Eckstein Hall Groundbreaking

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Authors
DEAN JOSEPH D. KEARNEY

Good afternoon. We are very grateful that all of you are here with us for this momentous event. It is my privilege as dean of the Law School to introduce our speakers this afternoon. Before I do so, I wish to acknowledge the presence of so many individuals who are important to this University and the larger community. We are honored to be joined by numerous trustees of Marquette University, by elected officials (including the Mayor of the City of Milwaukee, the Milwaukee County Executive, the City Attorney, and several aldermen), and by judges from various state and federal courts. We are grateful for your

* This is an edited transcript of the groundbreaking ceremony for Eckstein Hall, the future home of Marquette University Law School, which occurred on Tory Hill on the Marquette campus on May 22, 2008. Eckstein Hall will be a 200,000-square-foot building; it is expected to cost $85 million and to open in fall 2010. Tory Hill is at the northwest corner of the Marquette Interchange, the most prominent intersection in Wisconsin, in downtown Milwaukee where the highways from Chicago, Madison, and the North converge. The event honored not only Ray and Kay Eckstein for their $51 million gift to support the construction of the new building but also Joseph Zilber for his $30 million gift, five-sixths of which will support student scholarships.
presence as well as that of all others. Your being with us signifies the importance of the Law School to the University and of the University to this region. In short, on behalf of Marquette University, welcome, all.

We assemble today for the purpose of breaking ground on the new home of Marquette University Law School, which will be known as Ray and Kay Eckstein Hall. In the century since the Law School became part of Marquette University, only once have we built an entirely new law facility. This was well more than eight decades ago, a building now known as Sensenbrenner Hall. So we do not do this regularly.

Eckstein Hall will rise on this field, which is known as Tory Hill. It is a place that once formed part of a thriving immigrant community in Milwaukee, and this seems appropriate. In the words of Lord Edward Coke, the great seventeenth-century English jurist who himself echoed Chaucer in this regard, “Out of the ould fields must spring and grow the new corne.” We are thus conscious that we are part of the flow of history, both of the University’s and Milwaukee’s past and of the great traditions of Anglo-American law. In fact, we hope that Eckstein Hall will bear a tangible reminder of these traditions: we have requested that the City of Milwaukee assign us an address bearing the name “Michigan Street,” the historic street that decades ago ran along where the parking lot behind you now stands, and the number “1215,” to recognize the date when King John, at Runnymede and under intense pressure, acceded to the rule of law known as the Magna Carta. All that will be required is favorable action by the city engineer’s office, Aldermen Bauman and Murphy and their colleagues on the Common Council, and Mayor Barrett—not that we would use this opportunity to lobby them.

Rather, I will introduce the various individuals who are together with me on stage. The first scarcely requires an introduction. Father Robert A. Wild is the twenty-second President of Marquette University, as he has been for the past thirteen years. He is, as this very gathering powerfully attests, advancing the University in so many ways, including through the Law School. He has appreciated the exquisite congruence between the undertakings of the Law School and the University’s mission of excellence, faith, leadership, and service. More specifically, with regard to this project, he has been there at every major turn, leading all of us cautiously yet expeditiously to this very ceremony and all that it signifies. Please join me in welcoming the President of Marquette University, Robert Wild of the Society of Jesus.
Thank you. I wish to welcome everyone to the future home of our new law school building. I really should say “Eckstein Hall.” Ray, thank you, and we thank Kay as well.

I have joked that this is a gathering of about 800 or so of Dean Kearney’s closest friends, but it certainly is a wide-ranging group. That is part of what we were hoping would happen, and here we are. We have students and faculty of the Law School present today. We have members of the larger university community who have been involved in this project and even have been responsible for major steps forward during the two years leading to this day. We have, certainly, an impressive array of community leaders. We have here lots of our alums—Marquette lawyers—and a variety of other members of the bar.

And, of course, we have, in the very first row right in front of me, Ray Eckstein and Joe Zilber. The gifts of these two gentlemen by any standard are unprecedented. I would ask Ray and Joe to please stand and be recognized. Kay Eckstein would be here as well if she possibly could. This is a team effort in the Eckstein family. I certainly thank you.

