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Marquette University Law School Hooding Ceremony

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MARQUETTE UNIVERSITY LAW SCHOOL HOODING CEREMONY

MILWAUKEE THEATRE
MILWAUKEE, WISCONSIN – MAY 19, 2012

REMARKS OF HON. DIANE S. SYKES

JUDGE, U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Introduced by Dean Joseph D. Kearney

It is a great privilege for me, on behalf of Marquette University Law School, to welcome and introduce our commencement speaker, the Hon. Diane Sykes. Let me get immediately to the heart of it. When Judge Sykes received an all-University alumni award from Marquette several years ago, for professional achievement, she began her remarks with this statement, which inspired me then and has remained with me since: "I am so proud to be a Marquette lawyer."

To be sure, the pride is ours as well, to be associated with Judge Sykes, a member of our Class of 1984 and the holder of a bachelor's degree in journalism from Northwestern University. Upon graduation from Marquette, she clerked at the federal district court in Milwaukee and then engaged in the private practice of law for seven years. She became Judge Sykes in 1992, upon her election to the Milwaukee County Circuit Court. In 1999, Justice Sykes became the correct appellation, as she joined the Wisconsin Supreme Court. There she served for five years, earning respect from the bench, bar, and broader community for her impressive and professional work with her colleagues on the Court and her service to the people of Wisconsin; this respect was shared across the entire political and jurisprudential spectrum.

Since 2004, it has been Judge Sykes again, as she was appointed by President Bush, with the advice and consent of the United States Senate, to a seat on the United States Court of Appeals for the Seventh Circuit, with jurisdiction (right below the U.S. Supreme Court) over Illinois, Indiana, and Wisconsin. She has national stature, being well regarded across the country, but she always makes time for her alma mater, from delivering our Hallows Lecture several years ago to serving on the Jenkins Honors Moot Court Final Round panel (on more than one occasion) to less well-publicized but no less appreciated service.

Please welcome a great Marquette lawyer, the Hon. Diane Sykes.

Dean Kearney, distinguished members of the faculty, family and friends of the graduates, thank you for the invitation to join you this evening to celebrate the Marquette Law School Class of 2012. As a fellow Marquette lawyer—Class of 1984—I am honored to be the first to congratulate the newest Marquette lawyers and to warmly welcome you

to membership in the profession that we now share. This is a pivotal moment for you, as it was for me when I received my Marquette J.D. You've reached an impressive academic milestone by dint of your commitment and hard work—serious and sustained intellectual effort guided by gifted professors and helped by the love and support of your families. A law degree signifies high scholarly achievement; your families are immensely proud, and you should be too.

But there's more to it than that, for the study of law is not just an intellectual discipline but a process of formation—and especially so at Marquette, where the study of law is informed by the University's Catholic and Jesuit identity. This was true of Marquette Law School when I was a student, and from what I have seen at the Law School lately, it is all the more true today. The four words etched in stone in that beautiful fireplace in the magnificent Aitken Reading Room—Excellence, Faith, Leadership, and Service—are abiding aspects of a Marquette legal education. They are *foundational* virtues, infused in the program of study the Law School imparts to its students. They are also *aspirational* virtues in that Marquette lawyers are encouraged to carry them into the practice of law when they leave.

I have had the great pleasure of working with some of you as interns in my chambers and have gotten to know others in occasional guest lectures, in seminar discussions, at the moot-court competition, and at special ceremonies and other events—both in Sensenbrenner Hall and in the Law School's extraordinary new home. I hardly need to remind you (but I will anyway) that you are the last group of students to have experienced the charms and challenges of Sensenbrenner Hall and the first to inaugurate the quite spectacular Eckstein Hall. The old building served generations of Marquette lawyers well; it is where, for example, the late Dean Robert Boden welcomed my classmates and me in 1981. But it could not support the continuity of the Law School's core teaching mission, much less accommodate its growth or its development as a forum for civil discourse on the important legal and policy issues of the day. In Eckstein Hall, the traditional mission of the Law School has room to grow; this exceptional new building makes the Law School's enhanced mission possible.

