

Joseph D. Kearney

Celebrating Professor Michael McChrystal

The end of this past academic year included a faculty gathering. In his remarks on the occasion, Dean Joseph D. Kearney noted some changes that the Law School had seen over the course of the year. The following excerpt of his remarks speaks to one of them.

Let me close with the most important change. This year saw Mike McChrystal teaching his final class at the Law School. He took the title “emeritus” a year or more ago, but he taught through the fall. In the great Marquette Law School tradition, his final class was Torts.

You all appreciate that I have been Mike’s student: That is, Mike has steered me in a lot of directions over the years that I’ve been dean. The most famous among them seems to me to have been adequately summed up when I introduced Mike to Ray Eckstein as the guy “who got me into all this trouble” (and Ray Eckstein to Mike as “the guy who got me out of all this trouble”). Mike’s the one as well who wrote me when Mike Gousha announced his departure from WTMJ, one of the city’s television news stations, and told me that we should hire him. Mike M. asked whether I knew Mike G., to which I said, “No. Do you?” His answer was, likewise, “No.” It was an inauspicious beginning, but we figured it out. Mike McChrystal’s also the one who, after my successfully avoiding for quite some time Mike Gousha’s too-subtle suggestions that we should create a poll, suggested that I should get serious about it. Most

years I think that, too, to have been good counsel. There are other examples—less prominent, perhaps, but truly too numerous to mention.

I was curious yesterday as to when this all began. I knew it not to have been until I became dean, but how quickly thereupon did I fall under Mike’s influence, I wondered. I did a little research last night, and apparently it did not take long: Here is part of an email that I received from Mike in the first hour of my first workday as dean. (So this is July 1, 2003.) Among other things, it said, “Please count on me to contribute in any way you think desirable, and please don’t interpret my lack of

aggression in seeking you out to express my views as either a lack of interest or a lack of views.”

Lack of aggression? I think that to be true, but only because Mike is not so much aggressive as he is *artful*. In fact, the very next sentence of the note (admittedly, a new paragraph, but even so, it’s the next sentence) said the following: “By the way, we should quickly move to provide *some* desk outlets in *every* classroom, lest we continue to discourage laptop use and interfere with student learning.” I fell for it. That very day, working into the evening, I sent Carol Dufek, our building manager, a note, asking, “Can you give



Professor Michael K. McChrystal teaching Torts (2017)

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me a report on our classrooms and the extent to which they have desk outlets into which computers can be plugged?”

Mike’s strategy was to engage me on so many fronts that I could scarcely keep up. The next morning—so we’re only on July 2, 2003, but I promise not to take you through every ensuing

day of the past 16 years—I received a note from Mike. He reminded me that he had previously buttonholed me on the stairs and that, the next day, Keith Sellen, director of the Office of Lawyer Regulation, would be visiting his class and that we’d all be having lunch together. I still remember that

lunch (and Keith Sellen is still the OLR director, which I’ll take as some evidence that I haven’t stayed in office too long). Nonetheless, I might have still saved myself, more generally, but I see that I made a crucial mistake at the end of that first week. On July 6, I said to Mike by email, “Thanks for suggesting (and arranging) lunch with Keith Sellen. It was a good idea. [And here’s where the real mistake comes in.] Keep ’em coming.”

By July 11, we were exchanging documents about space in the Law School. But Mike was not just about facilities or teaching even in that two-week span. He began designing a colloquium that the Law School might (and ultimately did) host concerning tax policy in Wisconsin—a sort of forerunner to our public policy initiative, one might say, looking back. He left just enough uncertainty in his notes to me that (again, looking back, with the benefit of hindsight) I might be drawn into engaging with him on the substance of the matter.

I come back to the artfulness of it all. I once asked Mike how he could get an entire semester out of a course—Torts—that could be reduced to four words (*duty, breach, causation, damages*) and perhaps even one (*reasonableness*). I thought it almost a showstopper of a point. Without blinking or hesitating, Mike simply said, “It takes great art, Joe. Great art.” What does one say to that? And is there any art that one might invoke in response?