I thank a variety of others here for your leadership. And I thank all of you for agreeing to dig some dirt to help to get this important construction program underway. You may not have known (surprise, surprise!) that this is a money-saving effort to complete the entire excavation! We are going to dig the entire hall. So we have a great crew to help on this project and, as you see, plenty of shovels.

The group gathered here also includes the team of architects and builders who have designed Eckstein Hall, led most certainly by Ralph Jackson of the Boston firm of Shepley Bulfinch Richardson and Abbott and Julie Ledger of Opus North Corporation. That is the basic team that is moving this project forward, and I think that we will have an extraordinary building as the end result. So I would ask Ralph and Julie also to please stand and be recognized.

Three years ago when we were first talking of a new law facility, the conversation was met with much enthusiasm and, I will admit, a certain amount of doubt. For I said—and I said this publicly at one point—that we would have to raise the money predominantly from our law alumni and the broader legal community. And a number of people said, “It’s not going to happen.”

Well, I have to tell you, we have raised more than $66 million to date for this facility, led by, yes, the extraordinary Eckstein and Zilber gifts,
but including a variety of significant gifts from others as well—and, I might note, pretty much entirely from the legal community and our law alumni. True, we have some $19 million to go, but we feel a good degree of confidence that we can get from here to there. At the same time, I am not reluctant to say that we do need help on this, and I hope that those of you who are in a position to do so will choose to join forces on this project. That is our commercial for the day.

But today what we are primarily doing is to take, and to celebrate, that first essential step in realizing our hopes and dreams: actually beginning construction of the new law school building. Let me note that the total educational experience of our law students has been the top priority in how Dean Kearney and the law faculty have conceived of this facility. The needs of our students will be reflected in every detail from a common area for student and faculty discussion and debate to an attention-getting library that flows seamlessly on every floor into the rest of the building to classrooms that will spark engagement, even to a fitness center (yes, this is the law school of the twenty-first century). We are going to end up with a wonderful, extraordinary, world-class facility, which I really think is essential for delivering a Marquette legal education in this new century.

But we are not just about the J.D. degree, as important as that is. The needs of Milwaukee, of our broader region, and indeed of the wider world have also been a central part of our thinking. Our aim here is to create at Marquette a crossroads for the discussion and the debate of the most important issues of our times. The Zilber Forum within Eckstein Hall will offer a dynamic environment for community leaders to conduct research, to work with students, to further their own education.

You can see that emphasis reflected in the academic program that the Law School has been offering, reaching out with conferences on topics ranging from litigation and dispute resolution, to intellectual property law, to health and elder law, to sports law, and to law and popular culture. And then there are the various public service initiatives, from the expansion of the Marquette Volunteer Legal Clinic to the south side to a number of other innovative programs engaging students and others in pro bono initiatives.

We know from research, and from every natural instinct, that higher education has an enormous power to elevate intellectual debate, to transform communities, and to build opportunities for our fellow citizens. It is thus our hope, our dream, and, indeed, our expectation that the new law school building will serve as a magnet for the
discussion of the legal and social issues that affect our society and as a catalyst for action to address those issues.

Eckstein Hall thus will be a highly visible beacon of Marquette’s commitment to quality legal education and to building this community and this region in which we work and live. We are not committed to this simply because it seems a good idea or is something that will put Marquette on the map. We are committed to this ultimately, in the words of the great Jesuit phrase, *Ad Maiorem Dei Gloriam*—for the greater glory of God.

I thank all of you for demonstrating your belief in Marquette University and its possibilities by being with us today. This truly is a special moment in the history of our Law School and the history of our University. Thank you, and God bless all of you.

**Dean Kearney**

Thank you, Father Wild. We are joined today by the Honorable Shirley S. Abrahamson, Chief Justice of the Wisconsin Supreme Court. Chief Justice Abrahamson has served on the court for some thirty-two years, having been appointed by the Governor of Wisconsin in 1976 and having been three times elected by the people of Wisconsin to ten-year terms. She has an international reputation but has long taken the time to be a friend of Marquette Law School. For example, for several years the Chief served as an adjunct faculty member, commuting on the Badger Bus from Madison, even while on the Court, and more recently (in 2003) she was our Hallows Lecturer. I note, with deep gratitude, that this is the third time in the past four weeks that the Chief has been with us. It is my great privilege to ask you to welcome back to Marquette the Chief Justice of the Wisconsin Supreme Court, the Honorable Shirley Abrahamson.

