

Letting Time Hang Heavy on Our Hands

Several years ago, I noticed a guest column, in the *New York Times* or the like, by the author of a successful new book. The headline promised an essay describing how the author had “procrastinated her way” to writing a best-seller. I took it that the column would describe the diversions, side conversations, interruptions, detours taken, apparent self-indulgences embraced, and numerous other seemingly inapt or collateral things that, looking back, the writer now regarded as important parts of her journey to success.

Admittedly, some of my account is conjectural, as in fact I did not read the article. Perhaps I meant to do so but procrastinated. More likely, I regarded myself as too busy with work to pause to read the column itself.

In any event, the matter is on my mind as we have resumed this year some of the more discretionary or, in a sense, ancillary events at the Law School. During the COVID disruptions, there were fewer outside-the-classroom exchanges—from unplanned conversations after class to distinguished lectures—at Marquette University Law School.

Engaging in these things may be not so much to procrastinate as to be more open to collateral opportunities. Yet under either construction, we are involved in something other than the pressing task at hand. In this general regard, I recently came upon a quotation from John Butler Yeats, father of the poet and an artist himself, explaining his view that happiness and growth are possible “only when time hangs heavy on our hands.”

Whether that it is true generally, I believe it to be the case in terms of appreciating a great law magazine such as the *Marquette Lawyer*. One



would find it hard (I should think) to bill the time spent in reading the magazine or even to think that reading it is a very efficient way of becoming more accomplished in one’s own practice.

At the same time, there is no doubt that we might all learn a good deal from reading this latest issue of the *Marquette Lawyer*. The topics covered are varied and examined in some depth. The exploration of the challenging work of public defenders in Wisconsin (pp. 4–23), which may be regarded as a case study, offers both glimpses into their daily work and insights into the larger system. As a reader, you will draw your own conclusions, if any, but I myself do not hesitate to say that I emerge with reinforced great admiration for the work of public defenders.

The 2022 Nies Lecture on Intellectual Property (pp. 24–33), by Professor Jessica Silbey of Boston University, is a thoughtful take, based on empirical work,

of what might be encompassed, in the modern, digital age, within Congress’s constitutional power “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” To say that Professor Silbey offers, as progress, something different from the traditional take of intellectual property legal doctrine scarcely requires a spoiler alert.

There are matters beyond these. The separate pieces (spanning pp. 34–47) of Marquette University’s Professor Chad M. Oldfather and Columbia University’s Professor Thomas W. Merrill engage with the law of different sovereigns (Wisconsin and the United States, respectively) but share a broadly similar substantive focus (on separation of powers) and, one may say, a carefully provocative bent. And the excerpts (pp. 48–54) of our annual Posner Pro Bono Exchange, between the Law School’s Mike Gousha and Eve Runyon, president and CEO of the Pro Bono Institute in Washington, D.C., are informative and inspiring.

Would it be an indulgence to read these things? Perhaps. Would it aid or abet—or, if you prefer, would it help—you in procrastinating? I cannot say, as I do not know what reading this magazine might take you away from (just as I do not know where it might eventually lead you). Would you learn things about the law and society? Unquestionably yes. Whatever your motivation, I respectfully invite you to let time hang heavy on your hands, if you will, and to spend some of it, with us, in these pages.

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