

# DELAWARE LAWYER

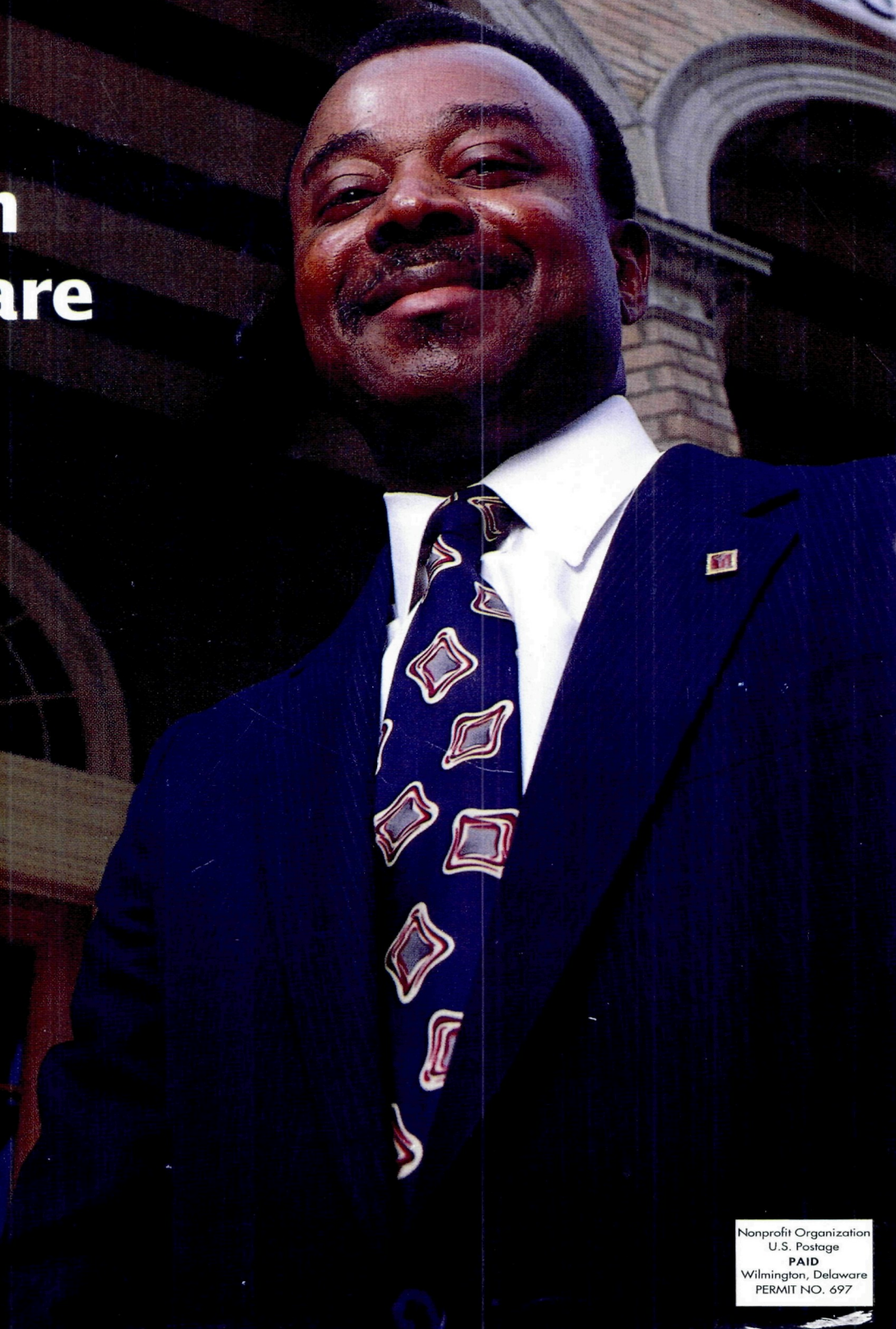
A PUBLICATION OF  
DELAWARE BAR  
FOUNDATION

Volume 10 Number 3

\$3.00

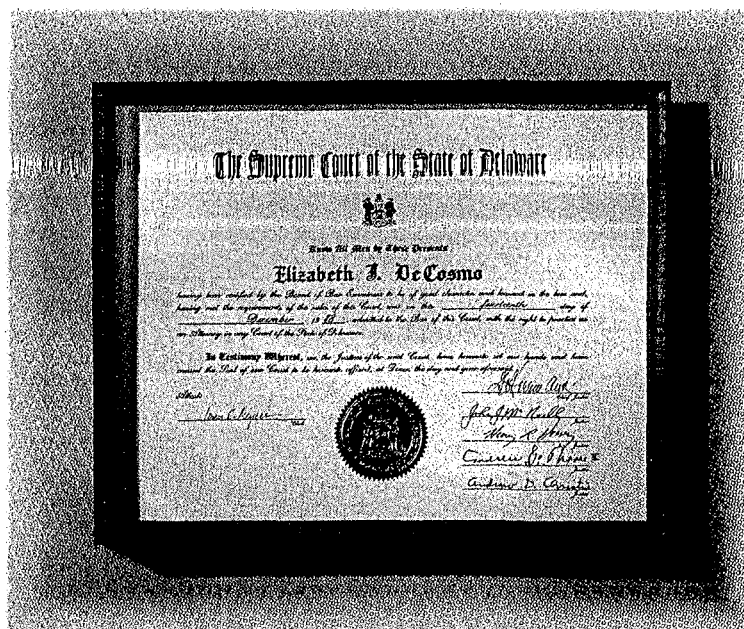
Fall 1992

## Education In Delaware



Nonprofit Organization  
U.S. Postage  
**PAID**  
Wilmington, Delaware  
PERMIT NO. 697





Your associate likes the look of the firm's benefits,  
your junior partner likes to look after his investments,  
and you'd like to look into rollovers.

You're definitely doing something different  
with this year's bonus.

The firm is ready for a new computer system.  
And a loan to pay for it.

And you need to arrange a mortgage for the vacation cottage  
that you signed a contract on over the weekend.

It's time you talked with a private banker  
from Wilmington Trust.

We understand the special financial requirements of attorneys who want to make the most of their firms for themselves and their families.

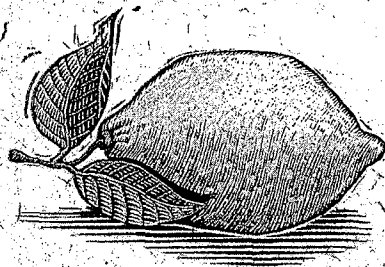
The private bankers at Wilmington Trust are talented professionals who can coordinate customized credit and insurance arrangements, provide estate planning, manage investments and develop tax-advantaged retirement benefit plans.

If you are among those actively building substantial assets, call David Ernst in Private Banking at (302) 651-8855.



WILMINGTON TRUST  
MEMBER FDIC





Some health insurers  
offer only one kind of benefits plan.  
We offer every kind you need.



When it comes to health benefits, having a variety of plans is important. Employees want them, and businesses need them. Yet, some health insurers sell only one kind of plan. With Blue Cross Blue Shield of Delaware, you can get everything you need from one dependable source. And we'll help you put together a custom-tailored benefits program that's good for your employees—and for your company.

For a more fruitful benefits program, we're the one to pick. Call one of our marketing representatives at 1-800-572-4400 to learn how Blue Cross Blue Shield can help you.

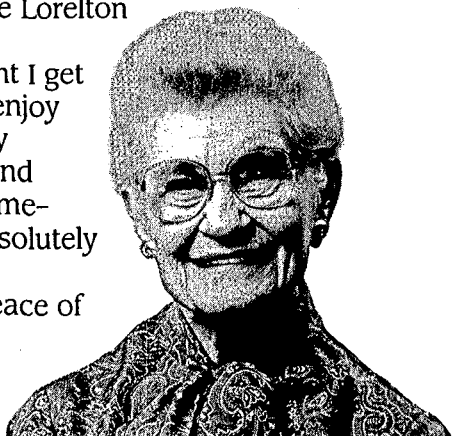


**Blue Cross  
Blue Shield**  
of Delaware

## *With a little help... I do just fine now*

Whenever I need a little help with daily tasks, the wonderful staff at The Lorelton is here for me. As an assisted living resident I get extra help, but I still enjoy my independence. My apartment is bright and spacious, and the home-cooked meals are absolutely delicious.