**Chief Justice Shirley S. Abrahamson**

Thank you, Dean Kearney. Father Wild, Dean Kearney, Mr. Eckstein, Mr. Zilber, colleagues on the bench and in the bar, and friends. We come here today to break ground. In doing so, we celebrate the great past of this law school, and we anticipate a great future for this law school.

As is typical of the dean, I received precise instructions about my remarks today. I was told to make remarks suitable for the occasion, scholarly, erudite, pragmatic, cliché-free, and brief—“with brevity being the most important quality.” And so brief I shall be.
In celebrating the past, we remember that Marquette University opened on August 28, 1881, and formal legal education in Milwaukee began October 12, 1892, when eleven students gathered to study law with practicing lawyers. The legal education program was called the Milwaukee Law Class. The lawyer-instructors were volunteers, and the class met wherever it could for free—and there was no tuition. Those were the good old days!

The legal program then became known as the Milwaukee Law School and began operation in rented quarters. The curriculum was delivered on a trimester system, and the charge was $36 a year, with classes convening at night.

In September 1908, Marquette University took over two private, small, night law schools, including Milwaukee Law School, ultimately added a day division to its new “College of Law,” and in 1923 gave Marquette University Law School the name that it bears to this day. In 1924, the building we know as Sensenbrenner Hall was constructed for the sum of $200,000. Those were indeed the good old days!

But, if I may now turn to the future. The plans for the new building are impressive indeed. Bricks and mortar and glass are important. Bricks, mortar, and glass make a difference in the education of lawyers. Marquette University Law School will—in the coming brick and mortar and glass on this site—educate its incoming law students and our lawyers from across this state and indeed across this country and across the world. The Law School will train lawyers not only in torts and contracts, which were the only two classes in 1892, but in the great variety of subjects that Father Wild enumerated.

The Law School will train lawyers for peaceful resolution of disputes; lawyers who are going to solve problems; lawyers who will know that we are governed by the rule of law. The phrase “rule of law” is hard to define, but the rule of law embodies the concept of a government and its people acting on the basis of established legal principles adopted in accordance with law. Not only must all the people obey the law, but all government officials are constrained and restrained by law.

It is the courts that are the linchpin of the rule of law. The courts, in peaceful resolution of disputes, determine the rights and obligations of disputants, including the government, according to established law. And the courts can perform their function only if the judiciary is independent, that is, only if the judges are neutral, fair, impartial, and non-partisan. The judiciary must decide cases on the basis of the facts
and law, not on the basis of personal ideology or the dictates of the executive or legislative branches of government, special interests, or public opinion.

One of the great exports of this country is the rule of law and the concept of a neutral, fair, impartial, non-partisan judiciary and an independent bar. Our judges and lawyers train judges and lawyers across the world, emphasizing that the rule of law fosters the political, economic, and social development of democratic nations.

The rule of law is central to economic activity at home, too, and Milwaukee and the Milwaukee area are central to the economic well-being of the entire state of Wisconsin. Milwaukee is joining with surrounding counties to advance the economic health of this region and beyond.

The new Marquette University Law School will be a symbol of the contribution that lawyers can make to our democratic system and our economic well-being. It is important that we all continue to join with Marquette University Law School in its mission.

From my perspective, the world is our classroom and courtroom, and Marquette University, in the year 2008, has what it takes to be a world-class player. The globalization of law which is evident in the Law School community and curriculum is also evident in the work of the law firms. Deals are being struck from Baraboo to Bangkok to Budapest, from Milwaukee to Marrakesh to Milan, and our Wisconsin lawyers are there. Wisconsin lawyers will continue to be trained at Marquette to be world-class lawyers.

So, let us all reach for our shovels (at the appropriate time) and play in the dirt, just as we did in kindergarten. We play for a good cause. Let us join Marquette University as it trains great lawyers in the future as it has in the past.

