

Collecting Exemplars, or Building One's Roster

Among the more unusual-sounding suggestions that Tom Shriner and I make in the courses that we teach together is that the students should “collect judges.” Judges are readily at hand on the pages of the textbooks, such as in our Federal Courts course, yet we mean much more than studying the words of their opinions. Indeed, we intend the encouragement more generally than that one phrasing may suggest: The point is that we may learn so much by examining, critically if also sympathetically, the human examples and models, both of judges and lawyers, available to us and then “adding their experiences to our roster” (for another articulation). Tom himself has practiced law in Milwaukee for more than 50 years and, as a part-time faculty member, has taught a course with me every semester for the past 20 years, and my own “collection” or the Law School’s “roster” has been the stronger for our collaboration.

Against this backdrop, it was striking to me this past fall when on Seventh Circuit Day (as we at Marquette University Law School came to call September 25, 2025), at a session for the bar featuring several judges, both my faculty colleague Chad M. Oldfather and one of the participating judges, the Hon. Frank H. Easterbrook, invoked the late Judge Henry Friendly. Professor Oldfather, as moderator, mentioned one of Judge Friendly’s statements concerning judges, and Judge Easterbrook maintained that no one could read too much Henry Friendly. Judge Easterbrook particularly encouraged engaging with Friendly’s 1967 book, *Benchmarks*.

The point resonated with me. In Federal Courts, we note, among his other contributions, one of Friendly’s articles, “In Praise of *Erie*—and of the New Federal Common Law,” which appeared in the 1963 *New York University Law Review* (and, as revised, in *Benchmarks*). One can get almost an entire course out of this sentence by Friendly: “The complementary concepts—that federal courts must follow state decisions on matters of substantive law appropriately cognizable by the states whereas state courts must follow federal decisions on subjects within national legislative power where Congress has so directed or the basic scheme of the Constitution demands—seem so beautifully simple, and so simply beautiful, that we must wonder why a century and a half was needed to discover them, and must wonder even more why anyone should want to shy away once the discovery was made.”

But let me not get too far afield. It is the “collecting” point that is my interest here. For many years, Marquette Law School’s roster has included Judge Diane S. Sykes, L’84, whose illustrious career we celebrated on Seventh Circuit Day and whom we feature here (pp. 8–22). Like Judge Easterbrook, Judges Michael B. Brennan and Michael Y. Scudder were also with us on Seventh Circuit Day, as all of them had been on a number of previous occasions. And we were glad that day to



Dean Kearney and Professor Shriner before a class session of Advanced Civil Procedure in 2022.

welcome to the Law School, scarcely for the first time, Rebecca Taibleson, the then-nominated and since-confirmed successor to Judge Sykes on the Seventh Circuit (the latter having assumed senior status less than a week after September 25, because how could one top Seventh Circuit Day?).

This brings me, more directly now, to this issue of the *Marquette Lawyer*. We have collected seven faculty who offer a one-page essay each on how they have brought Judge Sykes’s writings into their courses (pp. 23–29). Other colleagues, such as Professors Christine Kexel Chabot (pp. 34–36) and Kali N. Murray (pp. 52–54), are also here for you to meet: the former describes her research on Founding-era precedents with respect to presidential authority, while the latter relates her scholarship concerning trademark practices in the larger context of American history. John D. Johnson also provides glimpses into his work as a key member of the Law School’s Lubar Center for Public Policy Research and Civic Education (pp. 44–51).

More could be said about the voices we collect here. Some are those of other colleagues (e.g., Assistant Dean Anna Fodor with a behind-the-scenes glimpse of Seventh Circuit Day, pp. 32–33) or visiting academics (e.g., Professor Rebecca Tushnet, whose Nies Lecture on Intellectual Property is available on pp. 37–43). Others, more unusually, are famous litigants (Tinker to Obergefell to House may be scanned on pp. 4–5). And almost every day in Eckstein Hall, one finds practicing lawyers spending time with us, such as the ones from “outstate” Wisconsin mentioned on p. 6. When I mentioned to a colleague the “collecting people” theme of this column, she said, “The way Louie Andrew did.” I was especially glad to make that association, and perhaps the remembrance of Louie toward the back of the issue (pp. 57–58) will help communicate the connection.

We invite you to read on and encounter this issue’s collection of thoughtful and interesting individuals. ■

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