THE DELAWARE BAR CELEBRATES

DELAWARE LAWYER

A PUBLICATION OF THE DELAWARE BAR FOUNDATION

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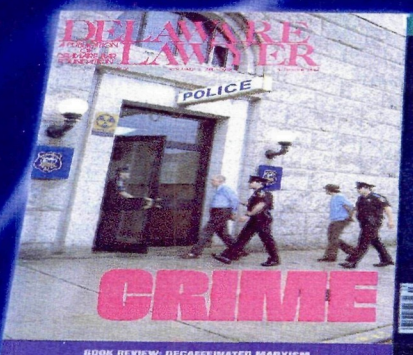
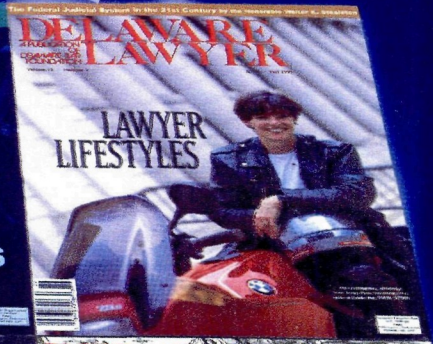
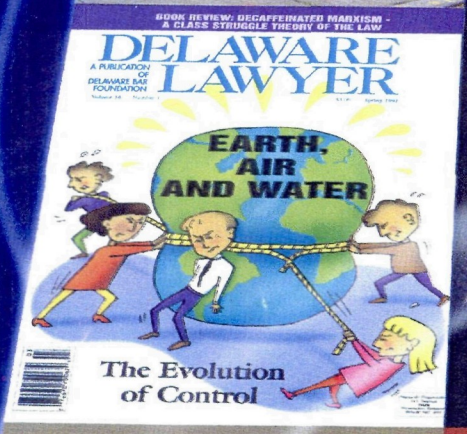
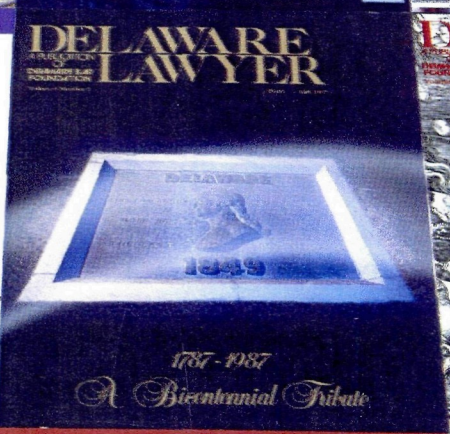
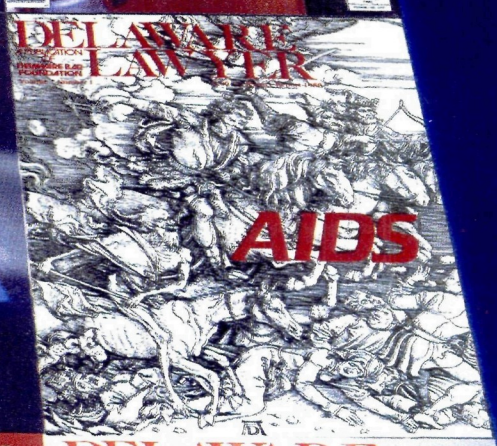
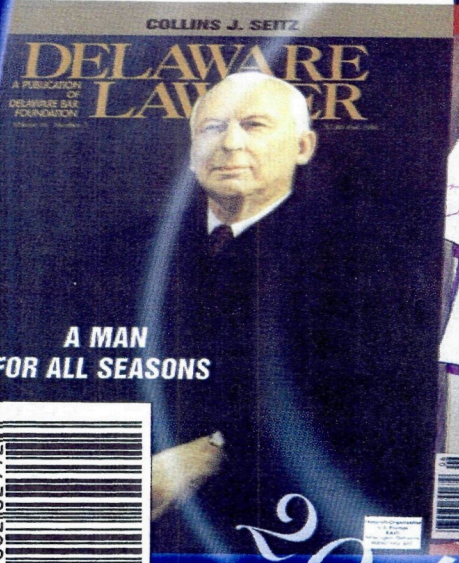


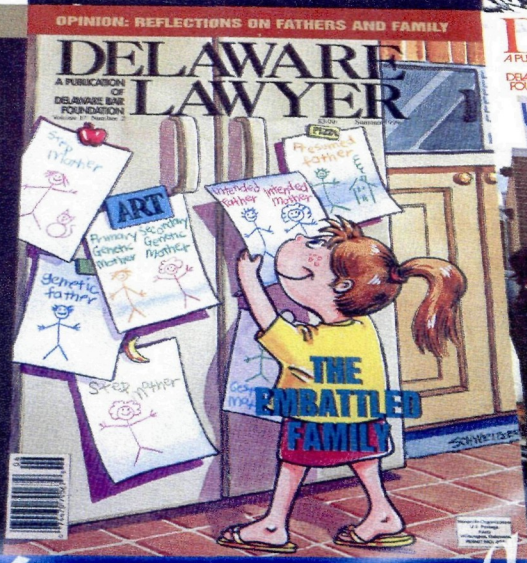


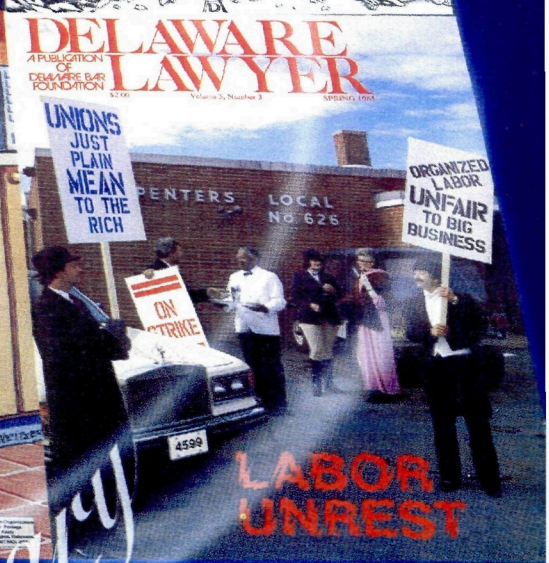










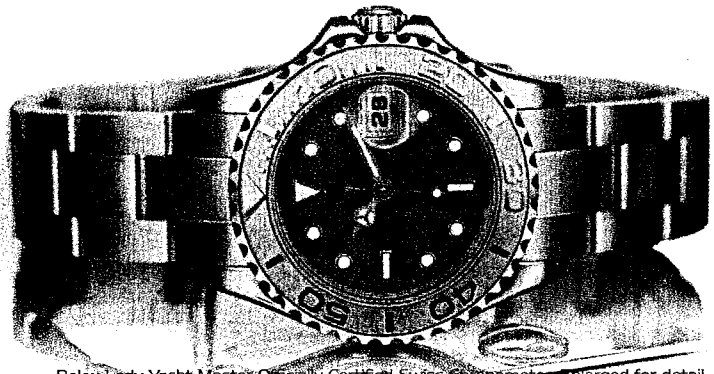


20th Anniversary

"MY ROLEX IS A BEAUTIFUL INSPIRATION TO ALWAYS GIVE MY BEST EFFORT."

Annika Sorenstam

ROLEX



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CONTENTS

DELAWARE BAR FOUNDATION

FEATURES

FROM THE ARCHIVE

A BRIEF HISTORY OF DELAWARE LAWYER

NOTE FROM THE CHAIR

CONTRIBUTORS

DELAWARE BAR FOUNDATION AWARD

Cover: Digital Illustration by Heidi Scheing

NOTE FROM THE CHAIR

First, a confession: I am one of the "humorless and obtuse feminists" to whom Bill Wiggin refers in his scathingly good article ("20 Years"). In the Spring of 1994, I joined many of my fellow attorneys (both female and male) in signing a petition which questioned the appropriateness of the now-infamous "housewife in bathrobe" cartoon to accompany Karen Valihura's scholarly article on the participation of women in the American legal profession. Soon enough, I was called on the carpet by Frank Biondi, who was then the president of the Delaware Bar Foundation and the ultimate recipient of the petition. (OK, Frank was also my employer at the time.) In his inimitable way, Frank told me (in so many words) to put my money where my mouth was. If I had a problem with an illustration in *Delaware Lawyer*, then I should join the Board of Editors and participate directly in the production of the magazine.

As you've probably guessed by now, I did indeed join the Board of Editors, and ultimately accepted the position of Chair in the Fall of 2000 (taking over from none other than Bill Wiggin, at the end of his second go-round at the helm). Thus, my eight happy years of service to *Delaware Lawyer* are a direct result of the "bathrobe" imbroglio. With his trademark wit and wisdom, Bill offers his perspective on this and other, shall we say, "high profile" moments in the magazine's history.

That this 20th anniversary issue of *Delaware Lawyer* exists at all is due to another stroke of fortune. Despite my lofty board title, I was blithely unfamiliar with the details and timing of the magazine's creation. (After all, when *Delaware Lawyer* debuted in 1982, I was still wandering about the University of Delaware campus, years away from even thinking about becoming a lawyer.) Then, last fall, I was privileged to attend the Delaware Bar Foundation's 20th anniversary dinner. Harvey Rubenstein, the current president of the DBF board, gave an informative presentation, during which I suddenly realized that *Delaware Lawyer* — a publication of the Delaware Bar Foundation — must be coming up on the same 20-year milestone. As soon as this issue was on the drawing board, Harvey graciously agreed to contribute an article about the Foundation ("A New Millennium, An Old Mission Renewed"). As a final happy confluence of events, the Foundation has recently adopted a handsome new logo, which we are pleased to introduce in this 20th anniversary issue.

In the course of pulling together this issue, I have finally remedied my ignorance concerning the magazine's creation. I invite you to do the same, by reading "A Brief History of *Delaware Lawyer*" (which is accompanied by a photograph of the "final four" members of the original Board of Editors who still participate on the Board today — Tom Ambro (now "The Honorable"), Dave McBride, Richard Levine and Bill Wiggin). As another way to honor our past as we look to our future, we are featuring reprints of some of the best articles in the publication's 20-year history.

My wish for the next 20 years of *Delaware Lawyer*? That it continues to be a forum for the free expression and interchange of ideas, just as its founders envisioned.

Karen L. Pascale

Karen L. Pascale

CONTRIBUTORS

Harvey Bernard Rubenstein is a graduate of Temple University and its Law School, where he was Editor-in-Chief of the law review, and is a member of the bars of Delaware, Pennsylvania and the United States Supreme Court. He is a past president of the Delaware State Bar Association and was honored with its First State Distinguished Service Award. He was also the recipient of the 1995 ABA Sole Practitioner of the Year Award. He has served on numerous Supreme Court and bar association committees. He currently is president of the Board of Directors of the Delaware Bar Foundation and represents the bar association in the ABA House of Delegates.

William E. Wiggin, who has edited this magazine off and on since its inception, is now retired to suburban Holly Oak. He busies himself by crossing picket lines for light exercise and conducting zoning fights with his neighbors. Not surprisingly, he is a direct descendant of a convicted Salem, Massachusetts witch.

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DELAWARE LAWYER is published by Delaware Bar Foundation as part of its commitment to publish and distribute addresses, reports, treatises, and other literary works on legal subjects of general interest to Delaware judges, lawyers, and the community at large. As it is one of the objectives of DELAWARE LAWYER to be a forum for the free expression and interchange of ideas, the opinions and positions stated in signed material are those of the authors and not, by the fact of publication, necessarily those of Delaware Bar Foundation or DELAWARE LAWYER. All manuscripts are carefully considered by the Board of Editors. Material accepted for publication becomes the property of Delaware Bar Foundation. Contributing authors are requested and expected to disclose any financial, economic, or professional interests or affiliations that may have influenced positions taken or advocated in the articles. That they have done so is an implied representation by each author.

The driving force behind *Delaware Lawyer* was Harold Schmittinger, who had been president of the Delaware State Bar Association and then became the first president of the Delaware Bar Foundation. In late 1981, Mr. Schmittinger spoke with (now Chief Justice) E. Norman Veasey, then of Richards, Layton & Finger, and suggested that the Bar Foundation come up with a magazine for the profession. Mr. Veasey was interested in the idea and approached his then partner, Bill Wiggin, about starting such a magazine.

During the winter and early spring of 1982 plans for the magazine moved forward, with the enthusiastic support of the Board of Directors of the Bar Foundation. Bill Wiggin agreed to act as the initial editor and the invaluable Richard A. Levine, a partner at Young, Conaway, Stargatt & Taylor, gave himself a crash course in publishing law and became the Managing Editor of the magazine. It was agreed that Bill's function would be to edit and Richard's function to keep the magazine in sound shape.

In preparing for the first issue, Bill decided it was important to set the tone for a magazine that was intended not only to gratify lawyers, but to entertain and inform the general public. As Bill put it, "Most legal writing is breathtakingly dull, and frequently clumsy." The first issue started off with a prospectus that merits quotation:

> A primary object of *Delaware Lawyer* will be accessibility to the intelligent general reader. Many learned articles about the law are unreadable, cast in a prose owlishly solemn, clotted in style, and peppered with footnotes. Such writing has its place in academe but does little to stir a shared enthusiasm among professionals and laymen for quality in the practice and administration of justice. Such writings are the kind of thing that once prompted Mark Twain to describe a classic as a book that everybody wishes he has read, but does not wish to read. Instead, we hope to sugarcoat the pill of useful discourse. ... In short, we want to make *Delaware Lawyer* attractive to the sensible and intelligent audience to whom it is addressed.