Best of all is my peace of mind. I just love it at The Lorelton!



COMFORTABLE SENIOR LIVING WITH A PERSONAL TOUCH

*The* **LORELTON**

INDEPENDENT AND ASSISTED LIVING • SHORT AND LONG TERM

2200 WEST FOURTH • WILMINGTON, DE

Call today for details—(302) 573-3580

When 16 of Philadelphia's  
top 20 law firms  
agree on something,



it has to be outstanding.

 **LEGALASSIST®**

*The attorney's choice for temporary paralegal services since 1981.*

1411 Walnut Street, Suite 800 • 215/569-0555 • Philadelphia, Pennsylvania 19102  
CHICAGO • LOS ANGELES • MINNEAPOLIS • SEATTLE

### **DELAWARE LAWYER**

A publication of Delaware Bar Foundation  
Volume 10, Number 3  
1225 King Street  
Wilmington, Delaware 19801

### **BOARD OF EDITORS**

William E. Wiggin, Chairman  
Richard A. Levine, Managing Editor  
Thomas L. Ambro  
John M. Bader  
Hon. Carolyn Berger  
David A. Drexler  
Lawrence S. Drexler  
Hon. Jack B. Jacobs  
Richard C. Kiger  
David C. McBride  
Carroll F. Poole  
Hon. Vincent J. Poppiti  
Paula S. Shulak

### **DELAWARE BAR FOUNDATION BOARD OF DIRECTORS**

O. Francis Biondi, Chairman  
Arthur G. Connolly, Jr.  
Hon. Andrew G. T. Moore, II  
William Prickett  
Nicholas H. Rodriguez  
Harvey Bernard Rubenstein  
Dennis L. Schrader  
Mary E. Sherlock  
Bruce M. Stargatt

Editorial inquiries should be directed to:

### **DELAWARE LAWYER**

Delaware Bar Foundation  
1225 King Street  
Wilmington, Delaware 19801  
(302) 658-5278

Address changes, subscription orders,  
requests for information about advertising  
should be directed to:

### **SUBURBAN MARKETING ASSOCIATES, INC.**

Three Christina Centre  
201 North Walnut Street, Suite 1204  
Wilmington, Delaware 19801  
(302) 656-8440

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.

Copyright 1992,  
Delaware Bar Foundation  
All rights reserved, ISSN 0735-6595.



Four years of college, three more  
in law school, eight exhausting  
years as an associate and finally  
your name's on the door.

If there's any justice, you've earned the right to a long and successful career. No one understands this better than Jamison.

For 54 years we've dedicated ourselves to protecting members of the legal profession. Over

20,000 lawyers and judges elect Jamison's professional liability programs. Because we understand

the commitment and investment of men and women like you.

**JAMISON**

Call Jamison. And safeguard your career along with your good name.

*Insure it well.*



Herbert L. Jamison & Co. 1-800-JAMISON

# If Time Equals Money, it Pays to Spend it Wisely.

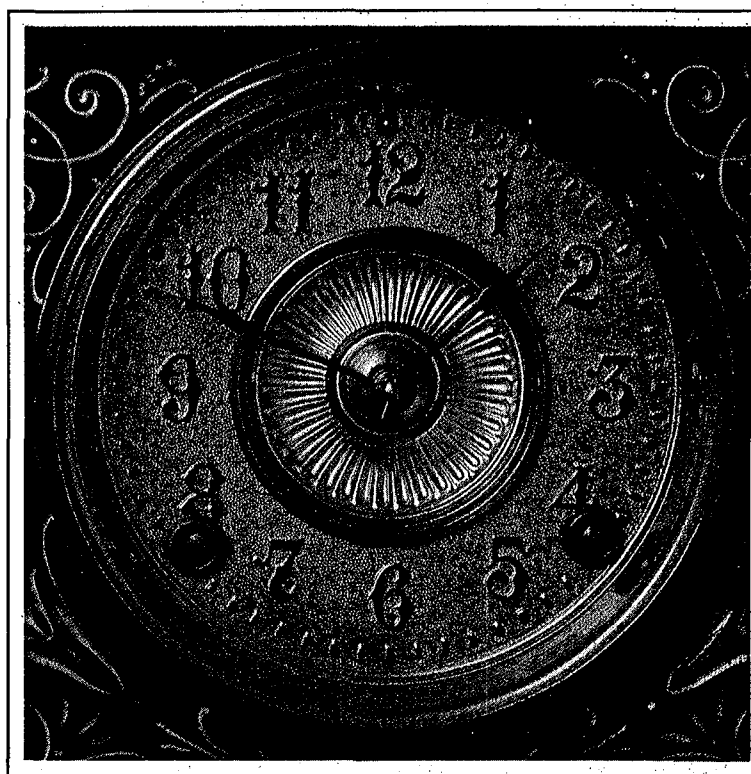
When too many demands on your time keep you from effectively handling your financial affairs, it is time you realized the advantages of a Delaware Trust Private Banker.

Delaware Trust developed the first Private Banking Division in this region over a decade ago; providing clients with the utmost in sophisticated banking services and confidentiality. Many prominent families throughout Delaware and the United States have benefited from our seasoned approach.

Our Private Banking Officers make it their business to know and understand the needs of our clients, providing a personalized plan to assist in achieving your financial goals.

Acting as liaison with all divisions of the bank, your Private Banking Officer affords you the convenience of

one bank, one contact. Also, a bank within a bank, our Private Banking Division offers you exclusive access to a special suite of offices, along with your own teller to assist in conducting your banking transactions.



Clock courtesy of Hagley Museum and Library.

We are at your service anytime of the day or night; wherever and whenever you need us. In fact, we are there even when you are not. While out of town on business or vacationing abroad, your Private Banking Officer can tend to your Delaware Trust financial matters in your absence. And we respond quickly should any complex financial situations arise.

Not everyone requires this extraordinary attention and highly personalized service. If you are someone who equates time with money, contact our Private Banking Division at (302) 421-7450.

Where people make the difference™



**DELAWARE TRUST**  
Member FDIC



# C O N T E N T S

**7**

EDITOR'S PAGE

**9**

CRISES IN THE DELAWARE SCHOOLS  
GEORGE E. EVANS

**12**

WHO SHOULD BE  
ALLOWED TO GO TO COLLEGE?  
VICTOR F. BATTAGLIA

**18**

PROFESSIONAL INTEGRITY  
AND THE DELAWARE LAWYER  
DAVID C. JOHNSON-GLEBE

**27**

THE DELAWARE PLAN  
PIERRE S. DUPONT, IV

**28**

THE DELAWARE PLAN  
DAVID A. DREXLER

**36**

THE NEW SCHOOLHOUSE  
CHARLES E. WELCH

**44**

TOWARDS A TRUCE IN THE HOLY WARS  
WILLIAM F. MANNING

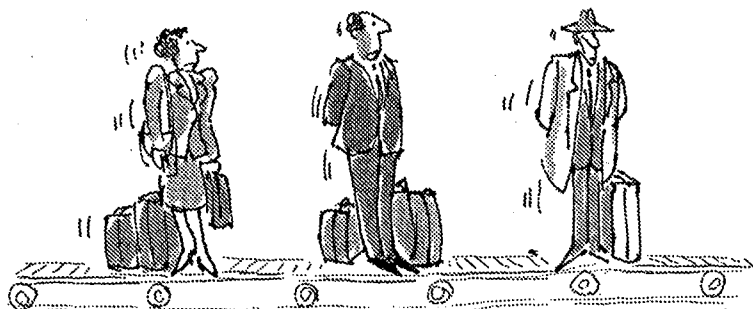


**12**

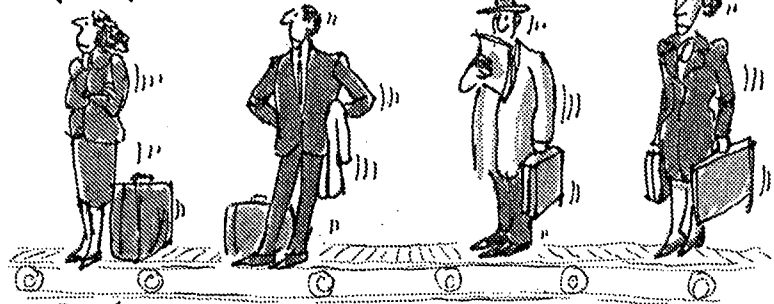


**36**

→ → → → PHILADELPHIA → → →



← ← ← ← ST. LOUIS ← ← ←



**ANY CORPORATE TRAVEL AGENCY  
CAN GET YOU FROM HERE TO THERE.**

**Delaware Travel Agency also gives you  
personal service all along the way.**

Sure, we get you convenient flights and accommodations. And we can even get you savings of up to 30% off regular coach airfares. And discounts of up to 35% off standard hotel rates.

