

located in the western part of the United States. Personally, I think of the Native People as conquered and living under the thumb of their conquerors, and I remind you of the important role law played in this.

As for the slaves, they were freed by the Civil War and by amendments to the United States Constitution in the 1860s, and today the descendants of the slaves—known as Negroes, then as blacks, then in the present as African Americans—have the rights and privileges of white citizens. A man who identifies as African American is our president. But still, the average African American is much poorer than the average white American, and the majority of African Americans live in older, rundown parts of the cities. Political equality, in other words, has not brought socioeconomic equality along with it. One of the keys to this, even in the present, is that African Americans were once defined by the law as property and also subjugated by law.

Some factories, meanwhile, are still operating, but the overall scene is quite different from what it once was. Much of American industry has closed down or moved to foreign countries where labor is cheap, and the American economy is now more of a service

economy than a manufacturing economy. Organized labor is in decline, and membership in unions is much smaller than in the past. Starting in the days when industrial capitalism was at its peak, workers were never able to acquire equal bargaining power. Disadvantaged by this inequality, the largest unions rarely spoke of the struggle between “labor” and “capital” and focused instead on more modest goals such as incrementally higher wages, better job security, improved working conditions, and collective bargaining. I assign law a major role in these developments.

I’ve tried with my three illustrations to demonstrate how one might approach American legal history. I’ve cast my approach as an exploration of socio-legal dominance in context. In employing this approach, I try to avoid being unduly reductive, and I disdain claims and even implications of determinism. But still, I insist that (1) law is a product of and contributor to a given context, (2) law tends to especially aid those with power, and (3) law, in general, is best conceptualized as socio-legal in nature. If we are able to grasp these matters while considering the past, we are more likely to appreciate them in the present. ■

Joseph D. Kearney

Remarks at the Investiture of Circuit Judge Lindsey Grady

On August 17, 2012, Dean Joseph D. Kearney spoke at the investiture of Lindsey Grady, L’00, as a judge of the Milwaukee County Circuit Court. The court session occurred in the ceremonial courtroom of the Milwaukee County Courthouse.



Liam and Lucy Grady have the right spirit at the judicial investiture of their mother, Lindsey Grady (Chief Judge Jeffrey A. Kremers is in the background).

Justice Bradley, Chief Judge Kremers, and May It Please the Court. When Lindsey Grady (or Lindsey Canonie, as she then was) and I first encountered one another, it is hard to say who was the more inexperienced—or, if I may be candid, the more ignorant. This was the spring of 1998. On Lindsey’s side of the argument, if you will, she was a first-year law student, enrolled in civil procedure. That makes for a rather powerful case: a first-year law student, let us stipulate, does not know much. But my own claim is also strong: I had never taught

civil procedure before. Indeed, as a first-year law professor, I knew rather little myself.

We muddled through together. Then and since, no doubt like Judge Grady, I have learned a number of things, some of which perhaps I appreciated when my teaching began, but not so strongly as is the case now. Permit me to note two of those things that strike me as especially relevant today.

The first is the great tradition of which both Judge Grady and I are heirs. Even just in that first year in Milwaukee, Dean Howard B. Eisenberg had introduced me to Judge Pat Sheedy, then chief judge of this court and a Marquette lawyer, class of 1948, an exemplar of both Marquette and Wisconsin legal tradition.

But how much more I have learned about that tradition as the years have gone on. Thus, in 2003, the first time that I spoke in this courtroom, as I delivered the address at the Milwaukee Bar Association's annual Memorial Service, I spoke of many, including Judge George Burns, a Marquette lawyer, of our class of 1953. He was, as many of you here know, an especially well-regarded Milwaukee County judge.

This led me also to learn of his father, the late George Burns, of the Marquette Law School class of 1914. He was not a judge, but he practiced law in Milwaukee for 62 years. And the 1914 class picture, which today hangs just outside my office, shows Mr. Burns next to his classmate, one Francis X. Swietlik. This latter man had so much regard for the importance of the local judiciary that he left the Marquette Law School deanship to become a Milwaukee County judge. Please know that Judge Swietlik had served as dean for 19 years before he made that move. So I am not making any announcement here that I will stand for the next vacancy on this court.

These are meaningful people to me—from those I have known to those I have learned of by listening to others tell of them. Whether from Janine Geske, another great Marquette lawyer who served on this court, or Tom Shriner, not a Marquetter but a person who has served the bar here so well, both of whom spoke at this year's memorial service, or Tom Hammer, a Marquette lawyer and Marquette law professor much involved in the work of this court, I have learned about the great tradition of the courts in Milwaukee County and, more specifically, the people who have judged and practiced in them. To have one of my former students now become a judge is both humbling and inspiring. Judge Grady must help to continue the tradi-

tion in her new capacity. I have no doubt that she will, in part because I know that she, too, remains committed to learning.

The second thing that I have learned—or had strongly emphasized to me—over the past decade and a half is the importance of family. Lindsey Canonie gave me a small sense of that as a law student. One day after class in 1998, she came up to me and said that her father would be in town later in the week; she wondered whether it would be all right if he sat in on our next civil procedure class. She must have seen the terror in my eyes: she quickly reassured me that he was not a lawyer but, rather, a businessman. I mean, it was one thing for me to muddle through, as a first-year law professor, with first-year law students; but an experienced practicing lawyer's being in the room with us would have been, well, unhelpful.

So I invited Tony Canonie in but, nonetheless, kept a close eye on him. He was a model guest, appearing to smile at all my jokes. (That is the only criterion for being a model guest or audience, I would emphasize to you.) Indeed, he sent me a very nice note afterward: I believe that I made sure that it ended up in Dean Eisenberg's hands. Perhaps I figured that it would be impressive because Mr. Canonie, like Howard, is a great fan of the Chicago Cubs (I regret to say).

The relevant point was how impressed I was that Lindsey wanted her father to be a small part of her Marquette Law School experience. Now that I know her so much better, I am scarcely surprised. Not only her husband, Bill, a Marquette lawyer himself, but their children, Lucy and Liam, were all great participants in her campaign for judge. I know this personally because one evening I ran into Bill, Lucy, and Liam on the campaign trail, as I was accompanying my wife, Anne Berleman Kearney, to an event in her own campaign for the Whitefish Bay School Board (mercifully, unopposed this time). I thought them maybe a closer family (as our children were at home), but, looking back, I realize that, in fact, it was that Bill and Lindsey's children are younger—and thus less able to exercise free will.

In all events, to conclude this second point (and my remarks), it is well to be part of a great tradition—that of the Marquette Law School or of the Milwaukee County Circuit Court. But there is no substitute for being part of a great family. Warm congratulations not only to Judge Lindsey Grady but also to the entire Canonie and Grady families. This is a great day for them—and for all of us. Thank you. ■