In this sense you are a transitional class of Marquette lawyers, a bridge between the best of the old Law School and the promise of the new. There is a metaphor in this. The practice of law requires both continuity and growth—a deep understanding of legal principles born of reason, tradition, and experience and tested by time, but also a mind alert to present needs and the future consequences of public and private

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legal decisions. I know that your time at Marquette Law School has helped you appreciate this. You have mastered the procedural and substantive law that you need to succeed as members of the profession. But you have also been encouraged to contemplate how the law is rightly deployed in the service of others, in the promotion of human dignity, and in the pursuit of the common good. I have no doubt that every one of you is capable of first-rate legal work. I am also confident that you have internalized the teaching that ours is fundamentally a service profession, and our work in the law should always be grounded in personal integrity, oriented toward a search for the truth, and aimed at the promotion of human flourishing.

Twenty-eight years ago I sat where you sit, waiting for my turn to shake hands with the Dean and receive my diploma. I would soon begin work as a law clerk to Judge Terence Evans of the United States District Court for the Eastern District of Wisconsin. Judge Evans was himself a proud Marquette lawyer—Class of 1967—and he lived out the values I have just mentioned in a unique and memorable way. In 1995 he was elevated to the Seventh Circuit, and in 2004—twenty years after I began my clerkship—I was given the rare privilege of joining “my judge” as a colleague on the court. Terry Evans died last summer of a sudden illness. Permit me a few minutes to remember him. He had an important influence on the law and our legal community, and he always credited Marquette for what he achieved.

Terry Evans grew up in very modest circumstances. He was raised by his mother in a rented upper flat in Milwaukee’s working-class Riverwest neighborhood. He was an unremarkable student at Riverside High School but also a track star, and he enrolled at Marquette University on a track scholarship. After graduation he married his college sweetheart, Joan, and taught history at North Division High School. He was pretty much an accidental law student; he took the entrance exam on a whim because Joan’s brother was doing so. But he found his purpose at Marquette Law School and did well, attributing his success to the Law School’s supportive environment. He later said that “Marquette held my hand for that first year.”¹ He landed a clerkship at the Wisconsin Supreme Court in the chambers of Justice Horace Wilkie. After clerking he returned to Milwaukee and did a brief stint in the District Attorney’s office before moving to private practice. During this

1. *Marquette Lawyers on the Seventh Circuit*, MARQ. LAW., Spring 2005, at 4, 6.

time, he and Joan were blessed with three children. In 1974—at just thirty-four years old—he was appointed to the state trial bench in Milwaukee County. Not quite six years later, he was confirmed to the federal bench. Thus began a remarkable and influential tenure as a federal judge.

For thirty-two years—sixteen on the district court and another sixteen on the Seventh Circuit—Terry shared his wit, his wisdom, and his warmth, both on the bench and off. He will be best remembered for his work as an appellate judge, but some of us were privileged to practice before him in the district court. He was a superb trial judge. We generally think of judging as dispassionate and detached, but in Terry's hands it was a decidedly human endeavor. He was genuinely interested in *the people* in his courtroom as well as their cases. He deeply understood Milwaukee and Wisconsin—the people, traditions, and institutions of our city and state. (This included a vast repository of knowledge about our sports franchises.) He had a pragmatic approach to deciding cases and a disarming sense of humor that made him a favorite of everyone who came into his court. He took it as part of his job to give guidance and direction to the lawyers—especially the young lawyers—who appeared in his court, just as he had been helped by the training he received at Marquette. Many of his “teachable moments” would take the form of a funny aside, which made the medicine easier to take. Here is a famous example:

In a decision denying a routine motion for leave to amend a complaint, Judge Evans dropped the following footnote (and I will omit the name of the offending law firm to protect the innocent):