But best of all, we're a local travel agency who understands how your company does business. We'll work closely with you to make every aspect of your travel process smoother and more efficient.

And we're an American Express® Business Travel Service Representative. That's why we can offer extraordinary services like a 24-hour emergency reservations hotline. And over 1,400 worldwide Travel Service Offices.

Give us a call at 479-0200. With us, you're not just another customer.

**AMERICAN EXPRESS  
TRAVEL AGENCY  
DELaware TRAVEL**



**Travel Agency**  
Representative



**LEGAL  
BEAGLES**

**Jeffrey L. Butler**  
President

**Nancy Stone**  
Vice President, Paralegal

P.O. Box 886  
New Castle, DE 19720-0886

- Subpoenas
  - Writs
  - Complaints
- ALL COURTS**

- Property Postings
- Daily Courier Service  
(Tri-State Area)
- Records Search &  
Document Retrieval

- Paralegal Services  
Available

**AREA CODE 302**

Phone: **322-9897**

**T O THE EDITOR**

Harvey Bernard Rubenstein, Esquire  
903 French Street  
Wilmington, DE 19801

RE: "A PROFESSION AT RISK" PUBLICATION IN THE DELAWARE LAWYER SPRING 1992 ISSUE

Dear Harvey:

I have had the opportunity to read the article which you wrote entitled "A Profession at Risk" in the spring 1992 issue of the Delaware Lawyer. In fact, I have read this article three (3) times. I am sad to say that I agree wholeheartedly with many of the concerns you raised in your article. I have been a practicing member of the Delaware Bar for nine (9) years. During this time, it certainly appears clear to me that the courteous gentlemanly practice in the Delaware Bar Association has certainly deteriorated. Sometime it seems like there is so much pressure to succeed that we lose sight of the big picture and the honorable goals of our profession. In an effort to succeed and to churn out work, it seems that we have lost sight of the admirable qualities of courtesy, professionalism and integrity which should be fundamental principles of the practice of law.

After reflecting upon the comments in your article again, it is clear to me that there seems to be a viciousness that has developed among the members of the Bar which indeed transcends State lines and has become apparent in Delaware. All efforts that can be exercised reasonably to address this issue are certainly well worth the effort.

Lastly, I would like to take this opportunity to commend you on a fine article. It was very enlightening and has caused me to reflect many times over on the current state of the practice of law in this State as well as our country.

Very truly yours,  
Gordon L. McLaughlin



# EDITOR'S PAGE

Education is the unifying theme of this issue of DELAWARE LAWYER. However, such unity as may exist is achieved not so much from the topic as from the identities of our contributors. We asked a number of Delaware lawyers who presently serve or who have recently served in policy-making positions in Delaware's public school system to reflect upon their experiences, offering whatever insights or contributions they deemed appropriate to make. They responded to our request with the same dedication which they have brought to their civic responsibilities.

Thus, we are pleased to offer a series of thought-provoking articles from such distinguished members of the Bar as Chuck Welch, former Chairman of the Delaware State School Board, Victor Battaglia, currently Chairman of the Board of Trustees of Delaware Technical and Community College, Bill Manning, Chairman of the Red Clay District School Board, and George Evans, a hardworking member of the Christiana School Board.

These contributors are among the current representatives of a long tradition of leadership by Delaware lawyers in schools and schooling in our state. The roll of lawyers who have focussed their *pro bono* efforts upon the educational needs of Delaware's citizens on all levels is long and distinguished. Innumerable members of our bar have willingly dedicated long hours to such service, often at considerable sacrifice to their professional careers.

Perhaps the most illustrious of Delaware's distinguished lawyer-educators was the Honorable Hugh M. Morris, who, after his retirement as U.S. District Judge and his return to private practice, was Chairman of the Board of Trustees of the University of Delaware in the 1930's, 40's, and 50's. Judge Morris is generally credited with being instrumental in the school's transformation from a small regional college into a major university. Its library bears his name in recognition of his contributions. In succeeding years Judge Morris' chairmanship of the University's Board was assumed by his law partner, the late James M. Tunnell, Jr., who served for many years, and today, Andrew Kirkpatrick holds the Chairman's seat. Other lawyers who have served with distinction as trustees of the University include G. Burton Pearson, Jr., the late Chief Justice Daniel M. Herrmann, present Chief Justice E. Norman Veasey, Irving Shapiro, and Ned Carpenter.

Delaware's other public college has benefitted from the volunteer services of Delaware lawyers. Rick Barros' long and constructive service to Delaware State College recently received well-deserved recognition from the Bar.

Local school boards have profited from the contributions of bar members. Rick Eckman with Bill Manning serves on the Red Clay District School Board, Raymond Tomasetti sits on the Claymont Board of Education and former Superior Court Judge Joshua Martin is a long-standing member of the Board of the New Castle County Vo-tech District. For many years, the late Joseph Flanzer served as Chairman of the old Wilmington School Board; Howard Williams served a stint in the last 1950's as Chairman of the School Board of the old Alfred I. DuPont District. Several lawyers, among them S. Maynard Turk (Alexis I. DuPont), served on local New Castle County school boards during the difficult transition period in the 1970's, when the Wilmington district was integrated into a county-wide district pursuant to the *Evans v. Buchanan* desegregation order, and assisted in defusing that potentially explosive situation.

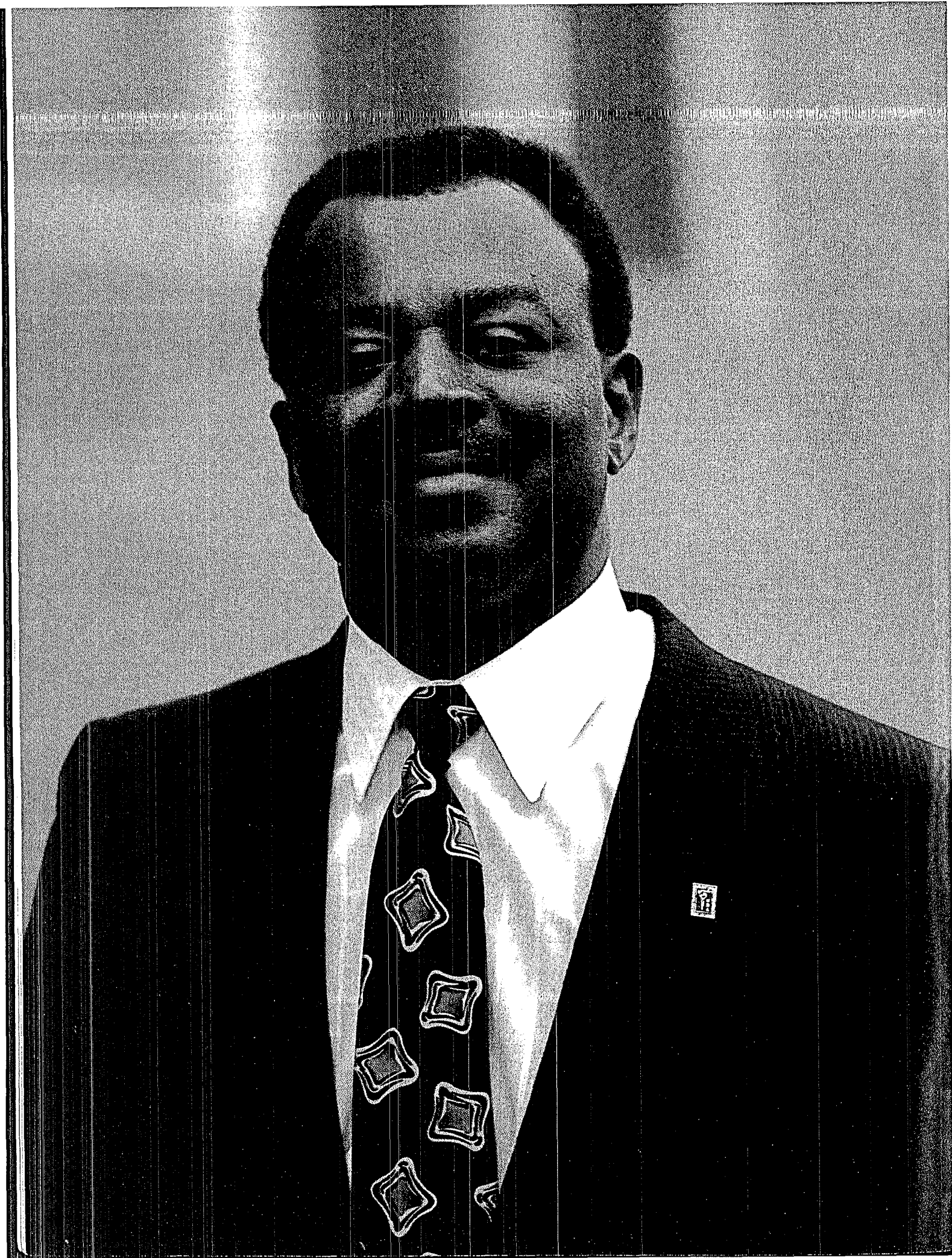
Delaware lawyers have also been active in private education, with members of the bar serving on the boards of virtually every private institution within the state. Particularly worthy of mention are Joseph Geohagan, who was chairman of the board of Wilmington Friends School for many years, and Henry Herndon, who serves today in that office for St. Andrews School in Middletown.