Since then the magazine has grown and changed in response to the experience of publication. It evolved into a quarterly, after its modest beginnings as a twice a year, then thrice a year publication. Early on, Board members Dave Drexler and John Schmittinger argued for a theme approach in order to give the magazine some consistency and architectural symmetry.

While the magazine has never been described as prosperous, it is thought to have made a contribution. This is largely thanks to the generosity and enlightened support of the Bar Foundation. Furthermore, beginning in 1991, Today Media, Inc. (formerly Suburban Marketing Associates, Inc.), publisher of *Delaware Today* magazine, agreed to conduct on behalf of the Delaware Bar Foundation the publication of *Delaware Lawyer*. To this day, Today Media performs a major role in getting the magazine out and handling the many details of publication.

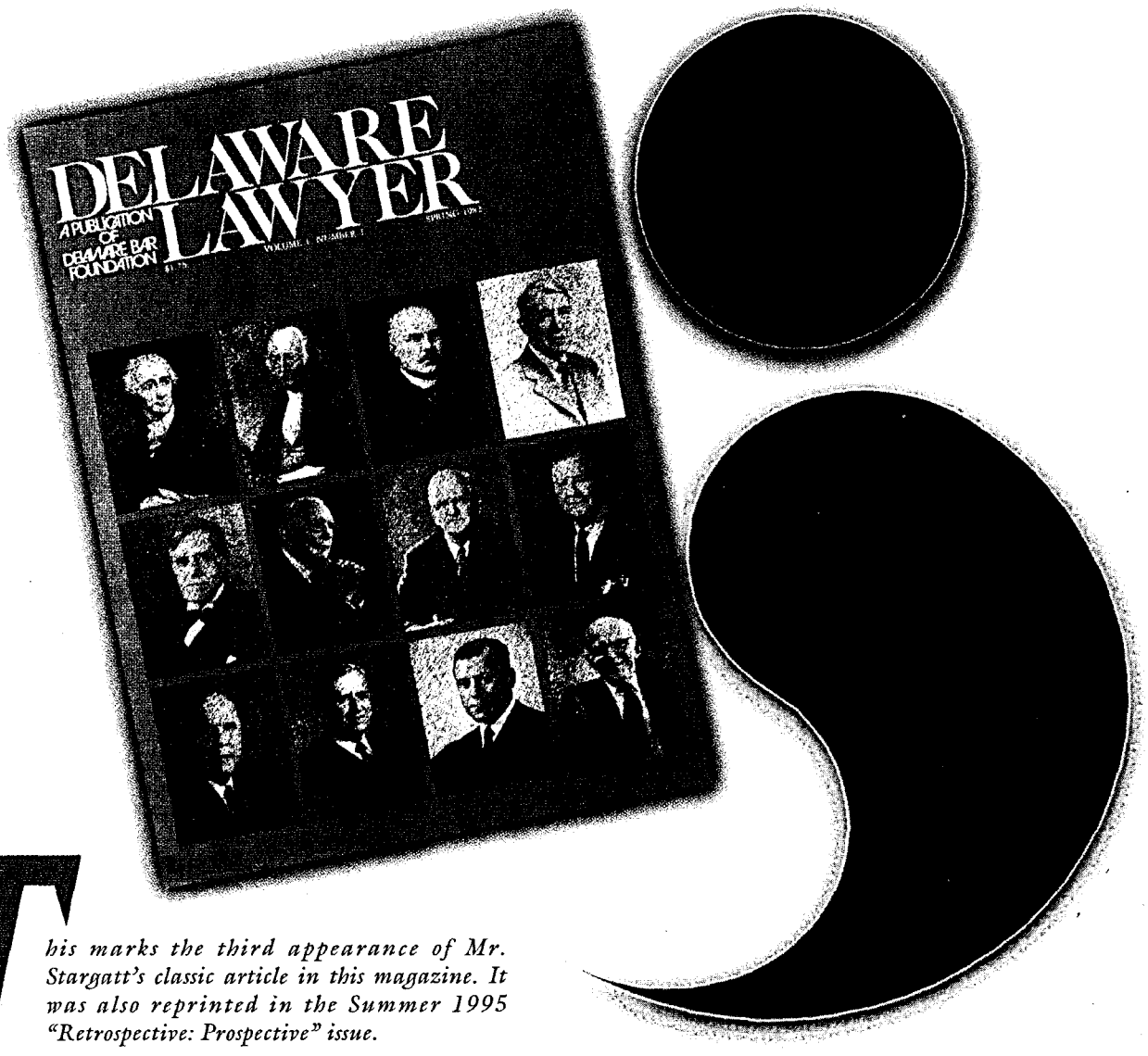
Pictured are members of the *Delaware Lawyer* Board of Editors who have served dutifully since its inception in 1982. From left to right: Top; William E. Wiggin, Honorable Thomas L. Ambro. Bottom; Richard A. Levine and David C. McBride.

Every issue of *Delaware Lawyer* notes that it is "published by the Delaware Bar Foundation as part of its commitment to publish and distribute addresses, reports, treatises and other literary works on legal subjects of general interest to Delaware judges, lawyers, and the community at large." The magazine reaches out enthusiastically to non-lawyer readers, in the belief that the intelligent reader, enlightened about the functioning of the law, is a more valuable member of a society premised on freedom under the law. The magazine welcomes contributions by non-lawyers. It has printed law-related fiction and even poetry. It continues to attempt be both enlightening and entertaining, and there have been those kind enough to say that on occasion it succeeds in that mission.◆ K.L.P.

Bruce M. Stargatt

RE: MOSTLY PUNCTUATION MARKS

(Vol. 1, No. 1, Spring 1982)



This marks the third appearance of Mr. Stargatt's classic article in this magazine. It was also reprinted in the Summer 1995 "Retrospective: Prospective" issue.

Fracture the semicolon. That's my point. Or semipoint.

I cannot be sure that this subject was in the forefront of our Editors' minds when they signaled in my direction for "Remarks" to be included in this first issue of *Delaware Lawyer*. What they surely meant to convey was an invitation to join, on the Bar's behalf, in celebrating the birth of this publication. Easily and sincerely done. The Delaware State Bar Assocation salutes Harold Schmittinger and the other directors of Delaware Bar Foundation whose creative and dedicated efforts have culminated in today's publication. From a personal standpoint I'm more proud that I can say that by a happy accident of timing these efforts have blossomed during my incumbency.

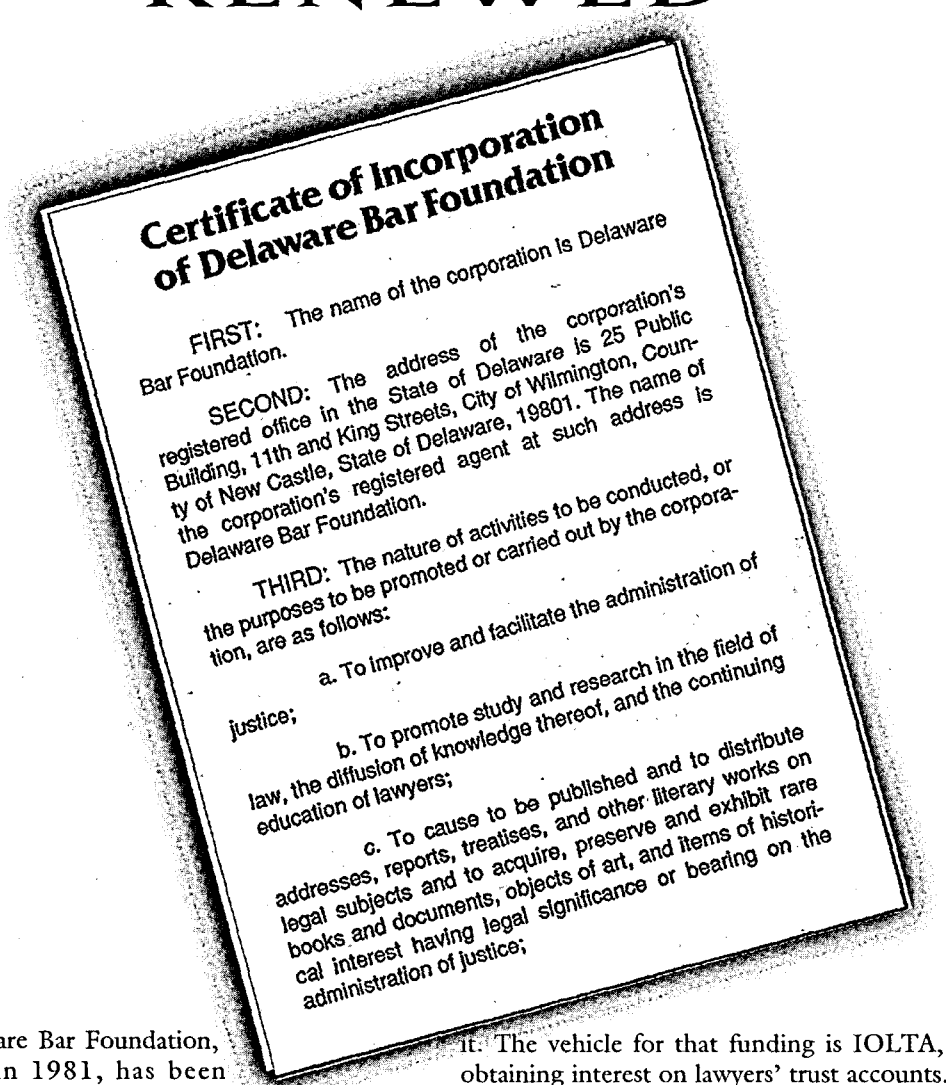
But there is also a serious substantive message to be conveyed. If this fresh-faced publication is to achieve its full promise, it must not be pious. Blandness is a vice in law journals no less than in other publications. Responsible irreverence creates change. Controversy is the fire which warms the lawyer's heart and fuels his hearth. Fearlessness in addressing important issues must

Continued on page 31

FEATURE

Harvey Bernard Rubenstein

A NEW MILLENNIUM, AN OLD MISSION RENEWED



Certificate of Incorporation of Delaware Bar Foundation

FIRST: The name of the corporation is Delaware Bar Foundation.

SECOND: The address of the corporation's registered office in the State of Delaware is 25 Public Building, 11th and King Streets, City of Wilmington, County of New Castle, State of Delaware, 19801. The name of the corporation's registered agent at such address is Delaware Bar Foundation.

THIRD: The nature of activities to be conducted, or the purposes to be promoted or carried out by the corporation, are as follows:

a. To improve and facilitate the administration of justice;

b. To promote study and research in the field of law, the diffusion of knowledge thereof, and the continuing education of lawyers;

c. To cause to be published and to distribute addresses, reports, treatises, and other literary works on legal subjects and to acquire, preserve and exhibit rare books and documents, objects of art, and items of historical interest having legal significance or bearing on the administration of justice;

The Delaware Bar Foundation, created in 1981, has been charged with a mission to improve and facilitate the administration of justice, to promote study and research in the field of law and the continuing education of lawyers, and to publish legal treatises and literary works. Over the past 20 years, the scope of the Foundation's work within those purposes has expanded dramatically. A 20th anniversary dinner held to honor that effort was attended by present and former Foundation directors, justices of the Supreme Court, other members of the judiciary, representatives of the *Delaware Lawyer* editorial board, and past presidents of the Delaware State Bar Association.

In one of its most important functions, the Foundation assists the Supreme Court in funding legal representation to those citizens who need and cannot afford it. The vehicle for that funding is IOLTA, a program for obtaining interest on lawyers' trust accounts. While the first IOLTA grants totaled less than $200,000, the grants in the year 2001 alone totaled almost $2 million, and in the past 20 years grants in the total amount of over $12 million have been made. While the Supreme Court actually makes the IOLTA grants under a rule of court, the Foundation board is responsible for reviewing the grant applications and making recommendations.

In addition, the Foundation receives annual contributions, and from the fund created through those contributions, the Foundation makes non-IOLTA grants consistent with its purposes. Because the non-IOLTA fund is more modest, the occasion for grants and the amount of the grants are more limited.

Delaware Lawyer, an important medium for providing legal articles of interest to the bar, is sponsored by

the Foundation. Issued quarterly, *Delaware Lawyer* is operated by a 15-member Board of Editors chaired by Karen L. Pascale and managed by Richard A. Levine. The publication, now celebrating its 20th year, is received by every member of the Delaware bar without charge.

The Delaware bar has grown to almost 3,000 members and has been increasing in size for the last five years at an average of over 120 new admissions a year. In 2001, over 150 new lawyers were admitted, compared to the fewer than 30 yearly admissions to the bar in the middle of the last century. Mirroring that growth, the Foundation has expanded its original nine-member board to 12 members.[1] Each year, the Chief Justice appoints a member, the Bar Association president appoints a member, and the Bar Association elects a member. Every third year, two members are appointed or elected. The term of each member is three years.

DELAWARE BAR FOUNDATION

This joint enterprise between the Supreme Court and the bar serves the public and the profession in the most meaningful way. Yet the Foundation's mission faces a serious and dangerous threat. In recent years, several suits have been filed in the Fifth and Ninth Circuits contesting the constitutionality of the IOLTA program. Because the ultimate outcome of the federal court litigation remains in doubt, the entire IOLTA network is in jeopardy.