Professor McChrystal, a key player in the Eckstein Hall project, stands near the construction site in 2008.

In that last regard: I had occasion last week to say a few words at an event where Justice Anthony Kennedy was part of the keynote conversation later in the program. I made an observation about the fraying of our society and drew upon a poem written a century ago, with the line, “Things fall apart; the centre cannot hold,” attributing it simply to “the Irish poet.” Justice Kennedy, rather deftly, later referred to my remarks, correctly attributing the quotation to W. B. Yeats, and made a point of his own by quoting later lines in the poem: “The best lack all conviction, while the worst / Are full of passionate intensity.” It seemed to me good judgment, in the context, that neither of us used the line in between, “Mere anarchy is loosed upon the world,” but let’s leave that aside.

I mention this now because I associate Mike somewhat with Yeats. Mike’s grandfather came from Ireland—indeed, from County Sligo, “under Ben Bulben,” as they say (and he taught history at Marquette University, in fact, but that’s another story). So I wondered this weekend what line of Yeats might seem most appropriate *this* evening. There are so many. For example, given Mike’s unreasonable affection for Traverse City, Michigan, and his house there, perhaps it’s “The Lake Isle of Innisfree.” You know the opening lines: “I will arise and go now, and go to Innisfree, / And a small cabin build there, of clay and wattle made.” Yet, in fact, as much time as Mike might spend up north, he’s already demonstrated this semester that he’s scarcely leaving us, with respect to strategic and budget planning, counseling on university politics, and much else. So that also ruled out Yeats’s question, which I might have asked self-pityingly, “Who will go drive with Fergus now . . . ?” Some might think of our collaboration, as is said in “Easter 1916,” “A terrible beauty is born,” but that would be the rare person on the faculty, I hope. “The Circus Animals’ Desertion” almost certainly would have been a bad gambit. “That is no country for old men” seemed in poor taste, even if it was counterbalanced by the more accurate title of another poem, “Men Improve with the Years.”

The possibilities are almost endless, but ultimately, and rather simply, I settled on the two closing lines from one of

Yeats’s very late poems, “The Municipal Gallery Revisited.” It’s a wonderful poem, with Yeats walking through the municipal gallery and looking at portraits of people whom he had known in bygone times. Lady Gregory, Hugh Lane, J. M. Synge—they’re all there. You may imagine the poet sitting in front of the paintings. In any event, here’s the final stanza (with my emphasis):

“And here’s John Synge himself, that rooted man,
‘Forgetting human words,’ a grave deep face.
You that would judge me, do not judge alone
This book or that, come to this hallowed place
Where my friends’ portraits hang and look thereon;
Ireland’s history in their lineaments trace;
*Think where man’s glory most begins and ends,
And say my glory was I had such friends.*”

I think that to be case with Mike and, truly, with all of you more generally.

Lest I end on an oversentimental note, let me present something to Mike. We will want him to think of us even when he’s not in Eckstein Hall. So, as on some past occasions with retiring faculty, we have a framed set of photographs of the three homes of Marquette University Law School: Mackie Mansion, Sensenbrenner Hall, and Eckstein Hall. Typically we note the years of service, beginning and end, but that seemed doubly inadvisable here. There’s the small matter of no one’s really knowing how Mike went from assistant to the dean, upon graduation, in 1975, to a member of the faculty (although we may be sure that that, too, took “great art,” perhaps even more than any other of his accomplishments). And there’s also the fact, to reiterate an important point, that we really don’t think Mike to be going away. So, if I may, the plaque reads, “Presented in 2019 to Professor Michael K. McChrystal / By His Faculty Colleagues and Dean Joseph D. Kearney / With Gratitude for Many Decades of Service.” Immense thanks to Mike for what’s come and gone and what’s yet to come, and thanks to all of you for being here this evening. ■

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