The list would not be complete without mention of Judge Roxana and Sam Arsht, whose advocacy for, and financial support of, the University of Delaware's Academy of Lifelong Learning have made our state a shining beacon in the providing of educational services, which enrich the lives of retired members of the community.

One of the most vigorous champions of education among Delaware lawyers in recent years has been former Governor Pete duPont. As Governor, education was among Pete's leading priorities and he led the way to significant increases in public school funding, along with initiatives to enhance the quality of education and the performance of Delaware schoolchildren. Since leaving office, Pete has become the spearhead of a campaign for an even more radical reform of American education, fomenting dramatic new methodologies and programs for improvement of the performance of our schools. At the heart of his proposals in a highly controversial, "voucher" program, under which governmental subsidies will be provided to enable students to opt for private schooling.

Pete's arguments in support of his "choice" proposal are the centerpiece article of this issue. In counterpoint, your editor has taken on the role of devil's advocate, pointing out from a layman's perspective what appear to be troublesome aspects of the voucher proposal. Thought was given to seeking some more qualified professional commentary, but, since one of Pete's more pointed observations is that the American education establishment is a bureaucracy which resists new ideas, it was concluded that a more independent, if admittedly less knowledgeable, critique might eliminate the potential for accusations of vested interest and provide a more clearly disinterested assessment of his ideas.

David A. Drexler





---

# Crisis in the Delaware Schools

---

I have had the honor and opportunity of serving as a member of the Christina Board of Education for the last eleven and a half years, two of those years as president. I am currently the Board's representative on the Legislative Committee of the Delaware School Boards Association. I am also Vice-President of the National Caucus of Black School Board Members.

Delaware has 19 public school districts, with 119 elementary and middle schools and 46 secondary schools with a student enrollment of 97,808. The Christina School District with 18,373 students is the largest in the State. Nationally, there are 46.2 million public school students enrolled in kindergarten through 12th grade.

There is no greater issue affecting the future of our State and nation than preparing these millions of students to face the 21st century, equipped with skills to operate in a very high-tech, economically competitive work place. Educators alone cannot shoulder this tremendous burden of providing instruction and nurturing these children. This responsibility must be shared by parents, legislators, the business community, and students who understand the value of a good education and are willing

to learn. The global market place has clearly demonstrated that if our future leaders cannot read, write, and calculate, we will become a nation of underachievers, unable to maintain a reasonable standard of living.

Delaware educators face the same tasks confronting school districts nationwide: restructuring our schools to attain academic excellence, establishing a multicultural curriculum, creating a safer school environment, and reducing school dropout, all the while facing the loss of sorely needed school funding.

A number of assessments of student achievement show deficiencies that have caused great concern among educators and members of the general public. Although math scores have remained about the same, Scholastic Aptitude Test (SAT) verbal scores have reached their lowest point in 10 years. Internationally the United States is near the bottom of the rankings in science and mathematics performance. The geography test administered by the National Assessment of Education Progress showed that American high school seniors were not knowledgeable on the subject, and that high school students who had taken geography performed no better than

B Y G E O R G E E. E V A N S

students who had not!

School districts nationally are confronting a dropout rate of 28.6%. Delaware rates 19th in the nation, with a rate of 28.5%.

We are faced with a serious increase in discipline problems, with a corresponding increase in the number of students suspended from school. There is also a substantial increase in the number of students *expelled* from school, as a result of serious infractions such as weapon possessions, assaults, and drug violations.

Legislatively, Delaware school districts have been further hampered by inadequate State funding, and State mandated programs that fail to provide funds for those programs. In addition, there are County and Municipal ordinances that grant property tax exemptions, which erode funding support for existing operational expenses and programs. Moreover, the Castle administration's proposed education budget, set forth in Senate Bill 265, will make severe cuts in funding for education.

Furthermore, there is much still to be accomplished through the desegregation of our schools. A higher percentage of public school students across the nation belong to racial minorities than was the case in previous years. Adequate programs have not been fully developed to meet the demands of our changing student composition, which require the inclusion of a multicultural curriculum. Yet we see national and state efforts to roll back the clock on the gains accomplished during the 60's and 70's in civil rights, affirmative action, and school desegregation.

The expected progression in equal educational opportunities, following the 1954 Supreme Court decision *Brown v. Board of Education*, has not been fully realized, and even the gains are under attack. *Brown* opened the door by dealing with *physical* desegregation, more often referred to as the era of first generation desegregation. A review of the patterns of our school districts will now show signs of resegregation where some racial balance had been previously achieved.

Today we are experiencing obstacles to integration and equity in the treatment of minority students, marked by subtle attitudes of teachers who have limited expectations for minority student achievement, culturally biased teaching methods, and a failure to provide teaching methods adapted to culturally different learning styles. We also find disproportionate numbers of African American

males in special education classes (about 67%, of the class enrollment). African American males are suspended from school 50% more often than other students. There is a disproportionately high minority student dropout rate, with Hispanic students leading all groups. The performance of African American and Hispanic students on the SAT test is more than 50 points lower than the mean for white students. Ability grouping and rigid academic standards in high school contribute to the low numbers of minority students who enter college, or are even encouraged to do so.

It is interesting to note that, under the current set of circumstances, the 1974 case of *Evans v. Buchanan*, which caused the reorganization of the New Castle County School Districts through the desegregation process, is currently under attack by the Castle Administration. The Governor has undertaken to seek removal of the Delaware District Court Order of Desegregation. It is expected the Governor will rely on the recent Supreme Court ruling in *Freeman v. Pitts* (March 31, 1992). Some authorities believe that this case signals a return to segregated schools.

During a ceremony in Wilmington on May 18, 1992 at which the City/County Building was renamed in honor of Louis L. Redding, whose record includes his participation in *Brown v. Board of Education of Topeka*, Irving Morris, a distinguished attorney, commented on the large expenditure of taxpayers' funds to mount a losing fight in *Brown*, money that could have been spent on education. The State has spent large sums to oppose *Evans v. Buchanan* and will most likely spend even more in this effort. This costly crusade comes at a time when the Governor has proposed budget cuts for education, resulting in the loss of much needed personnel and services to children!

These issues and concerns have resulted in a public call to improve our educational system. That movement seeks, among other things, decentralization of school management. (In Delaware the more familiar term is "Restructuring" or "Relearning".) The object is to get more educational decision making at the school building site. Efforts by the State Board of Education to improve the learning opportunities include changed standards for high school graduation and substantially increased mathematics and science requirements, beginning with the Class of 1987.

In September 1989, a federal and state summit was held, which was attended by federal officials and state governors. The summit resulted in the formulation of a plan known as The National Educational Goals or America 2000, designed to reverse many of the educational deficiencies described above.