Thank you for inviting me to celebrate this wonderful occasion with you. The dean will please note that my remarks have satisfied all the criteria that he set forth.

DEAN Kearney

Thank you, Chief Justice Abrahamson. I must have neglected to include the standard sentence in my letter asking the speaker not to reveal to the audience that I asked him or her to be brief. There is always room for me to improve.

We are joined as well by the Honorable Frank H. Easterbrook, Chief Judge of the United States Court of Appeals for the Seventh
Circuit. This is, as the lawyers and law students here know, the regional federal appellate court, based in Chicago, comprising Illinois, Indiana, and Wisconsin, and reviewable only by the Supreme Court of the United States. Judge Easterbrook has been on the Seventh Circuit since 1985 and has served as Chief Judge since 2006. He came to the court with extensive appellate experience, having argued some twenty cases in the United States Supreme Court, first as a member of the Office of the Solicitor General in the Department of Justice and in private practice thereafter. His appointment before taking the bench was as a professor of law at the University of Chicago, where he gained national renown for his teaching and legal scholarship, both of which continue to this day, for Chief Judge Easterbrook continues to pursue scholarship and to teach as a senior lecturer at the University of Chicago School of Law. In short, today he represents, in a sense, both the federal judiciary and the national legal academy, communities with which Marquette Law School feels great kinship. I am very grateful that he has come to Milwaukee today to be with us. Please join with me in welcoming the Chief Judge of the Seventh Circuit, the Honorable Frank Easterbrook.

CHIEF JUDGE FRANK H. EASTERBROOK

Thank you, Dean Kearney. Maybe I should reveal that I did not get the same letter as Chief Justice Abrahamson. Mine omitted any reference to being brief. And as you know (for the dean reminded you), I continue to teach at the University of Chicago, where the standard class hour is actually 65 minutes. So I have a 65-minute talk prepared for you today. I am reminded of Justice Douglas’s once saying of Justice Frankfurter, complaining about his performance in conference, that Frankfurter did not really understand that he had left Harvard Law School and continued to talk only in units of 50 minutes. Douglas, needless to say, thought conferences should be briefer. Well, I will try to be briefer.

The dean did suggest that perhaps I could be erudite. But if I had known about the impending reference to 1215, I would have written these remarks in the language in which the English talked in about 1215. It would be sort of half French and half sound like Chaucer. But then you might conclude that even two minutes would be a little excessive. So I will skip that and use regular English.

What wonderful gifts are being celebrated today. Ray Eckstein was graduated from Marquette the year after my birth, and Joseph Zilber seven years before my birth. It takes a really sound education to
produce fond memories and a determination to support future generations so many years later.

Within that time, Marquette Law School has been a big donor to the federal judiciary. It has educated three sitting judges of the Seventh Circuit, and two of them are here today: John L. Coffey, Class of 1948, and Diane S. Sykes, Class of 1984, as well as Terence T. Evans, Class of 1967. By coming today to honor Marquette, I also want to honor my colleagues and express appreciation for the good start they received here.

Now, if I were an elected judge, I think what I would have to say is that Marquette has educated three judges of the court of appeals, not to mention so many judges of the district court, not to mention . . . . But since I'm not, I suppose that I can just omit that. But just take it as a given.

More recently, this law school also has attracted a fine group of young scholars. Perhaps I could discourse on Keith Sharfman, one of my former clerks who joined your faculty last fall. But that would be too parochial. What makes me call them a fine group is not their provenance but reading some of their work. As the dean stressed, I still have my hand in the legal academy. Too many professors use law reviews to publish not scholarship but political screeds with a little legal dressing. Some of you may know that before I was appointed to the bench (and maybe a little after) I have been associated with economic analysis of law. But that has never prevented me from worrying that "law and"—and then here insert "economics" or "sociology" or "history" or something else—that "law and" can become an excuse for second-rate work on the "and" component and very little work at all on the law component. What happens then is that people who cannot get appointments to departments of political science or philosophy or literature (or, yes, economics) land in law schools and submit their output to student-run journals that cannot tell the good from the mediocre. The result is bad science devoted to political ends and very little contribution to law. I am happy to say that that disease has largely bypassed Marquette. Instead, you see coming from this institution articles devoted to real legal analysis and—what is particularly pleasing to me—to testing of claims so cavalierly made in class.

