy over the discipline and identify the political roots of the debate. In the end, I hope to show that evolutionary psychology provides a valuable tool for those involved in the ordering of society.

While the basic blueprint of the engine of evolution was sketched by Darwin well over a century ago, in modern times it has been chiefly restricted to the traditional inquiries of “neutral” science, until the last few decades. After initial applications of the principles of evolution to normative questions beginning in Darwin’s lifetime, including Social Darwinism, most biologists and commentators retreated from the realm of values in the face of withering, often fully justified, attacks by critics, particularly after the eugenically-justified atrocities of World War II. But then, in the late 1960’s, the spotlight of evolutionary principles, later under the label of sociobiology, was again turned to social issues. And

---


4 “[T]here have been few excesses of nineteenth-century capitalism or twentieth-century militarism and fascism that have not had their biology-oriented partisans. Choose your vileness, and there has been someone prepared to defend it in the name of evolution.” Michael Ruse, Evolutionary Ethics in the Twentieth Century: Julian Sorell Huxley and George Gaylord Simpson, in BIOLOGY AND THE FOUNDATION OF ETHICS 198, 198 (Jane Maienschein & Michael Ruse eds., 1999).

5 “Sociobiology is a school of thought which is centred [sic] on the idea that because the perpetuation of genetic material is the driving force of evolution, many of the properties of animals—indeed, the properties of all living things—including their social behaviour, must be understood in that light.” HENRY PLOTKIN, EVOLUTION IN MIND 62 (1997). For the three strands of sociobiology, see id. at 75-88. See also CHARLES J. LUMSDEN & EDWARD O. WILSON, PROMETHEAN FIRE 23 (1983) [hereinafter PROMETHEAN FIRE] (Sociobiology “is defined as the systematic study of the biological basis of all forms of social behavior (including sexual and parental behavior) in organisms, up to and including man.”); Paul Thompson, Introduction to ISSUES IN EVOLUTIONARY ETHICS 1, 3 (Paul Thompson ed., 1995) (“Sociobiology is, in essence, the application of modern evolutionary theory to the investigation and explanation of, as well as the integration of knowledge about, the social behavior of animals including humans.”); Edward O. Wilson, The Morality of the Gene, in ISSUES IN EVOLUTIONARY ETHICS, supra, at 153, 155 [hereinafter Wilson, Morality of the Gene] (“Sociobiology is defined as the systematic study of the biological basis of all social behavior.”). Sociobiology’s “major research strategy in human studies has been to work from the first principles of population genetics and reproductive biology to predict the