Delaware has piggybacked on the National Goals and has adopted Delaware 2000. The goals for the year 2000 are:

1. All children in Delaware should start school ready to learn.
2. The high school graduation rate should rise to at least 90%.
3. Delaware students should leave grades 4, 8, and 12 with demonstrated competency in challenging subject matter, including english, mathematics, science, history, and geography.
4. Delaware students should be first in the world in science and mathematic achievement.
5. Every adult should be literate and should possess the knowledge and skills necessary to compete in global economy and exercise the rights and responsibilities of citizenship.

6. Every school in Delaware should be free of drugs and violence and should offer a disciplined environment conducive to learning.

Approximately 75% of the funding to educate Delaware's students is provided by the State. (Local school districts provide most of the balance through property taxes.) Delaware spends \$5,657 per pupil and pays teachers an average salary of \$34,548. Nationally the per pupil expenditure is \$4,639 and the average teacher's salary is \$31,304. However, in the Christina School District the starting salary is \$21,508, which makes it difficult to compete for quality teachers, given the salary scales of neighboring states. Although per pupil spending rose this year by about 4.5% nationally, we have not been able to keep pace with program and operational costs. Moreover, the Federal contribution to education has declined from 9% to 6%.

To make matters worse, we consistently face state and local legislation that mandates programs without funding them, and the loss of funding sources through property tax exemptions. For example, during 1991 the General Assembly passed and the Governor signed H.B. 200, the Delaware Agricultural Lands Preservation Act. The law requires that all monies collected as rollback taxes, on lands converted from agriculture to nonagricultural use, shall be trans-

ferred to the Delaware Agricultural Lands Preservation Foundation. Previously money collected from the 5 year rollback tax was a significant source of revenue for education. As a result of H.B. 200, New Castle County School Districts will lose approximately \$600,000 in much needed funding. The Christina School District alone will lose about \$200,000.

Moreover, the Governor's proposed budget for fiscal year '93 includes a 1% increase of the State's portion of teachers salaries, but a 5% reduction in Division II funds for energy costs. Spending for other Division II costs, which enable districts to purchase books, instructional materials, custodial supplies, and to pay other operation costs is held at last year's funding level. The formula will cause the loss of 131 teachers state wide.

The Joint Finance Committee has proposed some relief from the losses contained in Senate Bill 265. On May 27 the Committee voted to restore to the districts funding cut in the Governor's proposal.

#### **Prescriptions:**

We must reverse federal and state trends of inadequate funding for public education, which have devastated our ability to compete in the global work place.

America 2000 and Delaware 2000 evidence a commitment to excellence in education. When we think of these approaches to reform, we should also be reminded of the assessment made in the Department of Education's report *A Nation At Risk* about a decade ago. It report raised the nation's consciousness about the educational plight of our children. Although there were some benefits gained as a result of the assessment, the failure of the Federal Government to make a full commitment to the recommendations in the report left the reform effort without significant achievement.

Unless our national and state governments make a full commitment to America 2000 and Delaware 2000, we will once again get more rhetoric than substance. The Governor's proposed budget for fiscal year '93 does not support this commitment. Even with the efforts of the Joint Finance Committee to restore funding to *last year's* level, we are still dealing with required spending at *today's* costs and goals that require much more financial commitment for achievement.

#### **The 2000 Goals**

Preschool children, the focus of goal No. 1, generally receive no instruction in

many public school programs. For districts like Christina, which have such programs, one of the tools that will make a difference is the use of counselors. For some time school districts have sought a budget for counselors to work with parents and children.

Increasing the high school rate of graduation from 75% to 90% is vitally important for our students to function in this economy and to provide for their families. However, the suggestion to

### **The State has expended large sums to oppose the 1974 Evans v. Buchanan case, and will most likely spend even more in this effort**

help achieve this goal by raising the dropout age to 18 and suspending driver licenses for those who drop out is misplaced and will only cause further injury and loss. There are many hardships that cause dropout, and the emphasis must be on reducing them, not on creating new ones. Losing the right to drive will surely impede a student's opportunity to get a job and to keep it or to attend evening school. Special programs designed to reduce the impact of the circumstances that cause dropout will be much more effective in helping students to stay in school. Raising the dropout age is more likely to cause more classroom disruption and to require hiring more truancy officers.

Raising our student performance level in core subjects such as science, english, history, mathematics, and geography simply cannot take place without adequate new federal or State funding. It will be necessary to revise curricula, using proven models from effective schools, to retrain our teachers with multicultural teaching methods, to understand and adapt to student learning styles, to create methods to stimulate student self esteem, to instill high expectations of achievement, and to motivate students to fulfill those expectations.

Becoming first in the world in science and mathematics is a very large step in

view of our current position and where we are supposed to be in seven short years. According to the 1990 National Math Test conducted by the federal National Assessment Board, Delaware was rated 21 among the participating states. I hope that the goal of improving student performance is not sidetracked by diverting additional resources to benefit only the better math students in order to present the *appearance* of achieving this goal.

To make every adult literate within the next seven years requires enormous resources to re-educate many Delawareans. I do not foresee such a financial commitment by the State for this undertaking.

We must reverse the trend of student substance abuse and violence in our schools. Discipline is better maintained when all students feel that they belong and have a personal interest in school. That interest is more often developed when students have role models with whom they can identify and who encourage their efforts with love and understanding. I believe that the large presence of African American male students in disciplinary proceedings is closely connected to the correspondingly large decrease in African American classroom teachers. Since 1979 approximately 90,000 African American educators have left the system. Of the 2,355,963 classroom teachers nationally (as of fall 1989), 5% are African American (117,789). It is projected by 1995 that African American teachers will be reduced to 3% of our teaching staff, and at the same time our African American student population will be 33%. Accordingly, it is vitally important that we take the necessary measures to encourage African American students to pursue educational careers, and that we develop a serious recruitment program.

Members of the Bar must also make an important contribution to this investment in our future. Serving to assist in the passage of legislation beneficial to education, serving as role models in mentor programs, and developing student scholarship programs, are but a few suggestions.

---

*George Evans, a member of the Delaware bar, is one of our profession's most ardent supporters of educational quality. His long term service on the Christina Board of Education makes him a most suitable as well as a highly eloquent advocate for schooling reform.* ♦

## Who Should Be Allowed To Go To College?

Access to a college education in this country and in Delaware has changed dramatically in the past fifty years. Perhaps no other events in the history of our country did more to "democratize" college education than the

benefits provided to veterans returning from WWII — the GI bill, and the establishment of community colleges.

If there has ever been any question about the correlation of financial resources and attendance at college, the resulting influx and GIs and the enormous popularity of community colleges provide ample evidence that the price of the ticket of admission is a determining factor in deciding who goes to college.

I suspect that there are very few who would argue that the money spent to educate the returning GIs was not a prudent investment. 20-20 hindsight demonstrates an incredible return for the dollars invested. But the fundamental principle is more valuable than the dollar return. The GI bill symbolized a fundamental premise of our democratic form of government. It did not matter what your father did for a living — you could aspire to a college education with the help of the GI bill. Years ago a London cab driver asked a visiting American lawyer about his father's occupation.

When the lawyer told him that his father operated a small retail store, the cab driver commented that such a change in status was not possible in his country.

But as broad as the GI bill was, its benefits were limited to returning GIs.

With the emergence of the community college, the opportunity to again broaden the availability of college was in place. Standing side by side with four year institutions staffed by lettered faculty, prolific researchers and writers, these two year colleges offered competent, professional teachers with the single goal of providing quality education. The compulsion to research and write, fundamental to the traditional university faculty, did not apply at the community college. It was not unusual for the community college teacher to handle a teaching load of about 18 hours per week.

The community colleges came to be "no frills" institutions. Faculty costs were less, building demands were less, and the emphasis was on education.

Everybody agreed that the great universities were tremendous assets. The writings and research added to our nation's intellectual wealth. And all agree if a student could meet the standards for admission and cover the tuition and residential costs the student's life would be enhanced by the academic education as well as the social education — the fraternity, the sorority, the great sports complex, as well as exposure to the arts. But if you didn't qualify for that grand educational experience or if you lacked the price of the ticket of admission and if you needed to improve your basic skills in math, writing, or communications to maintain or improve your place in the work force, then the two year college was available. Delaware Technical and



To be  
prepared for global  
competition, we  
must democratize  
learning.



Community College was that two year college in Delaware.