The Foundation recently instituted, therefore, several new projects to broaden the financial and operational reach of the Foundation, including funding for the major legal providers, Community Legal Aid Society (CLASI), Legal Services Corporation of Delaware (LSCD), and Delaware Volunteer Legal Services (DVLS):

1. An Endowment Committee has been formed to study the possible establishment of an endowment fund in order to assure financial backing on a long-term basis. The committee, chaired by Donald F. Parsons, Jr., has been hard at work, and much is expected of it.

2. Complementing the endeavors of the Endowment Committee, a Non-IOLTA Fundraising Committee, chaired by Michael J. Rich, is charged with finding innovative ways to raise funds outside of IOLTA to advance the Foundation's important purposes.

3. A Bylaws Committee, chaired by Mary E. Copper, has been studying the Foundation's organizational structure to determine whether a more efficient framework for operation can be found. The committee's report is awaited.

4. A Personnel Committee has been established to study and make recommendations as to the personnel needed to accomplish our goals. The Foundation is currently served by an executive director. The committee is chaired by Anne Churchill Foster, and its report, considered with any bylaws changes, will go a long way to sharpen the tools of the Foundation in addressing its vital commitments.

5. The Finance Committee, co-chaired by Donald J. Wolfe, Jr. and Calvin L. Scott, Jr., continues its important function of reviewing the financial status of the Foundation and advising the board on how to increase the income available to reach its goals.

6. Other proposals to be considered relate to the Foundation's ability to furnish information to the bar. The creation of a website and the publication of a newsletter have been suggested as appropriate vehicles for making the legal community and others more aware of the important work of the Foundation.

7. After 20 years, the Foundation for the first time has adopted a logo. The logo is intended is to reflect the Foundation's identity and to give that identity a higher profile. The Foundation board is proud to unveil the logo in this 20th anniversary issue of *Delaware Lawyer*. The Foundation is grateful to Joseph G. Mauro of the Miller Mauro Group for contributing a substantial amount of his time and resources in developing the logo.

Appreciation is expressed to the past and present members of the Foundation board and the *Delaware Lawyer* editorial board for their dedicated service to the profession and to the cause of justice and to the previous Foundation presidents, Harold Schmittinger, Victor F. Battaglia, O. Francis Biondi, and Bruce M. Stargatt, for their leadership in that cause. Special gratitude also is due to Chief Justice E. Norman Veasey, liaison Justice Randy J. Holland, and the other members of the Supreme Court, past and present, for their cooperation and guidance.

As the Foundation enters the third millennium, the Foundation board has the task of directing its energy to the new challenges it faces. Fresh initiatives, together with the ever-faithful support of the bar and the bench, will enable the Foundation to fulfill the great mission of a noble profession. ◆

FOOTNOTE

1. Depending upon how a foundation is structured, the size of a particular bar does not necessarily govern the number of directors on a foundation board. For example, Pennsylvania, with a bar of over 50,000 members, has a foundation board of nine members, while New Hampshire, with a bar of about 2,500, has a foundation board of 21 members.

William Prickett

FLUNKING THE BAR

(Vol. 6, No. 1, Summer 1987)

This painful account is really only addressed to one small group of unfortunate people: those, who, like the writer, have had the truly awful experience of flunking a Bar Exam. I write this account, not only to air an ancient wound, but to share the common misery of what happened with others who, like myself, coming bright and shiny out of law school, have failed the ultimate professional hurdle that allows them to represent clients before the Courts. Those who have not suffered such a professional humiliation should read no further, unless in reading about my downfall the reader would get the almost obscene pleasure in gloating over the deserved come-uppance of a snotty young ivy leaguer and a graduate of the Harvard Law School or unless an account of long awaited retribution of a crusty old Delaware Bar Examiner is something that you can truly savor. However, only, as I say, if you enjoy reading about misfortunes of others or on the odd chance that you are a student of pig latin, or would enjoy a passing reference to "Winnie the Pooh", should you read on. Otherwise, do not go any further: stop right here and now.

If these caveats and disclaimers have been disregarded, let us proceed with this melancholy tale, for melancholy it still is for me and all others who have come a cropper at the very threshold of their legal careers.

This account must start with my late Father — the crusty Delaware Bar Examiner. On his return from World War I in 1919, he did not have to take the Delaware Bar Examination. Not only was he a decorated and injured World War I artillery officer and flyer, but he had come back to Wilmington armed with a war bride, my mother, from poor little ravaged Belgium. In addition, he, I believe, was the only person applying for admission to the Delaware Bar that year. Thus, I believe that the nine senior lawyers who constituted the Delaware Board of Bar Examiners consid-

ered his war record and his brief attendance as a Rhodes Scholar at Oxford and decided that there was no necessity for making this war hero take the Bar Exam, especially as his own father was a Delaware lawyer and part-time judge. (Oh, for the good old days!)

It should be said that in those days the complete power to admit or reject would-be lawyers in Delaware, as in most States, was vested in the Delaware Supreme Court. The Court in turn appointed an advisory committee known as the Board of Bar Examiners, which in effect wielded the admitting power for the Court. In olden times, this Board almost automatically consisted of the nine senior respectable members of the Bar. The Board looked on its task as one of preserving the right to audience before the Courts to persons whom they themselves found acceptable and congenial (*i.e.*, good old boys — and when I say boys, I mean boys). The Board required those who aspired to become full-fledged Delaware attorneys to be preceptees or clerks to the members of the Bar for six months during or after law school but before being admitted to practice. There were continual and unavailing whispered complaints that the clerkship program was enforced peonage and thus contrary to the Thirteenth Amendment. Of course, no one even contemplated saying anything out loud about the clerkship requirement, much less doing anything about it (such as bringing a class action suit). In addition, before they could achieve even the threshold status of clerks, each would-be attorney had to appear in front of a panel of the Board of Bar Examiners to be examined by these august attorneys on an ancient tome written in 1921 — Zane's *Story of the Law*. Later, I asked my father why it was that the Board continued to use that truly awful book. Zane was not only highly opinionated on the conservative side, but the book was full of the most outrageous historical errors and blunders. I pointed out that Justice Oliver Wendel Holmes had written a fine book entitled *The Common Law* that might provide a basis for a colloquy between the aspiring lawyers and the Board of Bar Examiners.

My father replied that there were several good and sufficient reasons why Zane continued to be used. First, the members of the Board of Bar Examiners were all familiar with Zane,

errors and all. It would take considerable time and effort on their part to read and become knowledgeable about another book, especially a "radical" book like Holmes's *Common Law*. Secondly, they knew that the practice of law has many tedious aspects (an understatement if there was one!). Wading through and becoming entirely familiar with Zane would give some indication as to whether the would-be lawyer had the capacity to take on a boring job and do it well. In reply to my general question as to why there should be a preadmission ordeal by Zane, my father said that the Board of Bar Examiners felt strongly that the "right" to audience before the Courts to represent members of the public was not a "right" at all belonging to anyone who simply happened to get through some law school. Rather, admission to the Bar was a sacred privilege that should be accorded only to those who were qualified in every way to take on this weighty fiduciary responsibility. The Board of Bar Examiners felt that if a young man was not qualified by character, morality, or temperament to take on this sort of task, it was better to tell him right at the outset rather than let him go to law school and then defeat his legal aspirations afterwards (perhaps even after he passed the Bar). That makes a good deal more sense now than it did when I first heard it. (Of course, it is my perspective that has changed: at the time, I thought it was arrant nonsense, though I had the good sense not to say so).

As I have said, my father was simply waived into the Bar. Thus, he was admitted with very little knowledge of the law and no knowledge whatsoever of the niceties of procedure. Of course, this meant he was without any misconceptions or windy theories taught by legal academics ("those who can, do; those who can't teach"). Rather, my father had to learn in the school of hard knocks. However, from the very first, it is a fact that he gave out more knocks than he received. Indeed, my father became known and respected for his prowess in the Byzantine-like intricacies of the Rules of Procedure of the Delaware Courts. I was told and I believe that these ancient rules had remained virtually unchanged from the rules of pleading adopted by the King's Bench in 1709 after the Great Legal Reforms that marked the later years of

good Queen Anne. In time, my father was called upon to become one of the nine members of the Board of Bar Examiners. Of course, his assigned topic on which to make up and grade the Bar examination for would-be lawyers was Delaware practice and procedure. In the next ten to fifteen years, there was many a would-be Daniel Webster who was forever relegated to selling shoes or real estate, owing to his inability to field the nice questions my father put to him and the other candidates in matters of legal practice and procedure. My father was concerned (and rightly so) that those who were about to be turned loose on the public as lawyers should know the basic ABCs of practice and procedure in the Delaware Courts. He had precious little interest in legal theories or balanced arguments so dear to those who teach in law schools: rather, he wanted a plain, simple, and above all, correct answer on questions of practice and procedure that would be immediately critical for the legal success or failure of these would-be Solons and, more important, for their clients. Thus, he would ask questions as to how many returns of *non est* were required in order to perfect a sheriff's return (two), or what was the only proper response to an affidavit of demand (a reply affidavit). Simple, if you knew the answer, but fatal if you didn't. No careful essay learnedly discussing pros and cons of what the answer might be or should be would or could pass legal muster with my father.

In due course, Delaware moved out of the middle ages of pleading. In fact, in one large bound, Delaware went from the rear of the common law jurisdictions in matters of practice and pleading to the head of the pack. Specifically, Delaware adopted almost verbatim the notice pleading that the Federal Courts had so recently adopted. Thus, the Delaware Rules paralleled the Federal Rules of Civil Procedure, replacing the ancient hoary practices that stemmed back to the time of Blackstone and Coke.

There was a great sigh of relief and general rejoicing in the Delaware legal community at this monumental leap forward. It was also privately hoped that this adoption of entirely new Rules would put my father right square out of business. It was thought that he would be left with a vast storehouse of knowledge of medieval pleadings but

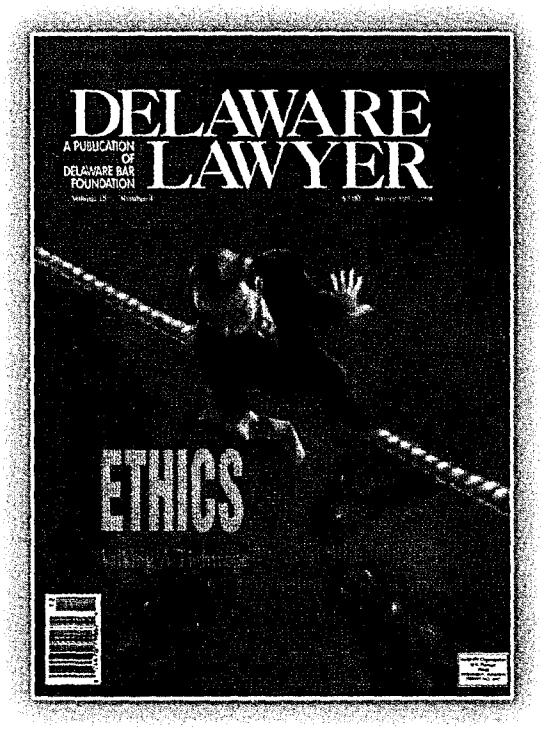
Continued on page 15

FROM THE ARCHIVE

Charles Brandt

PRE-TRIAL JURY TAMPERING

(Vol. 15, No.4, Winter 1997)



A Jewish friend of mine from New York City, while buying a paper in Wilmington's train station, overheard a man and woman talking about Amy Grossberg and the Barbara Walters interview. At one point the woman said, "I'm a Christian." The man asked what that had to do with the case. The woman answered, "Well, I don't know how Jews raise their kids."

Among other things, this comment illustrates that potential jurors are discussing the pending case. They are forming opinions. They are solidifying their biases and prejudices.

In Delaware trials, jurors are daily admonished not to discuss the case they're on, not even with each other, until the case is submitted for their deliberations. They're admonished to avoid all news accounts. Yet potential jurors are devouring this case in advance. In a real sense, they are already deliberating.

True, before a single juror is sworn, the trial judge will attempt to weed out anyone who has formed an opinion that will interfere with his or her ability to fairly decide the facts. Still, we know that this is a subjective process, and relies upon a potential juror's intellectual honesty and self-awareness of his or her own psychology.

We also know that advertising exercises power over that psychology. It subtly influences people's decisions on a deep and often subconscious level. To buy. To vote. To hate an enemy. The same conditioning influence comes from press conferences, p.r. campaigns and news stories, especially those that are repetitive.

Those of us who truly value fair trials and our jury system should not want to see potential jurors exposed in advance to unsworn testimony, to argument, and to repetitive word images. Pretrial, we certainly wouldn't want to see lawyers traipsing door to door, introducing their clients, humanizing them and putting a spin on their "facts." We wouldn't want lawyers and clients "working" a shopping center or a factory gate the way politicians do, shaking hands and passing out brochures. We wouldn't want defense "Dream Teams" or victims' families slipping flyers under windshield wipers. We wouldn't want T.V. ads or infomercials using actors to re-create a crime to depict one side's version of events.

Unfortunately, this is not far from what we have. The only difference between the press conferences and interviews in vogue today and my tacky examples is that the media p.r. approach is more efficient. It reaches and influences more potential jurors — and it is free.

A p.r. campaign may backfire, but that's no solace. We who value our system wouldn't want an innocent person convicted of a crime because his own press conference hurt him, because the camera didn't love his 5 o'clock shadow.

