

## FROM THE PODIUM

Joseph D. Kearney

### Investiture of Hon. Timothy Dugan

Governor Scott K. Walker recently appointed the Hon. Timothy Dugan, L'78, to the Wisconsin Court of Appeals. Dean Joseph D. Kearney was among the speakers at the investiture at the Milwaukee County Courthouse on March 30, 2017.

**B**e careful with Tim Dugan: he comes from the Marquette University Law School Class of 1978. A member of the class, urged on by others, once held a blade near my throat. My provocation? Showing up, at the group's 30-year reunion at Mark and Julie Darnieder's house, wearing a tie. Apparently, they had made a pact. "Justice" was swift. A scissors was produced—I said only that it was a *blade*—and my tie cut off. Admittedly, I promptly received this very nice blue and gold tie from Mark Darnieder—to be worn only after departure. I also have here my erstwhile tie, which I learned just this week my associate dean received as a sort of souvenir.

Why do I relate this? For starters, it reflects a point that I made in this courtroom some 14 years ago, in delivering the Milwaukee Bar Association's Memorial Address. "Out of the ould fields must spring and grow the new corne," I said, borrowing from the great jurist, Edward Coke, in 1600 (who himself leaned on Chaucer). That, three decades after graduation, the class of 1978 felt it necessary ritualistically to slay Professor Jim Ghiardi, himself of our class of 1942—for that's really what the tie cutting was all about—reflects just how much they were products of the "ould fields." To be sure, they knew better than to touch Professor Ghiardi, even in his emeritus years: And it was a *gesture*, really. In fact, these Marquette lawyers know just how much they took after Professor Ghiardi—and, with the passage of years, they know what a compliment that is.



Judge Tim Dugan, fourth from right (including the baby), with members of his family on the occasion of his investiture as a judge of the Wisconsin Court of Appeals.

For another thing, the story reflects how much time we spend with—and how much we learn from—our peers. The class of 1978 did some great things together—as I remind myself each day when I enter my office in Eckstein Hall, where a plaque remembers the class. So, when Judge Dugan and I spoke recently, he recalled especially his law school classmates—including Jack Miller (now in Alaska) and Julie Darnieder and others with whom he raised funds so that they could go to a moot court competition in New York City, as well as law school classmates with whom he participated in the Marquette Law School Project Outreach Program on Saturdays.

And in this there is a large truth. I noted it to students at the beginning of this semester, borrowing (always borrowing) from what I had heard in this room a few years ago in Tom Shriner's remarks at another annual memorial service: Where do we learn

things? “Almost always from other lawyers,” Tom said, “who tell us or show us by their own conduct how to pick up that new knowledge that we need to be good lawyers.” This is true of judges as well: Tim Dugan has learned an extraordinary amount from his peers during his decades on the trial bench—or even already on the court of appeals.

Even as we look ahead, it is useful to recall the past. To continue (and conclude) with my theme of the fields: A few years ago, I heard

another member of the class of 1978, Jim DeJong, refer to “the law of the harvest—don’t decide to plant a seed on Friday and expect to harvest on Monday.” Wise counsel, indeed. Tim Dugan planted seeds many years ago, in law school, in private practice, and on the trial bench. We are fortunate for his interest in harvesting the crops, for society’s common storehouse, through his work on the Wisconsin Court of Appeals. My congratulations, and thanks, to Judge Dugan. ■

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## Chief Justice Patience Drake Roggensack

# Hallows Lecture: Tough Talk and the Institutional Legitimacy of Our Courts

On March 7, 2017, the Hon. Patience Drake Roggensack, Chief Justice of the Wisconsin Supreme Court, delivered Marquette Law School’s annual Hallows Lecture. The lecture remembers E. Harold Hallows, a faculty member at the Law School (while a lawyer in Milwaukee) from 1930 to 1958 and then a member of the Wisconsin Supreme Court for 16 years, including service as the Court’s chief justice from 1968 until his death in 1974. The following is an excerpted and edited version of Chief Justice Roggensack’s lecture.

**I**t is a distinct honor to appear before you today and to deliver this year’s Hallows Lecture. My hope is to start what I believe to be a necessary public conversation about a rising challenge to the institutional legitimacy of our courts, state and federal.

As has often been said, courts have neither the purse nor the sword. Nevertheless, they have been able to serve as an independent branch of government, in part because the public has had confidence in court decisions. Stated otherwise, public confidence in our courts contributes to institutional legitimacy. Institutional legitimacy is also supported by the necessary decision-making role that courts play in our tripartite, democratic form of government.

Institutional legitimacy is critical to the effectiveness of the judicial branch of government because voluntary compliance with court decisions is at the foundation of judicial authority. It is also critical to peaceful dispute resolution in our democratic system of government. ▶▶



Chief Justice Patience Drake Roggensack