Those of you who have been to law school are well acquainted with the man who stands at the front of the class and induces the student to make an argument, saying, "Well, this law—if it is interpreted this way—could do this or could do that." He then gets the student to make
an argument—not the empirical argument for which one might hope, and nothing better than, "Well, it could be argued that . . . ." Good enough for what happens in class where one is trying to expand intellectual horizons, but then one gets out of class. And I see far too many briefs (I bet the Chief Justice does as well) in which practicing lawyers confuse that style of analysis with, "Well, if it can be argued that X, then X must be true."

Talk is cheap. Tracking things down, finding whether something is verifiable, is expensive and difficult and in many law schools not very highly valued. But what is really needed, what the judiciary needs if we are going to fulfill our proper function in society, is a rigorous formulation of hypotheses in the legal academy together with careful testing of propositions about the effects of legal rules as well as of subordinate propositions about how people work in the real world.

So what pleases me about Marquette is that I have been following the working papers and articles from this school and also publications such as the Empirical Legal Studies blog to which this faculty contributes, which are trying to do that hard work, so that judges, when their turn comes, can do more than just talk off the top of their heads. This law school gives us intellectual property law, bankruptcy law, empirical legal studies. That is the real stuff, and that is why I come with three cheers.

I anticipate great things to come.

DEAN KEARNEY

Thank you, Chief Judge Easterbrook. It is important to my continuing relationship with Chief Justice Abrahamson that I note that you would have received the same letter had you not preempted the matter by noting, unprompted, in accepting the initial invitation, that you would be brief. Both of you have been, and I am grateful.

Our final speaker before the groundbreaking is Natalie A. Black, a member of the Marquette University Board of Trustees. Ms. Black received her undergraduate degree in economics and mathematics from Stanford University. She is a Marquette lawyer, having received her J.D. as a member of our Class of 1978. Ms. Black today serves as senior vice president, general counsel, and corporate secretary for the Kohler Company. I am especially grateful for Ms. Black's support of this campaign to advance Marquette Law School, for I know her to be someone whose insistence is on excellence. I know this from many sources, and particularly from my conversations with Professor Jim
Ghiardi, Class of 1942, who is here today. I would ask him to stand so that we might recognize him. More than once, Professor Ghiardi has remarked to me that Natalie Black was one of the best students whom he had the privilege to teach during his more than forty years of full-time teaching at Marquette. Please join me in welcoming Natalie Black, Kohler Company executive, Marquette University trustee, campaign supporter, and Marquette lawyer.

NATALIE A. BLACK, TRUSTEE OF THE UNIVERSITY

It is truly an act of faith to get hundreds of lawyers under one tent and then give them shovels to boot. So, on behalf of the Marquette Board of Trustees, I very much want to welcome you here as well. We are delighted with the turnout. Thank you for coming.

I am glad that we mentioned Professor Ghiardi. Thirty-three years ago, I sat in the first-year torts class taught by Professor Ghiardi and found myself called on. I responded, in the Socratic method, by standing up and reciting (perfectly, I thought) the facts, the applicable law, and the holding in the case. I quite expected to be complimented on what I considered to be a sterling performance. Professor Ghiardi looked at me, and he said, “Well, Ms. Black, that was perfectly true, perfectly general, and”—those of you in the Class of 1978 can say it with me—“perfectly meaningless.”

I came to realize that first year—because you can imagine that it was repeated often—that what Professor Ghiardi was actually trying to teach me was to challenge the court’s application of the law to the facts, to learn to be a well-reasoned and articulate advocate, irrespective of which side I represented. For as Justice Frankfurter wrote, “If facts are changing, law cannot be static.”

In the same manner, law schools cannot be static. They must rather be a dynamic forum within an increasingly global and always-changing society. So it is particularly fitting that we are here today to mark the physical metamorphosis of Marquette Law School. The growth of its curriculum and its faculty supports specialized excellence in a number of legal fields that, in turn, reach into and support every intellectual corner of this University, whether it be business, technology, humanities, social sciences, the arts, or the health sciences. The Law School must attend to all the dimensions of the law and public policy and to the career paths of its graduates.