In certain high profile criminal cases, defense attorneys have openly admitted they conduct media campaigns aimed at prospective jurors. Stephen Jones, Timothy McVeigh's lawyer, hired a political consultant and permitted press interviews of McVeigh for the express purpose of humanizing him to prospective jurors in advance of jury selection. Robert Shapiro wrote an article, "Using the Media to Your Advantage," for a defense publication, in which he provided tips for successful media manipulation, again, aimed at prospective jurors. Gerald Lefcourt, President of the National Association of Criminal Defense Lawyers is quoted in a recent *New Yorker* article: "I am totally convinced that judges and jurors are human beings and they are as much affected by the

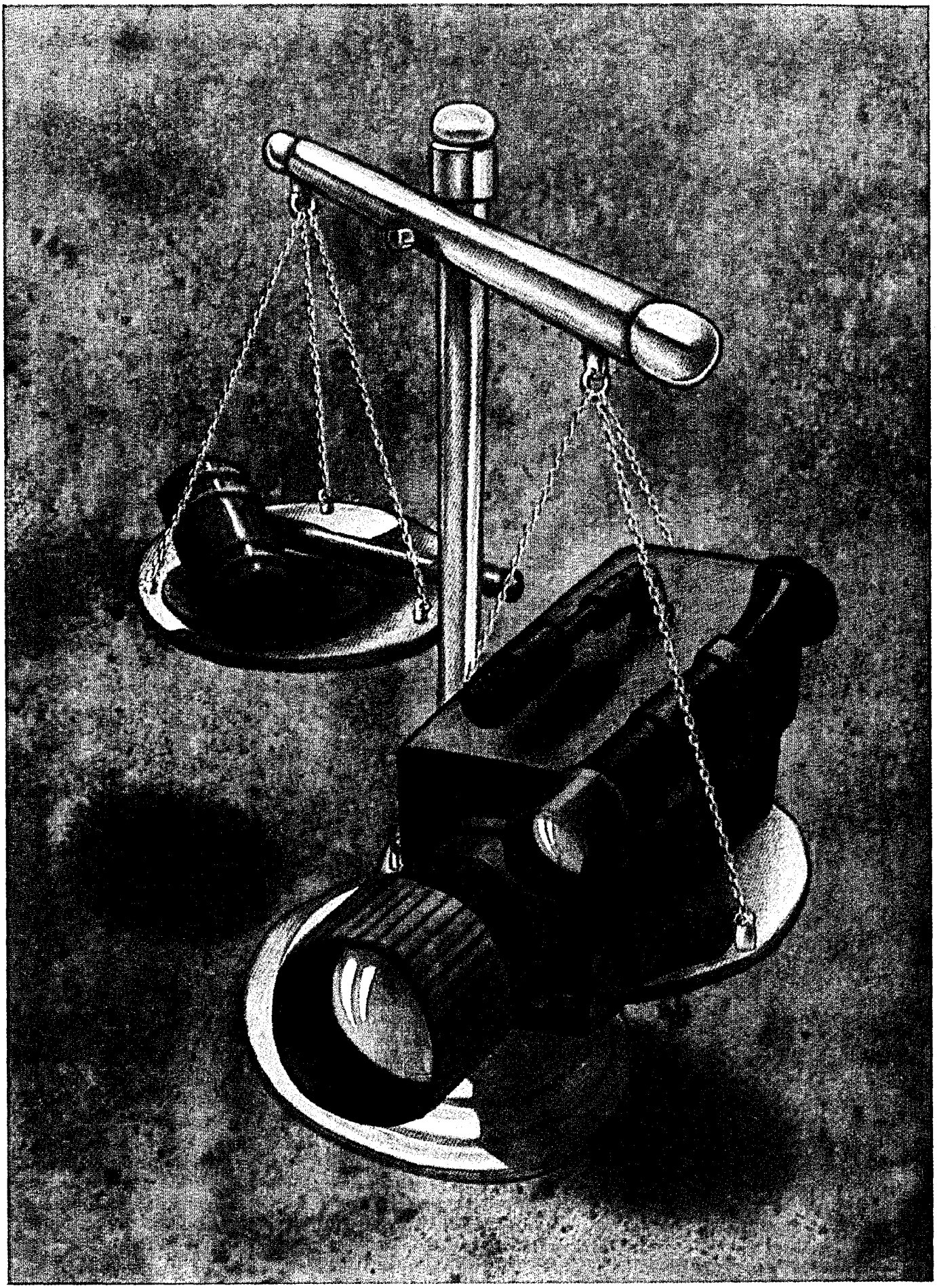


Illustration by Nancy Harrison

press as anyone. Sometimes you have to fight back."

In Delaware and in Federal Courts lawyer *voir dire* of prospective jurors is not permitted. Trial lawyers may only address jurors in opening and closing statements and clients only by testifying under oath. Yet before trial, defense lawyers conduct a kind of global *voir dire*. They speak openly and directly to jurors through a more-than-willing media, and do so, I believe, often justifiably.

"Sometimes you have to fight back," Lefcourt says. Virtually every Wilmington *News Journal* article on the Grossberg/-Peterson case, for example, says: "...the 19 year olds are charged with killing their newborn son." Surely, the defense cringes at that. There will apparently be an issue for the jury in this capital case as to whether there was a "newborn son" who was killed, or a stillbirth. Meanwhile, prospective jurors continue to be conditioned by repetition to lean toward the State's medical experts' conclusions on this central issue of guilt and innocence.

Whenever the prosecution files a motion, the State's "facts" are rehashed and the "newborn son" makes the front page. Ironically, even when the Grossberg defense team attempts to "fight back" and files or answers a motion and tries to argue its "facts" on the front page, "the newborn son" also rises. Recently, letters about the case began appearing in the Wilmington *News Journal* with phrases like "the more her defense speaks out the worse it looks," and "we are now asked to believe ..." Pre-trial juror deliberations have by now gone from the news stand to the newspaper. Can the internet be far behind? Even if they have no feelings about the case themselves, can the jurors who eventually will sit be totally unaware of or unaffected by how large or vocal segments of the population feel?

All this hubbub has occurred in a case where the Trial Judge is trying to insulate prospective jurors and thereby preserve the integrity of a fair trial on the merits by use of a gag order. One lead defense attorney has been dismissed from the case for orchestrating the Barbara Walters interview. However, he was on the case *pro hac vice*, and as such, practicing in Delaware only with the permission of the judge. Notwithstanding Grossberg's right to counsel of her choice, her lawyer from Long Island had an Achilles's heel that a member of the Delaware Bar would not have had.

In certain high profile criminal cases, defense attorneys have openly admitted they conduct media campaigns aimed at prospective jurors.

Well then, how far can lawyers go to "fight back" in pre-trial publicity? How can trial judges ensure a fair trial based only on competent evidence? As lawyers bound by ethics, we turn for guidance to Rule 3.6 of the Model Rules of Professional Conduct (Trial Publicity) and the U.S. Supreme Court case of *Gentile v. State Bar of Nevada*, 501 U.S. 1030 (1991).

In *Gentile* the U.S. Supreme Court looked at then-Rule 3.6 and by two separate 5-to-4 votes overturned disciplinary action against Mr. Gentile for violation of Rule 3.6 in a pre-trial press conference. One majority found that "an attorney may take reasonable steps to defend a client's reputation." Neither majority attempted to delineate the boundaries of a rule the Court would sanction which sought to control pre-trial publicity. A new Model Rule 3.6 has been drafted, hoping to satisfy *Gentile's* broad language. It is a watered-down version of its former self, allowing for a retaliatory exception, but Delaware has yet to adopt it and the U.S. Supreme Court has yet to rule on it. If the new rule has any teeth at all, they are infirm and unstable. Further, no one knows for sure whether other forms of restraint are constitutional, such as judicial gag orders or judicial attempts to restrict media access to police reports and court filings. There's a split of opinion, with most legal scholars favoring freedom of the press over fair trials.

Former Disciplinary Counsel Charles Slanina said, "I think the Office of Disciplinary Counsel would have a tough time prosecuting anyone for pre-trial publicity in Delaware at the present time." Justice Randy J. Holland noted in a 1995 DTLA seminar on lawyers and the media that "Courts have had a difficult time ascertaining the proper standards to apply to the different issues." Justice Holland concluded: "Future court decisions will hopefully bring more certainty to this complex area of the law." This vacuum created by the Supreme Court is why lawyers like Jones, Shapiro, and Lefcourt can do what they do and urge other lawyers to grab a mike and work the crowd.

While waiting for "more certainty" from the ruling courts, trial judges are every day trying to conduct fair trials. Exactly what are *Gentile's* permissibly "reasonable steps to defend a client's reputation"? Disciplinary Counsel David Glebe, who is promoting the adoption of the new Model Rule 3.6, acknowledges that "the trouble with definitions" such as these is that "words only point one in a direction." He says, "This is a real line-drawing question to be decided case by case."

The only guidance one *Gentile* majority gave the rest of the judicial community is that "reasonable steps" embraces "an attempt to demonstrate in the court of public opinion that the client does not deserve to be tried."

Lynch mobs get created by people riling each other up, usually pre-trial and always "in the court of public opinion." While the courts begin to draw lines in this new "complex area" of modern Supreme Court constitutional law, we have the luxury of living in a period free of lynch mobs. (These periods come and go in history.) The anti-semitic remark that opened this article is, one hopes, not a precursor of a new electronically riled-up lynch mob — the jury that is influenced by unsworn, improper, and irrelevant material before it is even empaneled.◆

would be at a loss when it came to simple, straightforward factual statements of what a case was actually about. However, my father heartily approved of the Rule changes. Further, he put "his money where his mouth was" by chairing the committee that adopted the proposed new Rules for Delaware. My father later told me that he saw no reason why he could not learn the new Rules as quickly as any other Delaware lawyer. He also surmised that he could deal with the merits of a case if he had to as handily as any other Delaware lawyer, be he neophyte or veteran.

That year my father then examined the newest crop of law school graduates on the new Rules of Procedure. They, of course, had had courses on the new Rules at their respective law schools. They felt comfortable in discoursing on all the theoretical problems that might arise under the new Rules. However, my father's bent remained practical: he, for example, would ask that they draft two complaints based on stated facts, one to be filed in the Federal Court and one to be filed in the State Court. There were significant but subtle differences between the Rules in the two Courts. He wanted to make sure that the differences were understood by the applicant because these differences could well spell the difference between victory and defeat for his client. Again, there was wailing and gnashing of teeth, since many who thought they were saved were not among those who passed.

Over the years, my father became known as the toughest of the Board of Bar Examiners. Indeed, at times, his colleagues, not as severe as he was, would overrule his wholesale slaughter of the year's entire crop and admit some aspirants who, he could and would point out, seemed not fully qualified. In due course, however, his term as a member of the Board of Bar Examiners expired. He retired, having amply fulfilled what he had conceived his duty to the Supreme Court and to the public to be.

However, my father's approach had not been entirely draconian. One time, I saw him look up from his nightly task in the Fall of correcting the Bar exams. He gave a hearty laugh. He said that the student whose paper he was marking had written a response to one question in some sort of gibberish. He read it to us. My sister remarked brightly

Continued on page 18

William E. Wiggin

TWENTY YEARS

Early in 1982, E. Norman Veasey, Esquire marched into my office at One Rodney Square and, in his genially imperial manner, revealed to me that I was going to create and edit a publication for the Delaware Bar Foundation. Well and good! *Delaware Lawyer* has given me more enjoyment and amusement than anything else in my working life. Not that there haven't been some hairy moments, but even these have mellowed into comedy in the golden glow of geriatric reminiscence.

Then there was the run-in with the trial lawyers....

One of our first brushes with disaster arose from a poetic tribute by Richard Herrmann honoring his recently deceased partner, the distinguished and very much admired Alexis duPont Bayard. Richard's gracious poem began:

"The word for Lex was gentle
For he was a gentleman ..."

How true and how fitting! But alas! The Prince of Darkness had slithered into the print shop and taken charge of the proceedings. When the "blueline" proof (the magazine in virtually final form, a last chance for corrections) reached my desk, I was about to give it my blessing when some happy instinct told me to check on Richard's poem. And there, shamelessly robust, appeared:

"The word for Lex was **gentile** ..."

(Emphasis supplied.) When I told Richard of this near horror he was unkind enough to be highly amused.

Then there was the run-in with the trial lawyers. In a short, acid piece I made so bold as to suggest that product liability litigation was getting out of hand. (I had defiled a sacred pocketbook!) Shrill calls for my removal from the magazine and from the Bar Association itself were heard and sensibly disregarded. What I enjoyed most about this silly contretemps was fellow editor Dave Drexler's reference to me as "Salman Rushdie."

Oddly enough, in the Fall 1998 issue (which was devoted to the achievements of Judge Collins Seitz), the Judge in an interview conducted by Ned Carpenter expressed just about the same view for which I had been pilloried. He complained of giant verdicts for trivial injuries, which stood uncorrected by remittiturs. I have heard of no attack on Judge Seitz by the plaintiffs' bar, but then of course, the Judge was and is an icon.