Charles Terry had many titles in his lifetime, principal among them Chief Justice and Governor. But as impressive as his accomplishments were as the head of the court system and as the chief executive of the State, history will judge his primary achievement to be the establishment of a college open to all Delawareans without limitation.

Governor Terry's Charter of Delaware Tech established a contract between the State of Delaware and its people — a contract that promised to: "... make available public institutions of learning for persons who have graduated from high school or who are unable to attend public high schools." "... establish such institutions of learning throughout the state as may be necessary ..." "... provide financial aid to needy Delaware residents who are enrolled or selected as students of the Delaware Technical and Community College to the end that all students from all economic levels should have an opportunity to obtain the technical training needed and that the State should not be denied the benefit of persons who are highly trained in technical areas."

The strength of the charter lies in its express recognition that when education is denied the State suffers a loss.

The language, written 25 years ago, becomes prophetic when measured against current conditions in our state and nation.

We continue to struggle with the problem of large numbers of students who do not complete high school. We are arbitrarily told that K through 12 is defective and has been defective. We were once able to out-produce any nation in the world; now we are told that we are not competitive. We are told that American workers are not as effective, as well trained, or as productive as those in other countries. About half of our high school graduates actually matriculate at colleges.

I do not accept the derogatory comments by foreign government officials about American workers. I think that, given a level playing field, American workers can perform as well as those anywhere in the world and better than most.

What do we have to do to level that playing field?

Our TV sets, camcorders, VCRs, and other electronic wizardry (as well as one-third of our cars) are imported into this country. Cheap overseas labor rates can only be contained with higher productivity

rates here at home. That is, we must work smarter. What has become the most important asset a worker brings to the job? — an educational level that permits continuous learning. We must go the next step in the "democratization process".

We need to ensure that we have a capable and skilled labor force. A critical component for achieving this is adopting a policy of 14 years of education as a goal for every child. This policy can become a "guarantee" by offering a low-cost program to encourage completion of high school in order to gain financial assistance for attendance at college. The least expensive and most direct method to accomplish this is to lengthen the period of schooling through free-choice mechanisms. Here's why it's necessary that we do something to raise the educational skills of every American child and certainly every Delaware child.

While we import more and more goods (and export more and more jobs) the one product for which people flock to the U.S. is education. Over 400,000 foreign students attended colleges and universities in this country last year. Can we continue our educational excellence? Can we improve our total educational system so as to produce a more capable work force? No one knows the answer for certain except to say that the probability is diminishing.

Since 1980 tuition rates in our colleges and universities have increased almost two and one-half times. Last year they increased almost 15 percent on average in public institutions. During the same period, the higher education price index for institutions increased by about 75 percent. In other words, a significant amount of support for operations was being shifted from traditional funding sources (state appropriations and federal grant/loan programs) to students and parents. The outlook for the future is more of the same. As federal deficits deepen and state budgets remain impoverished, colleges will be forced to concentrate their expenditures, narrowing their range of offerings. To meet the demand for financial resources, institutions will turn to students and their families to pick up an increased share of the costs. The expected average cost for one year at a public institution in the year 2000 is \$10,000, double the 1990 average cost.

This means more barriers to entry into higher education at a time when, for industrial and business reasons, we should be lowering barriers not raising

them. We should be devising strategies of investment, not tactics of cost shifting. This is especially important when you consider the condition of our elementary and secondary system. Our initial investment in education is made at these levels and determines how productive our educational dollars will be at the high school and college level.

Is the prospect any better for massive infusions of money into the elementary and secondary education system than it is for higher education? No one I know is clamoring for higher taxes to drastically alter funding patterns. To those who say money will not solve all of the problems, I ask, "If funding levels for suburban schools are appropriate for suburban children, why aren't they appropriate for inner city students?" The truth is that the problems with our schools are a great deal more complicated than simply a question of money. How well we are doing in our schools and what is "at risk" if we don't do better are becoming increasingly clear to us. In fact, we have recognized the problems for some time.

In 1983 the report "A Nation at Risk" caused us all to reexamine our cherished myths about education. The third graders of 1983 have now graduated from high school and, by almost any measure, things have not improved significantly. Current efforts to improve standards, testing, curricula, textbooks, teaching techniques, financing, etc., are a good start. However, none of these will do much to change the nature of our work force in the short run.

It has been nine years since that report on education was issued. Think about those nine years this way. Today's ninth graders were first graders when that report was issued. Nine years later only 14 percent of them can read at their grade level. One-half of them, 50 percent — are performing just above the fifth grade level in math.

However, this isn't just about the poor and disadvantaged children, although they suffer the most. It is also about talented children, not challenged to work to their full potential. Consider this: only about 3 percent of U.S. high school students, versus 12 percent in Japan, take calculus. Most students are not required to even take algebra in order to qualify for a high school diploma. In Delaware the state requirement for graduation is only two years of math — General Math I and II. When college-bound students reach post secondary institutions a significant number must

enroll in remedial courses. Seventy-five percent (75%) of U.S. colleges offer remedial subjects to bring students up to college level. It is estimated that between 30 and 40 percent of entering college freshmen are not prepared to do college level work in one or more subjects. And these students represent the top 50 percent of graduating high school seniors.

The other 50 percent, often referred to as the "neglected majority" or the "forgotten half", present us with an even greater problem. For the most part they end their schooling at the twelfth grade at an earlier level. Already behind in their preparation for the rapidly changing work place, they now face a market place in which the better jobs, and as many as two out of four new jobs, require training *beyond* the high school level. This trend will accelerate. This means that we may be turning out as many as one million high school students a year who are marginally prepared, or worse, almost totally unprepared to compete effectively. Nor can they be counted on to carry an increasingly technological society into the 21st century. Nevertheless they are going to determine the characteristics of our work force.

What can we do to ensure that our children are well prepared to enter the global competition that has now developed? We must continue to "democratize" college education. There are several things we can and should do to bring about change:

- First, we should have higher expectations for educational attainment by our young people. Setting clear, realistic goals is the first act of leadership.

- Second, education should be at the very top of our public policy agenda and not just in lip service. It should be first in line for our precious tax dollars, even before prisons.

- Third, we have to support the professionals as they attempt to devise new standards and curricula, starting with the elementary levels.

- Fourth, we should insist on greater student accountability. • Easier options in curricula should be eliminated and students should be required to perform and be graded on higher academic standards.

- Fifth, some form of testing that will give an accurate picture of how well schools and students are

doing must be established. Assessment of students should occur not only at the K through 12 level but at the post secondary level as well.

- Finally, we need to put some mechanism in place that will help those who are part way through or have recently finished and have fallen behind.

To be sure, we need to address such problems as the need for more head start programs and the fact that only 2 percent of our students take advanced placement courses. But above all we must make some fundamental changes along the lines I have mentioned if we are going to improve the educational experience for most American youth.

Our competitors, such as the Japanese, send their children to school two hundred and forty days a year, five and one-half days a week. Many children attend cram sessions after regular school and on Saturday afternoon as they prepare for a precious few slots in higher education. This approach does not seem to appeal to Americans. It appears to be a phenomenon reinforced by Japanese culture. (Conformity is valued over individualism in that society.)

If we are not going to adopt our competitor's methods then we have to devise alternative strategies to enable us to compete educationally. We have the shortest school year among industrialized nations and one of the shortest school days. We do, however, send a larger number of our students on to higher education and we have a greater diversity of choice in post secondary education than anywhere on earth. Finally, we are developing a healthier attitude (and participation in) lifelong learning as evidenced by larger and larger numbers of mature adults returning to colleges for additional training.

These are strengths on which we should capitalize. We need to offer opportunities for continued education to more of our young people and adults. We already have the system in place to do so. All we need to do is make access a reality for the "forgotten half" or "neglected majority" of our secondary students and available to more of our adult population. I believe we can do this by adopting, as a matter of state policy, a goal of "14 years of education for all students." This would not be mandatory but a public policy goal to be achieved through specific programmatic efforts.

One of the major complaints of high

school students is that school has become a dead end place. They are merely "serving time" until mandatory requirements are fulfilled. The requirements have interfered with the market place function of choice. To impose these requirements on an offering of extended education would doom the effort to the same difficulties experienced in our educational system today. Allowing students to determine their own needs and make choices based on market place messages will create earnest, interested students from those choosing to continue. This is already borne out of those returning for post secondary schooling today. We should strive to enlarge this pool of committed students with a specific policy.

