

# Why We Honor Robert F. Boden (Speech)

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## WHY WE HONOR ROBERT F. BODEN

HOWARD B. EISENBERG\*

Robert F. Boden served as Dean or Acting Dean of the Marquette University Law School from June, 1965 until his death in 1984. Bob Boden's objective achievements were summarized in Jack Kircher's retrospective following Dean Boden's death:

Bob Boden's tenure as Dean of the law school was marked by the school's growth and enrichment. When he took office as Acting Dean in June, 1965, the staff of the law school consisted of two administrators, seven full-time faculty members, and three support personnel. At his death in February, 1984, there were nine administrators, a full-time faculty of twenty (an additional member to be added in the fall), and sixteen support personnel. The number of full-time students also increased from 263 in 1965 to 460 in 1984. When Bob became Acting Dean in 1965 the physical plant of the law school consisted of the approximately twenty-three thousand square feet of Sensenbrenner Hall. At his death the size of the physical plant had nearly quadrupled. He was a moving force behind the construction of the Legal Research Center completed in 1967, the remodeling of Sensenbrenner Hall in 1972, and most recently, the addition of almost thirty-seven thousand square feet of classrooms and research facilities. He was also instrumental in the growth of the Marquette Law Library which doubled its collection of volumes between 1965 and 1984. He also assured that the law school would be at the forefront in modern research methodology with microfilm and computerized legal research capabilities.<sup>1</sup>

However, Dean Boden is not really remembered primarily for his

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1. John J. Kircher, *Dean Robert F. Boden: A Retrospective*, 67 MARQ. L. REV. xi, xiii (1984).

"bricks and mortar" contribution to the Law School, as impressive as they were. Nor is he known today for being an outstanding administrator. He was certainly a scholar and an outstanding teacher, but even these areas do not form the basis for the virtual reverence many still have for him eighteen years after his death. Bob is remembered today by most for two things: his humanity and his commitment to the profession. Professor Charles Clausen has written eloquently about Bob Boden, the man.<sup>2</sup> I can not add much to what Chuck has written, other than to note that as I have traveled all over the State and all over the country on behalf of the Law School, over and over alumni tell me stories about Dean Boden. Many alumni have told me about the encouragement they received from The Dean, even at times of academic desperation. The stories are always warm and positive, and frequently form the alumnus' most positive recollection of Law School.

However, Dean Boden was extraordinary for another reason. He was absolutely committed to the legal profession and strongly believed that legal educators had a duty to train students to become ethical and highly competent practitioners. It is obvious to me that Bob Boden had a "vision" for legal education. It was a vision he tried to implement at Marquette, and if his life was not cut short at age fifty-five, he might have been a major figure in legal education nationally.

Bob was one of the very few voices in legal education who raised flags over "policy-oriented law schools" and the decline of practice orientation in legal education. His article, *Is Legal Education Deserting the Bar?*<sup>3</sup> is a passionate defense of traditional legal education, as he knew it. Bob's view stood in opposition to those whom he believed wanted to turn legal education into something not designed to train women and men to practice as lawyers, but to train "architects of society....who will remake society for better tomorrow."

As I re-read this article recently, I was struck by how prescient Dean Boden was to anticipate the growing rift between the academy and the practicing bar that has occurred in many parts of the country since his 1970 article. The discontent and nagging concern in the profession about legal education has been reflected in the *MacCrate Report*,<sup>4</sup> and even in the concern shown by the State Bar of Wisconsin to the nature

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2. See Charles D. Clausen, "Uncle Bob:" *Introductory Remarks to the Inaugural Robert F. Boden Lecture*, 81 MARQ. L. REV. 5 (1997).

3. 37 INS. COUNSEL J. 97 (1970)

4. *Legal Education & Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*, 1992 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS.

of legal education.<sup>5</sup> Clearly, had there been more people who shared Bob Boden's views in legal education over the past two decades, legal education may have steered a more central course and have been less open for attack. At least there would have been a much more robust debate on the direction of legal education. Dean Boden had a vision for this Law School and for legal education which was reflected in how he conducted himself and how the Law School was run. Dean Boden's vision was simple and clear: A Law School existed to train people in the substance, ethics, and skills necessary to practice law.

Many would criticize Dean Boden's perception of the profession and the role of legal education, and during his lifetime he was criticized by those at other law schools and even some within the bar. However, looking back a generation later, Dean Boden was clearly on mark when he observed the increasing gulf between the practicing bar and law teachers and the need to remind ourselves of the important vocational nature of legal education. He also recognized the danger of graduating lawyers who had taken fewer substantive courses in favor of what he called "policy" courses. There is no little irony in fact that today many of the "policy law schools" Dean Boden criticized in 1970 are returning full-time faculty to teaching required courses and are adding "practical" courses to their curriculum, often taught by skilled practitioners.

Dean Boden was prepared to buck the trend in legal education in the 1970's and 80's and pursue a different vision. The influence of Bob Boden's tenure as Dean at Marquette is still strongly felt in—and is extremely important to—this Law School, even though the current occupant of the Dean's office comes from a very different background than his predecessor. Marquette, more than most law schools, retains its commitment to train women and men to practice law, *and we are proud of it*. Indeed, given the shifting demands of law school applicants, Dean Boden's vision for legal education has greater currency today than at any time since his death. It turns out that many applicants to law school seek an institution where they can learn the ethics of being a lawyer, the substantive law necessary to practice law, and the legal skills required to serve clients. One of the things we have learned in legal education is that there has to be a diversity in type, nature, and mission of law schools. Dean Boden identified the path for a particular type of law school, and his direction remains with us now, long after his death.

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5. See generally, *Commission on Legal Education, Final Report and Recommendations*, 1996 STATE BAR OF WISCONSIN, reprinted in 80 MARQ. L. REV. (Spring 1997). This issue of the *Marquette Law Review* includes a series of article comment on the *Wisconsin Report*.

Dean Boden had strong views, and he was not afraid to express them. At the same time he had deep compassion for people that is truly the mark of a caring, decent person, who personified the Ignatian commitment of *cura personalis*, care for the person.

It is not surprising that at his death Dean Boden's former students and colleagues established an endowed fund to sponsor a visiting professor each year. Over the years the corpus of the endowment has grown to almost \$1 million. When I became Dean in 1995, I took note of the fact that while the income from this fund had accumulated over the years, we had yet to name our first Boden Professor. A faculty committee, chaired by Professor Alan Madry, undertook the task of identifying the first candidates for the Boden Professorship, and we identified a strong list of contenders. None however was stronger than Professor Daniel Mandelker of Washington University School of Law in St. Louis. Professor Mandelker is a nationally known authority on land use and local government law, and he has written widely in those areas. In addition, Professor Mandelker is from Milwaukee, and his father, Adolph Mandelker, was a 1920 graduate of the Marquette University Law School and was a highly respected practitioner here for many years. Despite the fact that his schedule did not permit him to be with us for more than one week, Professor Mandelker dearly wanted to be the first Boden lecturer, and we were delighted that he was able to give this inaugural lecture.

We honor the memory of a great man and a great lawyer through the Robert F. Boden Professorship and the Boden lecture. While the present Dean may steer a somewhat different course than his predecessor, Bob Boden's vision, strength of character, compassion, and commitment to the profession remain pillars of this Law School's foundation.