The next great cause célèbre arose from an illustration accompanying an article about the struggle of women to participate in the legal profession. The author dealt at some length with an 1870s decision of the United States Supreme Court, which upheld a ruling by the Illinois Supreme Court that women should not be permitted to practice law because (in short) such activity was just plain unwomanly. (In the 1930s, Adolph Hitler had espoused the same view, consigning women to children, kitchen,

and church.) This absurd and offensive decision from the nation's highest Court stimulated the satiric powers of the illustrator, a very talented lady named Paulette Bogan, who created a caricature of a housewife clad in bathrobe, hair curlers, and fuzzy slippers, with an iron in one hand and a floor mop in the other, as she sailed into a courtroom full of shocked males, who were no more flatteringly caricatured than the central figure. Needless to say a firestorm of protest followed, ignited by a gaggle of humorless and obtuse feminists (some of whom were actually men) and resulted in a contemptibly abject apology (not mine, you may be sure) for this imaginary fault. As Greg Inskip pointed out in the Bar Association house organ, *In Re:*, the cartoon mocked the offending stereotype of the female confined to hearth and home. Mr. Inskip obviously felt, as did I, that the intelligent would recognize the caricature as being on the side of the angels.

Well, as Mark Twain said, a lie can travel halfway around the world while the truth is lacing its boots. Similarly, unreflective emotionalism will run rampant while common sense lies dormant. In this instance, it took a little while for common sense to reassert its dominion. Ultimately, an ABA committee called "Women in the Profession" expressed admiration for Ms. Bogan's cartoon and sought the magazine's help in getting in touch with her to secure her talented services.

These two faintly ridiculous events taught me something both frightening and salutary: most of us aren't the least bit interested in freedom of expression unless it is *our* freedom or that of those wise enough to agree with us. And this is why I revere the First Amendment: it saves us from the inclination to muzzle those with whom we disagree. That flawed humanity could have created such a device to suppress its own worst urgings suggests to me the possibility of divine intervention in human affairs.

To reflect on the past 20 years in a more practical vein, the experience of editing other people's prose for *Delaware Lawyer* has taught me several useful things. First of all, in dealing with authors remember that to work with a good writer is a joy. If you have an editorial suggestion, the writer will readily agree and will usually improve upon your suggestion. But a less competent author will defend bad writing with the ferocity of a tigress guarding her young. Tact is essential, and the editing experience is, as James Thurber once put it, like getting a drunk out of a night club where he imagines he has been insulted.

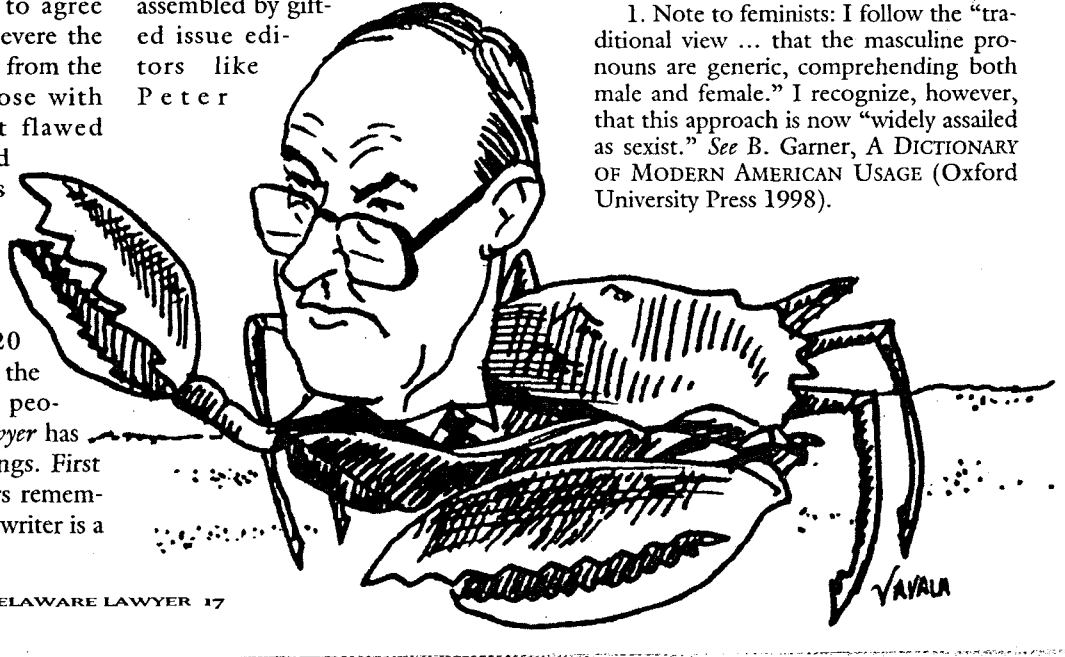
The other lesson learned is the importance of respecting the author's *voice*. It is *his* article, not yours. One of the pleasures of reading a magazine is to encounter a variety of dictions, tones, and idiosyncrasies of voice. The editor must criticize, but he must also protect the spirit animating the edited piece. In its modest way, editing bears some resemblance to psychoanalysis. Get the author to say it. Don't try to say it for him.[1]

Happy memories about *Delaware Lawyer*? Many: the opportunity to work with fine writers like Bill Prickett, Irv Morris, Bruce Stargatt, Vernon Proctor, and Joel Friedlander; the great leadership of Managing Editor Richard Levine; the satisfaction of first-class product assembled by gifted issue editors like Peter Hess, Susan Paikin, Tom Ambro and Dave Drexler (to ungraciously name only a few); and our durable commitment to clarity, good English usage, and respect for the laws that make us a free and civilized people.◆

The cartoon that rocked the Delaware Bar.

FOOTNOTE

1. Note to feminists: I follow the "traditional view ... that the masculine pronouns are generic, comprehending both male and female." I recognize, however, that this approach is now "widely assailed as sexist." *See* B. Garner, A DICTIONARY OF MODERN AMERICAN USAGE (Oxford University Press 1998).



Top illustration by Paulette Bogan. Bottom illustration by Mark Vavala.

that the answer was as plain as the nose on anyone's face: it was written in pig latin.

"Pig Latin! What is that?" my father asked in astonishment. My father's language of choice was Oxford English, albeit with somewhat of a Delaware accent. We three children thereupon spent the rest of the evening talking entirely in pig latin among ourselves to the amusement of my father and consternation of my mother, to whom English remained a second language. The student had written the following answer to this question:

State in plain, understandable language how many returns of service are required in an action of detinue.

His answer in pig latin to the question was something like this as I recall:

I ouldway atherway oinjay a ircus and avehay a aintedpay acefay ikelay a lowncay orfay the estray ofymay ifelay if histay is the ortsay of hingtay hatay awyerslay do and hargecay the ublicpay orfa.[1]

My father thought that this showed a daring approach to the problem. To the young man's considerable surprise, he passed procedure. Further, this particular lawyer went on to become an excellent practitioner of law, including procedure. Of course, he owes his professional career to a solid grounding in pig latin.

Thus, my father had become a symbol of the bad old clubby days in terms of admission to the Bar when I came back to Wilmington having graduated from Harvard Law School. I for my part, was as saucy as a jaybird. After all, had I not been to an ivy league college? Had I not successfully graduated from the Harvard Law School? Had not my father and grandfather been respected members of the Delaware Bar? "Pride goeth before a fall and a haughty spirit leads to destruction". However, not satisfied with strutting about with all these self-appointed accolades, I compounded my almost certain fate by an incredible series of overbearing acts. First, I plunged into the work at my father's office as if I were already admitted. Further, I did not hesitate to contradict and correct older admitted lawyers, even though I did not yet have the right to practice.

Beyond that, when I ran into my fellow aspirants, I disdained their fearful looks and nervous apprehension about the upcoming Bar examination. It just never occurred to me that anybody with my extraordinary ability and credentials could stumble over something as minor as a provincial Bar Exam. Indeed, I had totally forgotten that a witty professor at Harvard told me after I had recited in class that I was to get a treatise by one Milne from the library because the second line on page 37 contained a perfect description of me. He told me to report to the class the next day on what I found. To unending guffaws of my class, I had to report that Milne had said in the words of Christopher Robin: "Oh, Pooh Bear, you are a bear of very little brain."

There was a young lady who had studied at a fine thorough law school. She confided to me one day in the law library where I was looking up weighty English precedents that she was very worried about the Bar Exam. She said that she and two young men were holding a study group at nights in order to go over questions that had been given on prior exams and thus prepare themselves for the current Bar Exam. She invited me to attend. (Privately, I said to myself that this was simply a crude attempt by the lady to profit by my obvious knowledge and slide into the Bar on my intellectual coattails.) I said somewhat patronizingly that I thought that what they were about was probably a good idea for them but I was far too busy with the important cases that had been confided to me to take the time to attend any such skull sessions.

In due course, the examination day rolled around. I showed up with all the other candidates. Some of them looked quite gray with fear and apprehension. I was serenely confident as I calmly wrote my assigned number down on the first answer booklet. Some measure of my self-delusion can be gleaned from the fact that, never in the course of the three day examination, did it ever occur to me that I was doing anything other than writing the definitive answers to the questions posed. When the day's examinations were over, there were always huddled conferences in the hallways. Some candidates were concerned that they had missed this issue or that answer. I

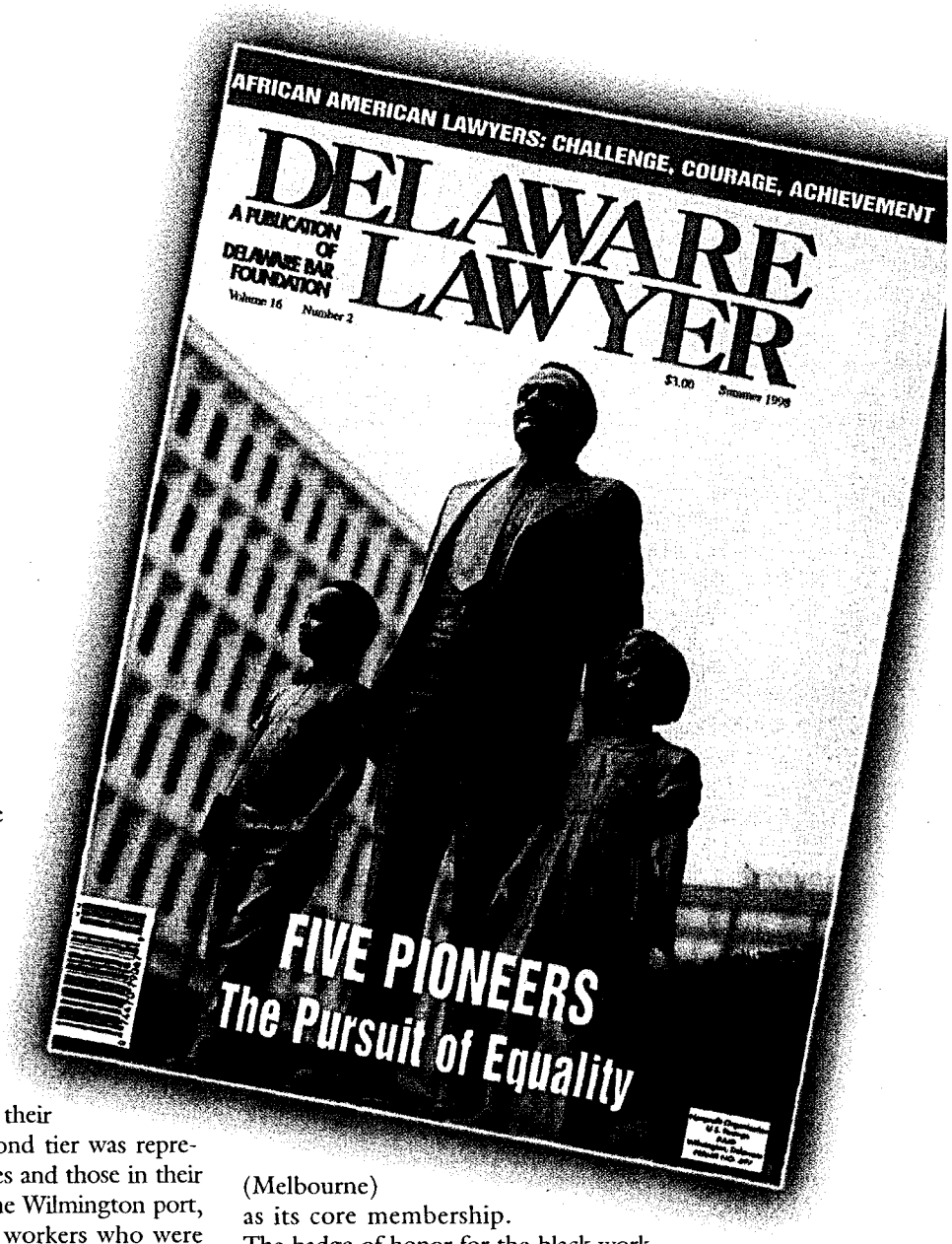
Continued on page 26

FROM THE ARCHIVE

Frank H. Hollis

MY MEMORIES OF LAW PRACTICE IN WILMINGTON, DELAWARE

(Vol. 16, No.2, Summer 1998)



Backdrop

Wilmington, Delaware of the early 1950s appeared to the uninitiated as an idyllic city with well-defined separation of lifestyles. The landed gentry was dominated by E.I. duPont de Nemours, Atlas Powder Co., Hercules Powder Co., et al., and those who served their industrial and management needs. A second tier was represented by the two or three leather tanneries and those in their employ, the longshoremen who worked the Wilmington port, the postal workers, and those domestic workers who were employed by the rich and famous in Greenville, Delaware and such kindred environs. The black professional class was extremely limited in number with one lawyer, Louis F. Redding, Jr., five doctors, two dentists, one drug store owner (Melbourne) as its core membership.