This policy would also stress support to the higher education institutions while offering significant incentives to students and parents. We need a bold program that does not write off those who have already come through the defective pipeline or who are now in the middle of it. A 14-year education goal with appropriate support would help those already headed for college and in need of assistance, but it would also help those who need remedial work or want technical or specialty training or even for strengthening liberal arts skills.

Transforming such an idea into a practical program is easier said than done. Here is one way this could be accomplished without creating a social welfare bog. The proposal revolves around "guaranteeing" a college education. It requires students to be accepted at an accredited college and then offers financial assistance to them. It has been adopted in several states (Louisiana, Texas, Arkansas, etc.) as a method to motivate high school students.

The Governor's "Delaware 2000" education plan calls for an incentive plan along these lines. These ideas should be broadened and specific action agenda adopted. This kind of action would speak volumes about our intentions for our educational system and about our expectation for our students.

Isn't America doing well enough now? Don't fifty percent of our high school aged population go on to college? Bear in mind that it is not how well we are doing that determines our success — it is how well our competitors are doing. It is the fifty percent that do not go on to college, many of whom do not perform well in high school, who determine the character of our work force.

Our economy consists of a significant number of people in manufacturing or production-related employment. In Delaware it is projected that manufacturing will still constitute about seventeen percent of our labor force in the year 2005 (down three percent from today) while services will grow to about thirty-four percent (up about three percent). What of productivity? While there have been significant gains in manufacturing, the service areas defy almost all attempts to put them on the fast track. If you include the wholesale and retail occupations, along with the service jobs, you have more than fifty percent of the work force and the sectors for the smallest predicted productivity gains — a situation that has kept our overall productivity gains mired at 1.5 percent annual average increase.

To look at this another way, consider what happened to the earning power of various groups during the 1980s. Men who were college graduates could expect a median income 4.3 percent higher in 1990 than in 1980 after adjusting for inflation. High school graduates (male) could expect a median income 16.5 percent lower and non-high school graduate males could expect an even larger differ-

ential of 21.3 percent less. Clearly, those who pursued additional education were the big winners. Yet the college graduation rate was actually dropping through most of the 1980s. In 1990 only twenty-seven percent of those aged 25 to 29 years had actually completed college.

We need to improve education for the best and the brightest, but we also desperately need to improve education for the forgotten half: the ones who do not go on to college but who work in manufacturing, service, retail, and wholesale jobs. They are the ones who need a good educational foundation in order to take adequate skills into the work place. As we entered the 20th century at a time when most of our jobs required unskilled labor, we offered twelve years free education. Almost 100 years later at a time when we need special skills we should do more.

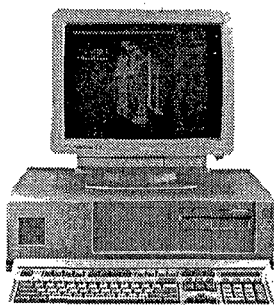
The idea I have been referring to has been called the "Delaware Guaranteed Access Program for Higher Education". It proposes instituting substantial grants, up to \$1,500 per Delawarean, for tuition at any Delaware institution of higher education. The program, as proposed, is limited to the first two years of college. It would do several things including:

- establish a goal of fourteen years of education for our students.
- apply to everyone including those who will become physicists and those who need better reading and math skills for the work place,
- direct desperately needed dollars into our inflation battered colleges,
- encourage lifelong learning by providing an incentive for adults to return to school and continue their education, and
- be available for immediate implementation and be relatively inexpensive (independent cost analysis indicated no more than \$3.0 million would be the full cost).

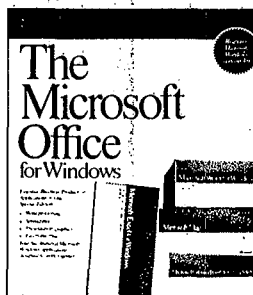
Eligibility for the grants would be dependent upon income levels (a "means tested" criterion) but would be flexible enough to help middle class families. The grants would be limited to helping with tuition and fees while not affecting the student's ability to use federal grant programs to cover other costs associated with attending college. While this specific form of the proposal does not cover all four years (perhaps it

## Fast Hardware - Powerful Software Get it Together!

*Introducing the total Windows computing solution.*



- Intel 80386SX processor
- 20 MHz processing speed
- 4 MB RAM
- 89 MB hard disk drive
- 5.25" & 3.25" floppy drives
- Super VGA monitor
- MS DOS 5.0
- Windows 3.0
- Microsoft Mouse



- Microsoft Word for Window.  
A powerful word processing program.
- Microsoft Excel for Windows.  
A stunning presentation graphics program.
- Microsoft Mail windows Workstation.  
An electronic mail solution for PC networks.

*Ease, power and speed. That's the total Windows computing system.*

**MICRO MASTERS<sup>INC.</sup>**  
18 Boulden Circle  
New Castle, DE 19720

**325-5500**

*Call for training  
sessions on all  
Microsoft applications.*

# Open House

## IDS Financial Services Inc.

Invites you to an Open House  
at our *NEW LOCATION*

Tuesday, September 22, 1992 4-8pm



*1st Row: (left to right) Roger R. La Clair, CFP, District Manager, Thomas Sombar, Thomas L. Coulter, Kenneth D. Corle, Donald J. Rice, Steven V. Chantler, Renae L. Tussie, William M. Kaiser, CFP, District Manager, Kimberlee M. Orth, CFP, Gail J. Beutler*

*2nd Row: (left to right) Christopher L. Bove, Howard C. Richardson, Mary C. Dunlap, Jane Nastoga, Susan M. Jones, Shirley A. Conley, Russell M. Giordano, CFP, Divisional Vice President, David R. Detjen, CFP, District Manager, Kenneth F. Steele, Yusuf A. Wilson, Anthony R. Hinds, Scott McCann, Terry Di Sabatino*

*Absent from photo: James E. Hall, Jr., Marla A. Isaacs, James H. Lee, David A. Stahl, Alfred I. Daniel*

Bellevue Park Corporate Center  
200 Bellevue Parkway  
Suite 250  
Wilmington, Delaware 19809  
(302)798-3199



*America's leading  
financial planning company*

1990 IDS Financial Corporation  
All rights reserved.

should), it does direct aid towards the serious student wishing to embark on a college education.

This proposal is a sound, practical step for increasing educational achievement. It is the next step in the "democratization of education". This is certainly not a panacea for educational ills. However, it does constitute a major step in providing leadership by setting clear, realistic goals and incentives for our young people. A guaranteed access program similar to those instituted in states like Florida, Kentucky, and Maryland, along with those already mentioned, would send a clear signal to our students — "We want you to succeed."


This proposal would contain a provision to advertise the program to students, starting at least with the seventh grade. Now that would be a concrete step to affect the future! We "must" graduate more students from high school, we "must" do a better job educating them, and we "must" get more young people to go on for higher learning and skills if we are going to compete worldwide.

The "democratization" of college education is an inexorable movement. The only question is how many more will be denied while the process is evolving.



*The author, a former President of the Delaware State Bar Association and, more recently, Chairman of the Board of Directors of Delaware Bar Foundation, practices law in Wilmington as a senior member of the firm of Biggs and Battaglia. With this article he continues to be a thought provoking contributor to this magazine.* ♦




For those who feel the key to living  a charmed life is nurturing another's, we offer a rather unusual approach to investment management. No, it's not high risk. Nor does it feature an investment plan that abounds with quirky strategies.

Instead, it's sound financial decisions based on years of experience. And some pretty

## Some Investment Managers Will Never Understand Just How Wealthy You Are.

invaluable information. Like your  biggest hope, worst nightmare, and just about everything in between. And whether we're using this particular



approach to help build, manage or preserve your capital, the end result is one we think you'll like. Mostly, because we  tend to exceed performance benchmarks. But also because of those things we never forget to remember. Like the birth of your first grandchild. Your Golden Anniversary. And all those reasons your money, and its growth, are so very important. For more information call (302) 421-2283.



**Mellon Bank**

*You're why we do our very best.<sup>SM</sup>*

## Professional Integrity and the Delaware Lawyer

Because of the criminal element in false notarization, attorneys who are disciplined for this violation are generally required to report such activity to the Office of the Attorney General for possible criminal prosecution.