(1) The story of the creation of the world is told in the book [of] Genesis in 400 words; (2) The world's greatest moral code, the Ten Commandments, contains only 279 words; (3) Lincoln's immortal Gettysburg address is but 266 words in length; (4) The Declaration of Independence required only 1,321 words to establish for the world a new concept of freedom. Together, the four contain a mere 2,266 words. On this routine motion to amend a civil complaint, [the law firm that shall remain nameless] has filed a brief . . . that contains approximately 41,596 words spread over an agonizing 124 pages. In this case, the term . . . “brief” is obviously a misnomer.²

2. Marson v. Jones & Laughlin Steel Corp., 87 F.R.D 151, 152 n.* (E.D. Wis. 1980).

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When Terry arrived at the Seventh Circuit, he brought his talent as a storyteller and his capacity for writing clear, pragmatic opinions. He loved to sprinkle his opinions with sports trivia, music lyrics, and movie references. He would get the legal job done, too, but he did it with such straightforward reasoning and clean writing that he made the law accessible to everyone. One newspaper columnist in Milwaukee described Terry's opinions this way:

[They were] not at all pretentious. He didn't try to solve all the world's ills in one fell sentence. He got to the nub of things and did it with rare intelligence and wit, . . . [and he] made them relevant to the masses.

. . . .

[He] left a very big and public mark. But he left lots of little ones, too.³

Terry Evans brought a practical wisdom to his work, and his humane approach to the law is well worth emulating. He understood that he couldn't solve all the big problems in the law and had the humility not to try. But through his commonsense brand of judging, he touched countless individual lives and made the law and our legal community better.

In 1971, three years after he finished his clerkship with Justice Wilkie, Terry stopped by to visit the justice on a trip to Madison. Justice Wilkie introduced him to his newest law clerk, for whom he had effusive praise. The justice described his new clerk as a "superstar" and "a very special law clerk indeed."⁴ That new law clerk was Howard Eisenberg, who also has a special claim on our gratitude as Marquette lawyers. As Dean of the Law School from 1995 until his untimely death in 2002—ten years ago next month—Howard Eisenberg provided visionary leadership and an inspiring example of what it means to put the law in the service of others and the common good. He revitalized the faculty, bringing in many of the outstanding and energetic teacher-scholars under whose direction you have learned the law. He reinvigorated the Law School's service mission, not just by what he *said* but by what he himself *did*, in the dozens of pro bono appointments he accepted from

3. Mike Nichols, *A Decent, Funny Guy—and a Great Judge*, JSONLINE (Aug. 13, 2011), <http://www.jsonline.com/news/opinion/127621543.html>.

4. Terence T. Evans, *In Memoriam Howard B. Eisenberg*, 86 MARQ. L. REV. 241, 241 (2002).

the state supreme court and the Seventh Circuit, and in his tireless work on community and court initiatives. He strengthened the academic quality of the student body. In this, as in other things in life, success breeds success—just look at the impressive group of new Marquette lawyers sitting in this hall. And as a Jewish dean of a Catholic law school, he embraced Marquette’s Jesuit mission—even going so far as to accompany Janine Geske and a group of local lawyers and judges on a retreat in the Dominican Republic just to see what Ignatian spirituality was all about. This included daily Mass. I can tell you, because I was there, that Howard was not just along for the ride; Marquette’s Jesuit ideals were important to him, and he was passionate about perpetuating them.

Howard Eisenberg was a transformational figure in the life of this Law School. Dean Kearney and the faculty have consciously built on his uplifting work. So it is right to remember him this evening. In a very real and substantial way, he has had an impact on your legal education. I commend his example to you. In the words of Professor Geske, Dean Eisenberg “called each one of us to a higher level of service, integrity, and excellence.”⁵ Or to use Howard’s own shorthand expression, he called on us to “do well and do good.”

I extend his call to you. I know you will answer it. Congratulations and welcome to the legal profession.

5. Janine P. Geske, *In Memoriam Howard B. Eisenberg*, 86 MARQ. L. REV. 394, 395 (2002).