The badge of honor for the black working class was to have then been employed as an elevator operator or maintenance/stock worker for duPont, Atlas Powder, Hercules Powder combine, or to work for the U.S. Post Office or City Hall. The courts of Delaware were essential

bastions of "whiteness," with every position from bailiffs to prosecutors and judges occupied by white male images.

Wilmington City Council represented an urban area where, with few exceptions, blacks resided in the east and west quadrants, while the northern and extreme southern quadrants housed the residences of its whites. The lone black representative was from the east side of town and he was employed as the janitor at the Delaware State House in Dover, Delaware. Similarly, the City's police department was tokenly reflective of its black population. Only one black detective and a handful of police officers were employed to patrol black residential neighborhoods and make arrests.

As stated above, the only black lawyer (Louis L. Redding, Jr.) had been admitted to the bar in the 1920s and he was destined to retain this dubious distinction until 1956.

On Coming to Delaware

My first encounter with Wilmington, Delaware was as a result of being stationed in the U.S. Army with "Mitch" Thomas, a graduate of the then Delaware State College, who had been a disc jockey while in school. Mitch and I formed a friendship which coalesced around our army experiences and our love for music (particularly jazz). Although born in Florida, his roots were now in Delaware where his intended bride, Odessa, lived. We would come up from the Tidewater, Virginia area, where we were stationed, whenever we could get a three-day pass. For me, as a Little Rock, Arkansas/Dallas, Texas native, these excursions were deeply anticipated and undertaken as a welcomed respite from army routine and fare.

My pre-army intentions had been to enroll at St. Louis University's Law School in St. Louis, Missouri. My desire for the practice of law has been whetted by my early experiences attending school in the southwest, — Dunbar High (Little Rock), Prairie View College (Texas) and Arkansas A.M.&N. College (Pine Bluff, Arkansas). I had observed the court proceedings as a student in junior high school involving Little Rock teachers, Sue Cowan Morris, et al., regarding the equalization of pay for black teachers with that of whites. My first encounter with Thurgood Marshall, then counsel for the

Frank H. Hollis, Esquire

National Association for the Advancement of Colored People (NAACP), was at this time. The pride I felt in watching him and a local attorney, J.R. Booker, during these proceedings remains a high point in my life. Other cases in Arkansas and Texas involved police brutality committed by white police against blacks and suits to compel the admission of blacks to the University of Arkansas and the University of Texas Law Schools.

A return to my pursuits at St. Louis University was not to be. Mitch and I were discharged from the army in late September 1952 (he a few days earlier than I). My final East Coast visit was planned as a swing through Delaware to spend a few days and then on to Arkansas/Texas. On this trip to Delaware I met my first wife to be, Janis Anderson.

The Anderson/Hamilton residence was at 204 E. Tenth Street, directly across the street from the Redding family home. Gwendolyn Redding, a teacher at Howard High School, lived with her mother and father, Louis Redding, Sr., a retired worker. Louis Redding, Jr. practiced law and lived away from the family home. J. Saunders Redding, Louis' brother, was a professor at Hampton University.

I returned to Arkansas and Texas and spent the next nine months preparing to enter Temple University Law School in September 1953. I returned to Wilmington, Delaware in June 1953 and took a job as a waiter at the Brandywine Country Club to earn money to tide me over and defray expenses until my G.I. Bill payments could be processed. I entered Temple Law School that fall.

I did well my first year at Temple and finished first in a class of 138. I was voted Vice President of my freshman class and worked in the Law Library and on the night shift at the U.S. Post Office to earn my keep. I ultimately graduated fourth in my class.

While I lived in Philadelphia, I would commute to Wilmington whenever I could to see my intended wife. My decision to attempt to establish practice in Delaware was made during my second year when I won the Corporation Law Award. My study group consisted of Joseph Kwiatkowski, Fred Knecht and Joseph Longobardi, among others. We would rotate the study locale between the several places we could centrally meet — most of the time at Joe's house. Thereafter, the study group stayed together to cram for the bar exam.

My eligibility to take the Delaware Bar was fraught with two obstacles — i.e., the need to identify a preceptorship with a Delaware attorney (a most difficult task since Louis Redding was the only attorney I knew and a preceptorship with him was not available), and the need to identify a means of having a second year of Latin proficiency certified to the Bar. I also learned that two other black candidates (Sidney Clark and Theophilus Nix) would be taking the Bar at the same time and that Leonard Williams would sit for the Bar the following year. It was a cause of some concern for me because since 1929 no blacks had been admitted to the Delaware Bar and now, within a span of two years, four black candidates would seek membership. In the late 1950s the question of black quotas for State Bars was a burning concern to black law graduates across the country — with several cases in the Southern States being brought to test so-called quota manipulation. It is to the credit of the Delaware Bar that all four black candidates passed.

The first of my problems (the preceptorship) was solved when then Chancellor Collins J. Seitz gave me a law clerkship with the Court of Chancery. As I was to appreciate later, this was the first law clerkship in that court and it was certainly the first one for a black in the court that heard causes affecting the 60% of the Nation's corporations that were headquartered (domiciled) in Delaware at that time. Such a law clerkship for a black is all the more remarkable since the Chancellor and Vice Chancellor were, in addition to the Court's normal share of causes, busy wrapping up those matters pertaining to the divesti-

ture of duPont's control of General Motors stock and embarking on the protracted arguments, motions and exhibits which attended the decision in *Bata v. Hill*, 139 A.2d 159. The second problem (Latin) was solved by translating Caesar under the tutorage of a Catholic priest.

As a law clerk I cut my teeth on European civil law, including the law of "sales legacy," which determined the case in *Bata*. Thanks to my law school course in international law, I was also familiar with the principles of comity that were very much involved in the outcome of this case. The Chancellor, as busy as he was, used every opportunity to instruct me in the nuances of the law and the weighing of evidence leading toward decisions. There were more than 100 argument days and nearly 4,000 exhibits admitted into evidence in Bata.

Suffice it to say that Chancellor Seitz was one of the most brilliant jurists I have ever encountered. He was a paragon of fairness and humility. It is little wonder that his decision in the Delaware case involved in the landmark *Brown v. Board of Education* decision of the U.S. Supreme Court was the first to call into serious question the constitutional doctrine of separate-but-equal as it applied to the education of black children. No amount of praise can add to or detract from this pioneering accomplishment. He was truly my mentor (preceptor) and I still thank him.

At the Delaware Bar

I was sworn in by Supreme Court Chief Justice Sutherland in his chambers, which was then across the hall from the Court of Chancery in the County/State side of the Public Building (City Hall - Second Floor), and I immediately made plans to commence the practice of law.

My office was located at 1014 Walnut Street (now a parking lot) and my initial days in practice were spent locating a secretary, securing a working law library and handling the few cases my first few clients brought me. As I recall, my very first case was one of aggravated assault involving a cutting, for which I put together a complete trial brief in the City's Municipal Court. In addition, my feeble start was assisted by Ned Carpenter, Rodney Layton, William Bennethum and other members of the Bar who spread the word in the corporate sphere that there was a new kid on the block. Gradually, some corporate clients came to me. These kept body and soul together for me and my family. (I had married Janis Anderson at the end of my first year in law school and by now we had two children.)

One of the more interesting cases of a corporate nature occurred when I undertook the representation of Messrs. Garfield, Pasternak and Roen in the Chemoil (Bon Ami) case. These gentlemen had been sued by the stockholders of Chemoil Corporation for the handling of its business affairs, including the breach of their fiduciary duty in self-dealing with the corporation. They, in turn, had countersued for money due and owing for services they had rendered Chemoil. Motions, counter motions and depositions were regularly filed from all quarters. This case was an interesting study in an attempt to control corporate assets.

It is ironic to note that while Delaware today is reputed to serve as the domicile for over half of the Nation's large corporations, not a single black Delaware lawyer has a regular corporate practice before the Court of Chancery. This, I submit, is a tragic commentary on the rich legacy of a Collins Seitz and Delaware's admission of four blacks to its Bar within two years in the late 1950s. If Delaware is to be true to this legacy, this sorry state of affairs must be corrected.

My life at the Bar in Delaware was involved in other legal pursuits. The beginnings of the landmark case *Burton v. The Wilmington Parking Authority* were lodged in the efforts of seven workers at the Chrysler Newark Plant who sought to be served in a restaurant housed under lease in this government facility. When they were denied service, they were arrested and charged in the Wilmington Municipal Court with, inter alia, criminal trespass. As their legal representative, I conferred with Louis Redding, Jr., who was then counsel for the local branch of the NAACP. We decided to test the owner's no service to blacks policy by having City Councilman Burton seek service. He was arrested for trespassing and thanks to Louis Redding and Leonard Williams, the law is now established that a governmental entity cannot by inaction do what it could not do by action — enforce and countenance discrimination on the grounds of race in a publicly-owned facility.

The other notable Wilmington civil rights case involved the August Quarterly Celebration. Each year black participants from down-state Delaware and Wilmington would block off several blocks of French Street on either side of the Mother A.U.M.P. Church to celebrate the date the slaves of this state and its environs received word they had been freed. Because this was a bitter reminder to some citizens of an era best forgotten and/or because in many respects the celebration bore the earmarks of an evangelical revival, it was barely tolerated by the Wilmington Police Department. The epitome of effrontery came on that evening in the late 1950s when the police, mounted on motorcycles and equipped with bull horns, sought to clear French Street and end the celebration. Several participants were struck by motorcycles and others were arrested, along with Rev. Brown, Pastor of the Church, on a charge of maintaining a nuisance. Clearly, this was a violation of the civil rights of those involved and ultimately the charges were dropped and the Chief of Police apologized.

My national contribution to the cause of civil rights occurred with the legal assistance I provided to the late Wiley A. Branton, Sr., Esquire, who was the lead counsel in the case of the "Little Rock Nine." Wiley and I had attended Arkansas A.M.&N. College together as classmates. He had matriculated as the second black graduate of the University of Arkansas Law School and his practice was established in Little Rock/Pine Bluff, Arkansas. We are all familiar with the attempts to integrate Little Rock High School in 1957, the recalcitrant resistance of then Governor Orval Faubus, and the attendant riots and use of U.S. troops to enforce the Federal Court's order. I am proud that in some small way I was able to assist my late friend and colleague during this ordeal.

Since Leaving Delaware

I left Delaware in 1961 to come to Washington, D.C. I accepted the position of Attorney-Advisor to the Solicitor, U.S. Department of Labor, Division of Opinions and Interpretations.

My job entailed: (1) legal oversight of the establishment of the President's Committee on Equal Employment Opportunity (the forerunner of the Commission); (2) the rendering of decisions on wage and hour determinations with respect to federal contracts; (3) the participation in drafting legal

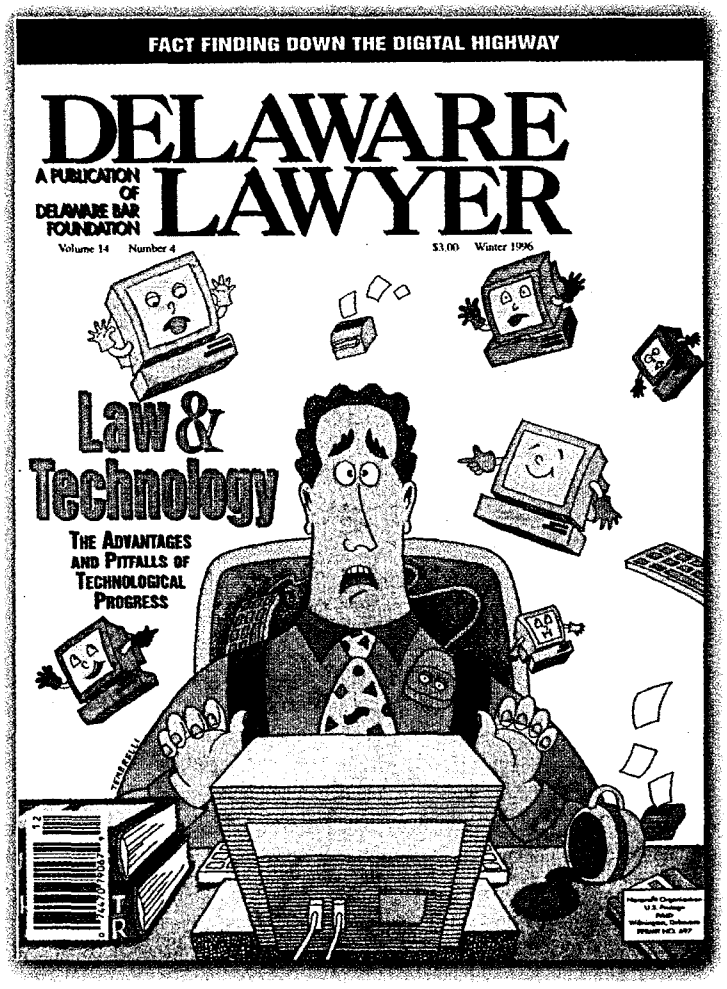
Continued on page 27

FROM THE ARCHIVE

Vernon R. Proctor

REALITY BYTES: A LUDDITE LAWYER LOOKS AT LEGAL TECHNOLOGY

(Vol. 14, No. 4, Winter 1996)



I am a cyberphobe and proud to admit it. I have no use for laptops, powerbooks or any other type of computer (except LEXIS, which I grudgingly use about twice a month). For all the palaver about "the revolution in legal technology that is transforming practices across the country," yadda, yadda, yadda, I still stick to the basics: a Lanier Dictaphone, a battered hand-set telephone with a primitive conference feature, and (gulp) voicemail. I am now the only lawyer in my office without a PC — a distinction that I wear as a badge of honor. What follows are my reasons for my once and future aversion to technolaw.

