

## FROM THE FACULTY

Joseph D. Kearney

### Reflections on the Legal Aid Society of Milwaukee

Dean Joseph D. Kearney delivered keynote remarks at the 98th anniversary luncheon of the Legal Aid Society of Milwaukee in September 2014. The society's director is Kimberly Walker, L'98; its immediate past director is Thomas G. Cannon, a former Marquette Law School faculty member. The Legal Aid Society and Marquette University Law School have overlapping missions, as suggested in these remarks.

Let me begin with my thanks to Kimberly Walker for the generous introduction. It is a great privilege to speak at this annual Legal Aid Society luncheon. That would be the case in any year, but to be part of a program honoring John Ebbott, Bill Christofferson, and Lynn Sheets is, well, humbling. I also face a particular challenge. It's not that I am unaccustomed to public speaking. Nor is it that I have lost my nerve—although, in that regard, it *was* unnerving last week when my wife, Anne Berleman Kearney, argued a case before the Wisconsin Supreme Court. My role, as co-counsel, was merely to sit next to her silently, scratching out a few notes in order at least to look useful, but not being permitted to speak. She is an experienced appellate advocate, to be sure, but my point is about *me*. I flattered myself that at least, perhaps, it amused the seven justices to see me silent (or mostly so) for an entire hour.

No, the challenge comes today because, in speaking to a group such as the Legal Aid Society, I cannot pursue my usual technique. One of my good friends once told me, "You get it all in, every time you give a speech, even a short one." Now it is possible that this friend meant the comment rather wryly, more or less suggesting that I have a limited repertoire. That is, perhaps he meant that after the obligatory references to the south side of Chicago (and sometimes more specifically St. Ignatius high school and the Chicago White Sox), to the Interstate Commerce Act, to Eckstein Hall, and to Advanced Civil Procedure, there is little left that I could knowledgeably discuss. But I don't *think* that to have been his point. The problem

here, in any event, is that to touch substantially upon the Legal Aid Society of Milwaukee would defeat any effort to "get it all in" over the course of ten hours, let alone the ten or so minutes to which I have limited myself.

For the Legal Aid Society is not only so impressive but also so varied an organization, especially when considered over its run of 98 years (and counting) but also taken even just today. This is not conjecture on my part. I had occasion this summer to read Tom Cannon's history of the Legal Aid Society, published a few years ago by the Marquette University Press. It is extraordinary to get a glimpse into all the good that the Legal Aid Society has done, all the people who have been involved in it, all the forms that its programs have taken. One way of "getting it all in," I suppose, might be to go through the litany of various individuals who have been involved, listing them in a Billy Joel "We Didn't Start the Fire" sort of way—Victor Berger, Carl Zeidler, Tom Zander, etc.—but I cannot in good conscience sing to you. And Janine Geske, one of my longtime colleagues at Marquette, once remarked that, when she started at the Legal Aid Society of Milwaukee in 1975, straight out of Marquette Law School's graduating class, she had some 850 cases, and her predecessor didn't much believe in filing cabinets. So even to list the docket of a Legal Aid Society lawyer would require well more than ten minutes.

Yet it is another comment from Justice Geske that made the biggest impression on me concerning the Legal Aid Society: The strength of the organization has come from the remarkable *flexibility* that it has



Dean Joseph D. Kearney with Kimberly Walker and Thomas G. Cannon from the Legal Aid Society

demonstrated in pursuing its mission to “provide legal aid to the poor and do all things necessary for the prevention of injustice.” We can see this in Tom Cannon’s chronicle: divorce cases, once a staple, had to give way; the public defender work yielded to a state agency created for that purpose; even the impressive guardian ad litem work, so identified with the Legal Aid Society, cannot be presumed to go on forever.

The way in which the Legal Aid Society has interacted with Wisconsin’s law schools is an example of this flexibility. The interaction goes back to the beginning of the society, but the forms have varied. Just to take the last quarter-century, we at Marquette have had a vibrant program in which students can work as interns under the supervision of Legal Aid Society lawyers and receive the equivalent of credit for a course. We do this with other nonprofits (as well as some government agencies), but the Legal Aid

Society is our largest public interest partnership. We typically place six to seven students with the Legal Aid Society each semester, and we always have more applicants than positions available. My colleague, Professor Tom Hammer, who runs our clinical programs, and I—indeed, all of us at Marquette Law School—are immensely grateful for this collaboration.

