

A Most Instructive Semester

“We are all prisoners of our past,” Justice Antonin Scalia once said to me. “Some of us are just more aware of it than others.” This is unquestionably true, but part of our past is the development of an ability to adapt to changing circumstances. So, upon the arrival of the COVID-19 crisis this past March, my colleagues and I leaned on familiar ways—and we changed. The substantive result at Marquette Law School was impressive.

In my case, some of both the old and the new involved communication. Once we decided that classes were going online (being in spring break gave us important additional days for the transition), I had to communicate with faculty and students. An informative email—a staple of my professional pursuits for the better part of two decades, it has seemed to me—was the obvious route. Events developed quickly, as you will recall from your own experiences, and for almost a week, such emails communicating new information were necessary daily.



Yet emails could not do it all. Imagine the surprise of some of us when I became persuaded to make my first YouTube video. The production value was not high—it was recorded on an iPhone in my basement—but the message to graduating students about the process of bar admission seemed better delivered “in person.” The fact that the Wisconsin Supreme Court and Board of Bar Examiners had given us good news may

have pushed me in that direction. Without suggesting that I got a lot of retweets (wait, that’s a different medium, which I’ve yet to embrace), I made another video the next day, this time for newly admitted students, whom we were unable to welcome as visitors in Eckstein Hall. In the video, I invited each of our admitted students to call me, and a number of them did.

A bit of the old and the new could be seen in my Advanced Civil Procedure class as well. Tom Shriner, my co-teacher, and I proceeded synchronously, as we learned to say. We met with the class every Monday and Wednesday at 9 a.m., as we have for 15 years, though now via Microsoft Teams. It proved to be scarcely more difficult for Tom and me to interrupt one another online than it had been in person. The new? Engendering class discussion, or at any rate questions, became both harder and easier. Students were more reluctant to engage in a back-and-forth or to break into the conversation than they would have been to raise a hand in a classroom.

Yet the “meeting chat” function enabled students to ask questions or exchange relevant information in real time. It was not a model of best practices for distance learning, and I did not match the skill of a number of creative faculty colleagues, but we made it through. Importantly, what we had found sufficient for ourselves the first week did not satisfy us as time went on. We sought to learn and improve.

Perhaps this effort—to strive, to seek, to find, and not to yield, if I may borrow Tennyson’s words—is what changed least of all. I have occasionally written to students about the importance of habits. Here’s what I said in my beginning-of-semester letter to them this past January:

Whether or not it is your intention to do so, this coming semester, in your earliest days in the legal profession, you will be developing habits that, for better or worse, will help form you long after the word “future” has been dropped from the description of you as a “Marquette lawyer.” These habits involve your approach to reading the law, the sorts of conversations that you have with friends and colleagues in the profession, whether you make productive use of small openings in your day and schedule, and the extent to which you have interests—a life—beyond the legal profession. Relying on no perfection of my own but repeating the same advice that I give myself, I encourage you to make them *good* habits.

I then closed the letter with this simple exhortation: “Let’s make this a great semester together.”

We did not meet that standard in all respects. The relocation of classes online, the requirement of new technologies, and the closure of Eckstein Hall were only part of the challenge for some members of our community. Isolation, medical concerns for themselves or their loved ones, and uncertainty about the future weighed on many of our students. At the same time, as I said to them in one of my emails, my colleagues and I could still see their mutual care and concern for one another. “You Are Marquette,” I told them, even in these difficult and distant times. I am so proud and grateful for many things these past several months, but none professionally more than the way our students supported one another. In that sense, it *was* a great semester.

Throughout this time, we moved forward on schedule with this issue of the *Marquette Lawyer*. We hope that you enjoy it.

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