1. If Anything Can Go Wrong, It Will.

Computers seem to freeze up at the worst possible moment — like the day a Supreme Court brief is due, or just before an important closing. Worse yet, an improper keystroke could send your complete archives into La-La Land. I burn out six or seven sets of batteries a year on my Lanier, but it has never let me down in the clutch.

What about laser printers, you say? Well, they seem to work with glacial rapidity when you need a document quickly. What is more, they seem to "streak" about as regularly as an unprotected windshield on Pigeon Alley. Too much ballyhoo for the buck, in my opinion.

Finally, anyone who trumpets the virtues of voicemail, e-mail and similar wireline gadgetry should think twice before spreading such fertilizer again. Murphy's Law Number 23: when you really need to get your messages, the blasted system won't kick on. And everything's discoverable anyway. Enough said.

2. I Can't Type, So Why Bother?

As a lifelong "huntinpecker," I have a natural reluctance to tackle anything with a keyboard. Back in college, with my sturdy Smith-Corona (manual, of course) in tow, I still paid a classmate to type any term paper over ten pages long. My senior thesis, which ran about 140 pages plus footnotes, kept some starving graduate student "in good beer" for about two months. As a result, I was short of cash for four years — a trend that persists to this day.

My Scarlett O'Hara approach to poverty ("as God is my witness, I'll never be hungry again"), coupled with my three-fingered typing style, causes me to avoid computers like presidential candidates avoid the truth. One

of my digitally-impaired partners defends his acquisition of a PC by claiming that, notwithstanding his inability to type a brief on it, it is still indispensable for keeping his calendar. I respond with an eight-letter expletive meaning "nonsense": nothing works better than a good old-fashioned tickler system that won't "crash" when you need it most. Always keep a written calendar as a cross-check.

3. Technology Is Too Damned Expensive.

Nothing wastes more time at partners' meetings — with the possible exception of compensation — than debates about office technology. No sooner have you acquired one system than you need to upgrade it or acquire another one altogether. My office still uses one computer system that, unfortunately, is not compatible with almost anything else or the planet today. Our firm finally acquired a couple of terminals from the "number one brand" when it became clear that no client could transmit documents to us without a lot of cursing, teeth-gnashing and clean-up work.

All kidding aside, given the boundlessness of human ingenuity and rampant technological advances, the bottom line for a firm that is determined to "keep up with the Skaddens" on computers can be truly staggering. The endless variations of systems software could bankrupt a practice in minutes if it were compulsive enough to buy them all. I'd rather help my corporate colleagues make money by buying their treatises for the library shelves. The so-called advantages of CD-ROM are totally lost on me — just another touch of glitz, for my money. Print is not dead.

4. I Like Old Stuff Anyway.

As a conservative, I tend to shun any thing that remotely smacks of "progress." I am a lifelong Republican; I like to drive cars until they fall apart under me (well, not quite); fine wines are invariably aged; I have a thirty-year-old house, an 18-year marriage, and several nice antiques. The older my kids get, the better I like them. In short, I am big on tradition and durability. Computers have none of those advantages and are, hence, devoid of appeal to me and to those similarly situated,

My Webster's Collegiate Dictionary defines "Luddite" as "one of a group of early 19th century English workmen destroying labor-saving machinery as a protest." (Coined after the hapless Ned Ludd, who was a "half-witted Leicestershire workman" circa 1779.) I have yet to witness, or to cause, the defenestration of a "Windows 95" PC. But I have punched, cursed and otherwise abused various "miracles of modern technology." Besides, it's easier to work out your anger through a Dictaphone: you can't get an instant hernia by throwing it across the room.

All things considered, I've survived nicely in this practice for over seventeen years without a computer and, God willing, I'll go on for another generation or so in that lack of capacity.

Query: is there a "chat room" for lawyers like me? ◆

FLUNKING THE BAR *cont.*

disdained all such post-mortems and quickly got back to the office to help with the case load. My father, deluded, I suppose, by paternal pride, never questioned that I might not have done what was necessary in preparing for these crucial examinations. Once the examinations were over, I promptly forgot entirely about them and went about my self important legal business (and pleasures).

Thus, on Saturday, October 16, 1954, I got up and came in town from my digs for a leisurely breakfast at the old Toddle House Diner on Delaware Avenue. Every detail of that painful day is seared into my memory! I remember everything that happened with the garish clarity of last night's nightmare. Thus, I remember that I bought a *Wilmington Morning News.* I scanned it loftily as I waited for my poached eggs. As I was idly turning the pages, an article caught my eye — "The Results of the Delaware State Bar Examination". Ahh, I thought. I looked it over. In the list of those who passed, I could not find my name. I looked back over the list more carefully and still could not find my name. Then hastily, I went through it backwards to see if that produced anything. I noted ominously that the article said that 13 applicants had failed the examination. Pointedly, the article stated that the names of those who had flunked were not published. Suddenly, with the clarity of a flash of lightning, the awful truth dawned on me.

My fork dropped back onto my plate of poached eggs. My hand shook as I tried to take a bracing slurp of black coffee. Unless there had been some awful oversight or error in the marking of the examinations or a mix-up of the assigned numbers, I had failed the Delaware Bar Exam. I telephoned my father. He was, of course, already at the office. I told him what the newspaper revealed. He took it stoically and said something for which I will always be grateful: "Never mind, I still think you have the qualities to make a Delaware lawyer. It just means that you will have to take the Bar Exam again next year."

When I got to the office, my father had already called the Secretary of the Board of Bar Examiners. The Secretary had the difficult task of confirming the fact that I had indeed totally failed the Bar Exam: I had missed, not narrowly,

Continued on page 30

documents regarding litigation to outlaw discrimination in government contracting — culminating in the Norfolk Shipbuilding case; (4) decisions on the Federal Unemployment Trust Act and the Fair Labor Standards Act; and (5) the preparation of draft legislation and testimony on sundry matters under the jurisdiction of the U.S. Department of Labor.

One of my proudest achievements was participation in drafting the manpower legislative provisions of the Economic Opportunity Act of 1964. These provisions gave rise to such programs as the Neighborhood Youth Corp. (NYC) and Volunteers in Service to America (VISTA). These programs with their ancillary supports — e.g., Head Start (which grew out of the Act's day care provisions) — yet serve as models for people helping people.

I participated in the planning and coordination of the 1963 March on Washington where Dr. Martin Luther King delivered his "I Have a Dream" speech. In these years at the Labor Department I also aided, through NAACP affiliation, in arranging bail bonds and hearings for freedom fighters in Selma, Alabama, Sunflower County, Mississippi, and on the Eastern Shore of Maryland. I also participated in arranging bail bonds and the defense of the Lumbi Indians in Lumbarton, North Carolina in their struggles with the Ku Klux Klan.

As a result of my legal experience with the Economic Opportunity Act, I was invited to become a part of the United Planning Organization (the Community Action Agency for Washington, D.C. and Fairfax County, Northern Virginia). I first headed its Manpower Division and thereafter became its Deputy Director when my late friend, Wiley A. Branton, Sr., assumed its directorship. From 1965 until 1982 (when I left UPO as its Acting Director) this Agency grew from an annual budget of $6 million to a budget in excess of $36 million and some 8,000 direct and delegate agency employees.

I was divorced from my first wife in 1972 and I have the love and companionship of three beautiful daughters (all married and one a lawyer) and one son. I have five grandchildren and one great- grandchild. One of my daughters and her family reside in Newark, Delaware. I am remarried, since 1984, to Joyce W. Hollis.

I am currently serving as the Executive Assistant to the Deputy Director, Office of Labor Standards, D.C. Department of Employment Services. This Office has oversight responsibility for the Office of Safety and Health, the Disability (Public Sector) and Workers' (Private Sector) Compensation Programs and the Office of Wage and Hour for the District of Columbia Government.

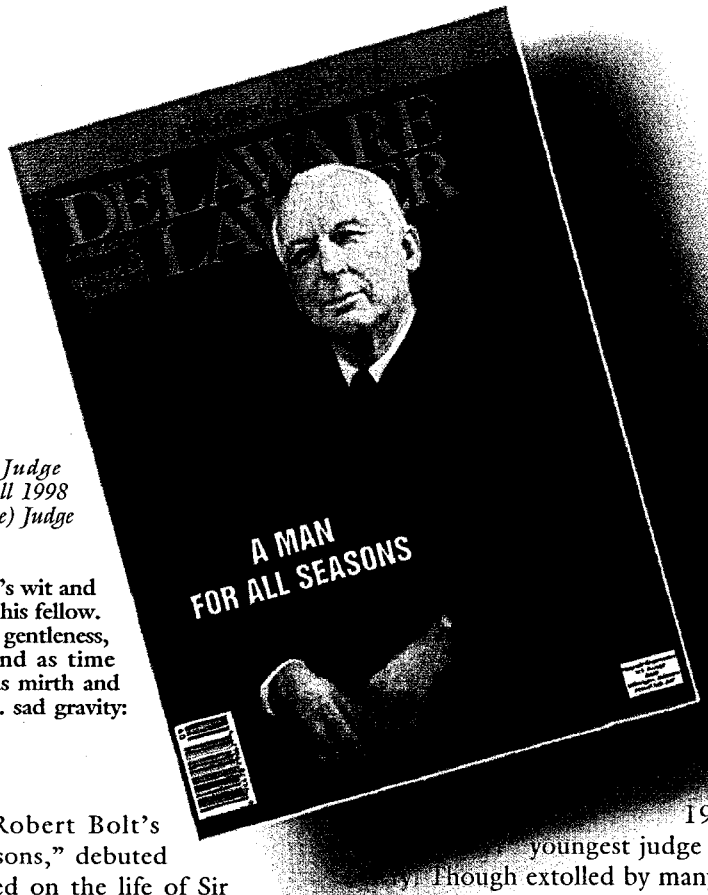
Conclusion

My Delaware legal experiences have been a constant resource to draw upon in all my endeavors. I frequently visit Delaware to see my daughter and her family, my aunt, Lorraine Hamilton (now 94 years old), my friends — Dr. Hammond Knox and family, Jerry Berkowitz, Esquire, and the other black lawyers who pioneered with me. These days and the years since will long live in my memories. It remains my fervent hope that Delaware will resolve to carry on its rich legal legacy for all. Only then can it truly be called America's Diamond State — its First State.◆

Thomas L. Ambro

"A Man for All Seasons."

(Vol. 16, No.3, Fall 1998)



This "Editor's Note" was Judge Ambro's introduction to the Fall 1998 issue, which honored the (now late) Judge Collins J. Seitz.

"[He] is a man of an angel's wit and singular learning: I know not his fellow. For where is the man of that gentleness, lowliness, and affability? And as time requireth a man of marvellous mirth and pastimes; and sometimes of ... sad gravity: a man for all seasons."

Robert Whittinton

In November 1961 Robert Bolt's play, "A Man for All Seasons," debuted in New York. It was based on the life of Sir Thomas More, a lawyer and scholar who was Lord Chancellor, the highest judicial office in England, during the reign of King Henry VIII. More resigned this position in 1532 because he opposed the King's plan to divorce the Queen and marry another. He was beheaded in 1535 for refusing to accept the King as head of the Church in England. (The Roman Catholic Church canonized More as a saint in 1935.) Bolt's work explores how a person so successful in the secular world, and hardly an ascetic, "nevertheless found something in himself without which life was valueless and when that was denied him was able to grasp his death."[1] Bolt touched a resonant chord "not only about a man for all seasons but also about an inspiration for all time."[2]

We ourselves have such an inspiration in Collins J. Seitz. Appointed as Vice Chancellor in 1946 at age 31, he was the youngest judge in Delaware in over a century. Though extolled by many as the State's greatest jurist on corporate matters, Vice Chancellor Seitz made national news initially by being the first judge in the Nation to order desegregation of a public university — *Parker v. University of Delaware*, 75 A.2d 225 (Del. Ch. 1950). He was only 35.

In the spring of 1952, in *Belton v. Gebhart*[3] Seitz was again the first judge in America to order the integration of public elementary and high schools. Later affirmed by the Delaware Supreme Court, this was the only case affirmed by the United States Supreme Court in *Brown v. Board of Education* in 1954, the most famous decision of the Supreme Court in this century. Chief Justice William Rehnquist called *Belton v. Gebhart* "the Court of

Chancery's proudest accomplishment." Former Justice Thurgood Marshall stated that *Belton v. Gebhart* was "the first real victory in our campaign to destroy segregation of American pupils in elementary and high schools."

To understand (but only faintly) the significance of these decisions and the courage shown, consider that in the time between his decisions in *Parker* and *Belton* Vice Chancellor Seitz gave the commencement address at Salesianum School for Boys. He did so to commemorate the special efforts of Father Thomas A. Lawless, the head of Salesianum, in integrating its classes. The Vice Chancellor told the graduating class that they were entering a world where too many lacked conviction and courage. To illustrate, he addressed "a subject that was one of Delaware's great taboos — the subjugated state of its Negroes."[4] "'How can we say that we deeply revere the principles of our Declaration [of Independence] and our Constitution and yet refuse to recognize these principles when they are applied to the American Negro in a down-to-earth fashion?'" [5]

The speech's incendiary directness was all the more remarkable when considered against the backdrop that only 11 days later the Delaware State Senate was to act on Governor Elbert Carvel's nomination of Seitz to be Chancellor. The courage and conviction (not to mention the political acumen) of Governor Carvel and Lt. Governor Alexis I. du Pont Bayard, coupled with Senators returning to Dover with police escorts, resulted in Seitz's confirmation shortly after midnight on June 16, 1951.