This is the dynamic challenge that the Marquette Board of Trustees is confident that this law school will meet. The Board has committed to
this magnificent new home for the Law School because it expects much from the school and its faculty: true excellence in the study of law, faith as we search for the truth, and leadership and service as we work, not only towards an enlightened understanding of the rule of law, but towards a commitment to social justice as well.

On behalf of the Marquette Board of Trustees, please be careful with those shovels, and thank you for celebrating with us.

DEAN Kearney

Thank you. We are about to conclude our program and to move to the actual groundbreaking portion of this ceremony. A basic premise of our ambitions for Marquette University Law School is that we are—and can increasingly be—an important economic, social, cultural, and political driver for this region. In order to signify this, we determined that all of us—all of you—should lead the groundbreaking. So, in a moment, we will reassemble a couple of hundred yards or so to the southeast, where Father Jim Flaherty of the Society of Jesus, Marquette University trustee and rector of the Marquette Jesuit community, will first bless the ground and the project. Then Tom Ganey, the University Architect who has led this project from its earliest days to this, will direct us in the groundbreaking.

It seems especially right that this event on this site should involve community action. On this spot there once stood a neighborhood of Irish immigrants. I am thus reminded of the proclamation, on Easter Monday in 1916, of the Irish Republic, which began with this simple sentence: "IRISHMEN AND IRISHWOMEN: In the name of God and of the dead generations from which she receives her old tradition of nationhood, Ireland, through us, summons her children to her flag and strikes for her freedom." That line captures for me the essence of this moment. I would like to summon all of you—all of us—to the flags of this great University and this great region and country (those of you to my right can actually see the flags), and to ask you to help us to strike for our future. And let us do it together, much as the immigrants, who once stood where we stand, would have done.

So, let us, in an orderly way, grab a shovel and reassemble in that vicinity.

REV. JAMES P. FLAHERTY, S.J., TRUSTEE OF THE UNIVERSITY

From the Book of Blessings. The work we are beginning today should enliven our faith and make us grateful. We know the familiar words of the psalm: "If the Lord does not build the house, in vain do its
builders labor.” Whenever we look to the interests of our neighbor or the community and serve them, we are, in a sense, God’s own co-workers. Let us pray for his help through this celebration, my brothers and sisters, that God will bring this construction to successful completion and that his protection will keep those who work on it safe from injury.

Brothers and sisters, listen to the words of the first letter of Paul to the Corinthians: *You are God’s building.* For we are God’s co-workers; you are God’s field, God’s building. According to the grace of God given to me, like a wise master I laid a foundation, and another is building upon it. But each one must be careful how he builds upon it, for no one can lay a foundation other than the one that is there, namely, Jesus Christ.

I ask you to outstretch your arms and join me in this blessing. All-powerful and all-merciful Father, you have created all things through your Son and have made him the unshakable foundation of your kingdom. Through the gift of your eternal wisdom, grant that the undertaking that we begin today for your glory and our own well-being may progress day by day to its successful completion.

We ask this through Christ our Lord. Amen.

THOMAS P. GANEY, UNIVERSITY ARCHITECT

Good afternoon. Today, we have broken bread together. We have listened to the visionary words of our distinguished speakers. We have rightfully thanked our generous donors. The site has been blessed. And now, I say to all 800 of you: Let’s dig!
DEAN KEARNEY

We are so grateful that you joined us today. I do not know that your work will earn us a few dollars off the cost of the project. But I do know that your presence here today has underscored how important this project is and how important you are to us.

I do ask that you return your shovels, not least so that you can get this memento of the occasion: a letter opener in the shape of a shovel and stating "Marquette University Law School/Ray & Kay Eckstein Hall/May 22, 2008." Our volunteers will gladly take your shovel and give you this shovel in exchange. We have enough for one for everybody here.

Please proceed carefully as you move through this "ould field," given that there are now ruts to make the way for the "new corne." You need not rush, as the digging machines are not waiting with their engines running, but we are concluded with this beginning, and we thank you. We will remember this day, and we will see you back here in two years for the dedication.