Another form of interaction between Marquette Law School and the Legal Aid Society is more recent, though now well established: specifically, various of our Public Interest Law Society, or PILS, fellows receive funding through the Law School to work at Legal Aid each summer, either in the guardian ad litem division or the civil

division. For example, two fellows were there this past summer and two the year before.

The Legal Aid Society is also always at the table for the Coalition for Access to Legal Resources meetings where area legal services providers share updates about resources and projects. The coalition—or CALR—is a group that Marquette Law School helped form a few years ago in order to ensure better coordination as individual nonprofits variously pursue the cause of justice.

The Law School does much more of these sorts of things—both itself to serve individual clients in legal services work and to help coordinate efforts in this region—than was the case as recently as the 1990s. Without doubt, the Marquette Volunteer Legal Clinic (MVLIC), founded in 2002 through the leadership of Julie Darnieder and a number of other lawyers (and students), remains our flagship. We have expanded in the ensuing years to where we now have five ▶▶

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locations—the House of Peace at 17th and Walnut, the United Community Center on the south side, the Milwaukee Justice Center (in which, more generally, we are partners with Milwaukee County and the Milwaukee Bar Association), a clinic serving veterans (located on the west side), and, most recently (within the past year and again through the Milwaukee Justice Center), the Mobile Legal Clinic. These are accomplishments not just by Marquette Law School but by the legal community more generally: Many of you are volunteers at the MVLC sites (and if you are not, we can help you fix that), and you fulfill the double purpose of serving clients and helping educate and train the next generation of Marquette lawyers—that is, our scores of students who volunteer there.

It seems not too much to say that the Law School has emulated the flexibility of the Legal Aid Society in recent decades as we have gone about becoming one of the leading forces in this region driving pro bono work. For a while, the effort seemed substantially to come from one person, the late Dean Howard Eisenberg, whose pro bono work was prodigious—perhaps too much so, ultimately. Then there was the entirely volunteer-led effort of the MVLC, which I have previously mentioned, begun during Howard's deanship. I was Howard's friend and protégé, of course, even if he was a Cubs fan and I a White Sox fan and even if my more important calling card in seeking the deanship was to have grown up in the same neighborhood on the south side of Chicago and to have attended the same high school, St. Ignatius, as Father Wild, then the president of Marquette. (The fact that Professor Dan Blinka, here today as a board member of the Legal Aid Society, was on the dean's search committee didn't hurt either.) In any event, after Howard's death, we as a law school became much more self-conscious about the matter, opening an Office of Public Service, led first by Dan Idzikowski, now the director of Disability Rights Wisconsin, and today by Angela Schultz. Across this time, we have been helped by a remarkable number of lawyers, many our alumni and many not.

We do all this to serve the community not only today but hereafter: the pro bono ethos among students at Marquette University Law School is one of the strongest of any law school in the country—the numbers alone help prove this—and we expect the returns on this investment to benefit Milwaukee and the nation for years to come. You may consider all this to be hyperbole, but, in fact, even when it comes to Eckstein Hall, the best law school building in the country (as my colleague Professor Mike McChrystal, also here today, has taught me to say), I am careful in my claims about the Law School. In all our pro bono work, the Legal Aid Society has been one of our sources of inspiration and deep partnership.

I would like to conclude. At the beginning of my remarks, I referred to a good friend of mine; this is Jim Speta, a law professor at Northwestern University. In a symposium that we published a few years ago on the occasion of the 125th anniversary of the Interstate Commerce Act, he began his essay with the observation of F. W. Maitland, early in the last century, "The forms of action we have buried, but they still rule us from their graves." This succinct statement, which perhaps you remember from your law school days (for a few of you maybe even from Tom Shriner's and my Advanced Civil Procedure class), referred of course to litigation procedure (forms of action), but it captures a larger truth about the law: The law—and we in it—can get so wrapped up in process as to lose sight of its substantive ends. This is one thing when we are talking of the law itself, where we need await the act of some sovereign authority for change. But it is another thing when it is our own private institutions whose superannuated structures we permit to hold us back. The Legal Aid Society seems immune to this phenomenon, and for this—as well as, more generally, for its substantive work—I admire all who have been involved in it over the past century.

So to all who are part of the Legal Aid Society today, I say, on behalf of Marquette University Law School, "You inspire us. Let us work further together in the cause of justice. Indeed, let us explore whether there are new forms by which we might do so." Thank you. ■