Chancellor Seitz stayed on the Court of Chancery until 1966, and became recognized as the leading American jurist on corporate matters. He then accepted the nomination of President Johnson to the United States Court of Appeals for the Third Circuit, where he served as Chief Judge for thirteen years and where he remains a Senior Judge today. In his 52 years on the Bench, Judge Seitz has written over 1,100 opinions — nearly 380 on the Court of Chancery and approximately 750 on the Third Circuit.

Judge Seitz's accomplishments are widely recognized. Among his many

awards are the First Annual St. Thomas More Society Award in 1989 and the American Judicature Society's Edward J. Devitt Distinguished Service to Justice Award in 1997. A courtroom at the Third Circuit Court of Appeals is named after him. Former Justice William Brennan placed Judge Seitz "in the pantheon of the eminent judges of our time."

This issue of *Delaware Lawyer* is dedicated to the continuing legacy of Collins Seitz. We deal with his remarkable career from many viewpoints. Judge Delores K. Sloviter of the Third Circuit remembers him as a colleague and friend. Helen M. Richards, a former law clerk to Judge Seitz, writes of him as a mentor. Former Chancellor William T. Allen notes not only some of the more distinguished corporate cases of Chancellor Seitz, but also imparts valuable insights into his judicial philosophy. C.J. Seitz, Jr., one of Judge Seitz's four children and a lawyer himself, pays tribute to his father. Finally, Edmund N. Carpenter, II conducted a comprehensive interview with Judge Seitz that is excerpted here.

Judge Seitz touches all the bases of a great judge. He decided fairly (even if to do so meant to act courageously out of step with public sentiment), efficiently, and without delay. He wrote lucidly, logically, and learnedly (with deft displays of simple elegance). And all the while he conducted himself with grace and modesty, remaining sensitive and kind to litigants and their counsel.

Watching anyone do almost anything superbly is a great good. Accomplishments well earned in a life well lived are special. But of selfish importance to us is that Judge Seitz's dignity and strength graced our profession, in our time, and in this State. He is our "Man for All Seasons." ◆

FOOTNOTES

1. Robert Bolt, Preface to "A Man for All Seasons" (1960).

2. *New York Times* (Nov. 1961).

3. Belton v. Gebhart, 87 A.2d 862 (Del. Ch. 1952), *aff'd* 91 A.2d 137 (Del. 1952), *aff'd* sub. nom. *Brown v. Board of Education,* 347 U.S. 483 (1954).

4. R. Kluger, SIMPLE JUSTICE, 432 (1976).

5. *Id.* (excerpt from speech of Vice Chancellor Seitz).

but by a country mile. Worse, the results had been public information the day before. Thus, it was known "on the street" that the son of the feared Bar Examiner of yesteryear had failed. Thus, I had walked around in snooty ignorance of the fact that I had just made a total ass of myself. I dumbly wondered how many people I had talked to the day before knew what I had not known — that is, that I had blown the Bar Exam. I wondered if I had compounded this fiasco by some further asinine patronizing statement that had been characteristic of my attitude before that precise moment.

Unfortunately, I had made plans to go to a football game that Fall day: I could not back out. I spent a day of acute misery with young friends who were as happy as only young alumni can be at their university for a Fall football game and general revelry. I did not want to mar the day by announcing my own intellectual downfall. When asked about the Bar, I had to casually dissemble: already I was trimming sail by saying vaguely that the Delaware Bar Exam was a somewhat dicey matter even for a Harvard Law School graduate.

This justified downfall, however, had several beneficial results. In the first place, it justifiably gave an awful lot of people secret satisfaction at my discomfiture and that of my father: they were fully entitled to savor this retributive moment. Second, it assured any doubters that the Delaware Bar Examination system was fair and impartial. Finally, it taught me a well-deserved lesson in humility and a more realistic evaluation of my own limited gifts.

I spent a sober, modest year working as a clerk in my father's office, not only learning the virtues of modesty and diligence but learning some practical law. I had received a sympathetic phone call from the young lady who had so diffidently inquired as to whether I wanted to join her study group. She, of course, had passed and was a practicing lawyer for a number of years and thus was always my senior at the Bar. She did not even suggest (as I probably would have done) that I had gotten precisely what I had deserved. Instead, she was sympathetic and helpful. Incidentally, she has gone on to higher and better things: she is a successful wife and mother. Remembering her professional solace, I try to make a special effort with colleagues who have stumbled on their initial attempt at the Bar Exam.

When the time rolled around in the Spring to begin serious preparations for the Bar Examinations, I not only joined a group but formed one consisting of those that I thought were the ablest young men and ladies who were going to take the Bar Exam that year. I applied myself earnestly to the preparation for the awesome Delaware Bar Examination. When the time came, I sat down with sweaty palms and a butterfly feeling in my stomach.

I spent many sleepless nights between the time of the Bar Exam and the dreaded day when the results were due out. However, the Secretary of the Board of Bar Examiners was kindly disposed towards the now apprehensive father and son. He telephoned us personally just as soon as the Bar results became official that year. I had not only passed but had done well. I almost wept with pleasure at this news. My father was quietly pleased. I must say that there was a spate of felicitations and congratulations from the Bar generally and the Bench. People, after all, were kindly and well-disposed.

I do not suppose that I have carried many readers to the end of this awful personal account. It is simply a recitation of a very painful episode in my professional life and, as well I know, for my father. However, my retelling has some beneficial aspects. First, as noted at the outset, this account may give some passing pleasure to those who secretly enjoy the suffering of others. Second, it also serves to remind me that my intellectual gifts always were and always will be limited.

Finally, and obviously most important, this account may also serve some really useful purpose. It may well-encourage others who likewise failed in their first attempt to pass the Bar Exam. It is worth passing along to others who have failed the first time the realization that with perseverance and diligence, almost everyone can, in the end, pass the dreaded Delaware Bar Examination. ◆

FOOTNOTE

1. I would rather join a circus and have a painted face like a clown for the rest of my life if this is the sort of thing that lawyers do and charge the public for.

be the hallmark of *Delaware Lawyer.*

And so in that spirit, gloves off, to the argument.

Fracture the semicolon! Heresy? Perhaps, but think about it. The semicolon is really not half a colon at all. Unbuckled, it is a comma lurking sheepishly beneath a period. And it bears far more similarity in its use to those two marks than to the colon whose name it semi-purloins. A colon is an introductory daub of punctuation. It evokes expectation. "Here's what's next:", it says. But the semicolon is a break between thoughts, like the period and (often) the comma which compose it. Semicolons are the favorites of equivocators. They are of service mostly to those who cannot decide between a period and a comma. In short, semicolons are the misnamed, ambiguous tools of those too fearful to adjudicate the period vs. comma controversy, and of those who entertain some doubt whether they have completed the utterance of a single thought.

Lest I be charged with radical views (which would greatly distress me), let me make it perfectly clear (as another president was wont to say) that I do not favor entirely abolishing the semicolon. There are two discrete instances in which there are compelling reasons to preserve the status quo:

(1) *Lists.* It should be permissible to separate items or thoughts (e.g., cases in briefs, or numbered paragraphs) by semicolons, because usage has made the mark, when employed for that purpose, less displeasing to the eye; and

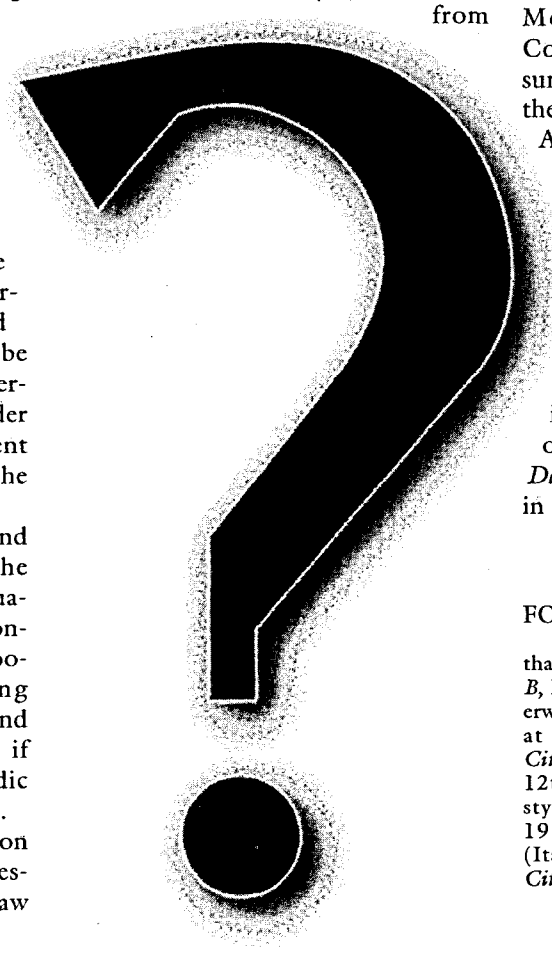
(2) *Judges.* The semicolon may be used by a court whenever and wherever not prohibited by its rules under the doctrine recognized by prudent lawyers of judicial immunity from the strictures of style.

Further, please do not understand from what has been said about the semicolon that I am an antipunctuationist. To the contrary, I am a confirmed capitalist who delights in doodling "E. E. Cummings" during depositions. And I would have found *Ulysses* less a classroom drudgery if Bloom's thoughts came in periodic drops rather than unbroken streams.

I spend hours in Court musing on where we would be without the question mark. It is the rule in our law firm that no brief may be filed without underscoring our adversaries' *warped reasoning.* Quotation marks are unattractive but necessary. Parentheses are unnecessary, but their curves are pleasing to the eye. (I use them a lot.) I like apostrophes. Apart from conveying the idea of possession (which lawyers relish), they help shorten words. And asterisks are decorative and distinctive. The little spikes make them look like tiny thorn balls, or land mines, occasionally appropriate to the footnotes they signal.

Having considered my argument, and having been sensibly convinced, the right-thinking lawyer will ask:

"How do we unhinge this little villain who has so long bedeviled us?" Voluntary action is too slow. An Affirmative Punctuational Action Plan would invite those delays in which bureaucrats rejoice! It would take decades to convince Philistines. My (respectful) suggestion for prompt solution would be a Supreme Court Rule. For this there is precedent: disregarding accepted practice, custom and usage, our Supreme Court has courageously decreed that Delaware cases be cited before it in a style different from the citation system used everywhere else.[1] The Supreme Court's action was criticized by the irreverent as capricious, even iconoclastic. But we remind those anonymous, misguided critics how quickly they learned to follow the new convention. The cynic may contend that acceptance was grudging, because non-conforming briefs were not accepted for filing. I prefer to think it came from a common recognition of our lofty tribunal's good taste.



If our Court could with one stroke of its pen alter habits of citation for reasons of mere taste, how much more forceful would be a mandate (it could easily be added as Rule 13(h)) simply saying: "Except in lists, the use of the semicolon is barred in all writings filed in this Court." Mind you, I am not suggesting the rule apply to lower courts, except to their opinions offered for publication. *See* Supreme Court Rule 93(c). It couldn't take much time for the force of reason to bring Chancery around. The Superior Court would soon follow. The Court of Common Pleas would not be out-done. The Municipal, Family, and Magistrate Courts might take a little longer. Meanwhile, our Federal District Court, a bastion of literacy, would surely warm to the idea. From there the Third Circuit is but a step away. And after that the horizon is limitless.

In the end the stress on the little semidevil will be too great. The argument in favor of dividing it has too much merit to be long resisted. Time is on the side of lucidity. Banged on the anvil of logic, the semicolon will break into a comma and a period. And, on the happy day when that occurs, *Delaware Lawyer* can take quiet pride in its heroic service. ◆

FOOTNOTE

1. Supreme Court Rule 14(g) requires that Delaware cases he cited in this style: *A v B,* Del. Supr., 500 A.2d 1 (1983). The (otherwise) generally accepted system is laid out at Rule 10:4 of *A Uniform System of Citation,* Harvard Law Review Association, 12th Ed., 1976, which suggests that the style be: *A v B,* 500 A.2d 1 (Del. Supr. 1983). *De Gustibus Non-Disputandum.* (Italics permitted by *A Uniform System of Citations, op. cit.,* Rule 7.)

DELAWARE BAR FOUNDATION

TWENTY YEARS OF SERVICE

The Board of Directors of the Delaware Bar Foundation is pleased to announce that **Richard A. Levine** has been selected to receive **The Delaware Bar Foundation Award** for his twenty years of outstanding service to *Delaware Lawyer* magazine.

Mr. Levine has served as the Managing Editor of *Delaware Lawyer* since its founding in 1982. He has demonstrated an unyielding commitment to the fiscal health and editorial excellence of the magazine, and his contributions to its success have been invaluable.

Chief Justice E. Norman Veasey and Harvey Bernard Rubenstein, President of the Foundation, will present the award to Mr. Levine at the annual Bench and Bar Conference on June 5, 2002.

Photograph by Heidi Scheing

DAVID YURMAN

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