Each person admitted to the Bar of the Supreme Court of Delaware started out as a member of the Delaware legal community in the same way — by participating in a simple yet formal ceremony. All of us took oaths or affirmations in open court to “use no falsehood” in the conduct of our affairs. When we spoke those words we made no simple promise, but rather, publicly pledged ourselves to maintain the ideals of professional integrity.

All attorneys would surely agree that our professional reputations are as important to our everyday practices as any regular client base or dependable support staff. Preserving those reputations through an on-going and conscious commitment to our integrity as professionals should therefore be an essential part of the day-to-day practice of law. This means an active awareness of, and an adherence to, the rules of ethics adopted by the Supreme Court, known as the Delaware Lawyers’ Rules of Professional Conduct (the “Rules”).

Rule 8.4(c) specifically deals with the standard of honest conduct to which all Delaware lawyers have publicly committed themselves. The Rule is simple and straightforward: “It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” The directive does not say “unless it is inconvenient” or “unless the client insists” or “unless there is a deadline about to expire”. Moreover, the Rule is not even limited to the attorney-client context, but applies generally to all conduct by Delaware lawyers.

Unfortunately, several Delaware attorneys have been sanctioned for violations of Rule 8.4(c) in recent years, and such misconduct has damaged not only their won reputations and practices, but has also tarnished the integrity of the legal profession as well.

It is my purpose here to discuss one particular activity that has typically been found to violate Rule 8.4(c), namely, the false notarization of documents by attorneys. The circulation of this article to members of the Delaware Bar will also serve as a reminder and a “warning” that the ethical directives found in the rules must be taken very seriously.

### *Delaware Disciplinary Cases Involving False Notarization*

In December 1991 an article appeared in *In Re*\* entitled, “Aberration or Epidemic: False Notarization in Delaware”. The attorney who wrote that article had accepted the sanction of a private admonition (in Board Case No. 24, 1990) for notarizing signatures on three deeds outside the presence of the signer, and then causing the deeds to be recorded. The signatures were, in fact, genuine. Since written conditions may be attached to an admonition or reprimand under Board on Professional Responsibility rule 8(b), one condition of the private admonition was that the attorney, who had a spotless disciplinary record, write a memorandum of law on the subject of false notarizations for publication in *In Re*.

The article was generally well-received by the Delaware legal community, and appears to have engendered a growing awareness of the dangers of disregarding the formalities required when an attorney performs a notarial act. The attorney’s remorse over that dishonest conduct is obvious from the article. More recently the Office of Disciplinary Counsel (the “ODC”) has investigated and prosecuted several similar cases. These too resulted in disciplinary sanctions.

The most recent case, docketed as

\* We note for the benefit of our lay readers and our out-of-town subscribers that *In Re* is the monthly house organ of the Delaware State Bar Association, which, like this magazine, is distributed to every member of the Delaware bar.

Board Case No. 52, 1991, involved an attorney who had drafted a will for a client. Although the client executed the will before two witnesses, the self-proving affidavit had apparently been pre-signed by two other persons who had never witnessed the client's execution of the will. The attorney then improperly notarized the false affidavit and later filed the will and the affidavit with the Court of Chancery for probate purposes. In a proceeding before the Board on Professional Responsibility (the "Board") under Board Rule 18, the attorney admitted to violating both Rule 8.4(c) and Rule 8.4(d) (conduct prejudicial to the administration of justice).

Although the sanction in this case was a private admonition, the conditions attached by the Board were severe, including a payment of \$5,000 (covering the legal fees of the complainant in contesting the will), an audit of the attorney's cases since the time of the misconduct to determine if similar problems had ever occurred, and the performance of 100 hours of *pro bono* legal service. One of the primary reasons for these conditions was that the attorney had been recently disciplined by the Board in a separate matter. In addition, the attorney had substantial experience in the practice of law, which is considered an aggravating factor in determining an appropriate sanction. See *Matter of Clyne*, Del. Supr., 581 A.2d 1118, 1125-26 (1990).

Another recent case, Board Case No. 63, 1991, that of an attorney who signed the names of two clients on the verification pages of a complaint, falsely notarized the signatures, and filed the complaint with the court is instructive. The attorney, who had a spotless disciplinary record, was given a private admonition with conditions including the performance of 25 hours of *pro bono* legal service and a report of that misconduct to the Office of the Attorney General.

In Board Case No. 64, 1991, an attorney's falsely notarizing a deed and subsequently recording it became known through the attorney's own report to the ODC. The attorney, who had never been disciplined, was troubled by this dishonest act. A private admonition was imposed, conditioned upon the attorney's performance of 10 hours of *pro bono* legal service and a report to the Office of the Attorney General.

There have been at least three other Delaware cases of this type of disciplinary violation. In Board Case No. 935, 1984,

When Potter, Anderson & Corroon,  
the oldest law firm in Delaware,  
wanted to move from  
memory typewriters to a  
high performance Novell  
Local Area Network,  
whom did they select?

THE  
LAN COMPANY

Tel: (215) 993-9992  
Fax: (215) 993-9720

Suite 500  
200 Chester Field Parkway  
Malvern, PA 19355



## Legal Assistant Certificate Program

- Convenient  
Wilmington
- Campus location
- Evening classes
- Can be completed  
in 18 months
- Designed for part-  
time students

Prepare for a new career opportunity ...

Call for a program brochure:

**302/831-1080**

UNIVERSITY OF  
DELAWARE

DIVISION OF CONTINUING EDUCATION

The University of Delaware is an Equal Opportunity University.

Challenge your mind  
Change your world

an attorney signed a client's name to an affidavit, falsely notarized it, and filed it with the court. The attorney, also with a spotless disciplinary record, was given a private reprimand. In Board Case No. 1007, 1987, an attorney notarized the signature on an affidavit, which had been signed outside the attorney's presence, and then filed the affidavit with the court. As this was the attorney's first disciplinary violation, a private admonition was imposed. Finally, in the case of *In re Tos* Del. Supr., 576 A.2d 607 (1990), the attorney received a one-year suspension for several acts of misconduct, including falsely notarizing a client's signature on an affidavit.

The ODC is presently investigating other cases of false notarization.

#### *What Is False Notarization?*

In 1984, Delaware adopted the Uniform Law on Notarial Acts, which had been proposed in 1982 by the National Conference of Commissioners on Uniform State Laws. Under the provisions of this statute all persons licensed to practice law in Delaware are considered to be "notarial officers" authorized to perform "notarial acts". See 29 Del.C. 4323(a)(3).

A "notarial officer" is of ancient origin (from early Roman jurisprudence). The notarial officer is considered an agent of the state who officially exercises a delegation of the state's power in the performance of certain formal procedures, such as attesting the genuineness of a deed or other writing, administering an oath, attesting to the authenticity of a signature, or noting a protest of a negotiable instrument. In some jurisdictions, notarial officers are required to keep a formal, public log of each notarial act performed.

Because of the observance of such official formalities, notarized instruments and other documents are generally available as evidence without further proof of their due execution. The presence of the notarial officer's "jurat" (e.g., the words "Sworn to and subscribed before me, this 20th day of May, 1992"), along with the officer's signature, usually creates a presumption that the execution has taken place before the officer in the exact manner described. The courts rely strongly on the representations of notarial officers in this regard.

An act of "false notarization" occurs when the proper procedures for any specific notarial act are not followed. For example, if a notarial officer certifies that the signer of a document "personally

appeared before" the officer when in fact the signer did not personally appear, then a false notarization has occurred. If there is a personal appearance but the date of the execution of the document is falsified, this is also a false notarization.

While the courts have generally not held that the signer of a document actually must raise his or her hand and take a formal oath or affirmation in order to be considered "sworn", the signer must take some present, affirmative act evidencing the intent to take upon himself

## **The Supreme Court's circulation through the medium of DELA- WARE LAWYER of this special mem- orandum is intended as a warning to the profession.**

or herself the special obligation of an oath or affirmation. The simple act of signing the document in the presence of a notarial officer is considered to be sufficient. Without this physical presence before the notarial officer, however, no "swearing" has occurred.

After the *In Re*: article referred to above first appeared, I was asked by a Delaware attorney (who was apparently serious about it) whether the words "personally appeared before me" really meant that a person had to personally appear before him when he certified a document as a notarial officer. What else would it mean?

#### *False Notarization as Professional Misconduct*

The false notarization of a document can expose the notarial officer to both civil and criminal liability, and when the officer is an attorney, to disciplinary sanctions as well.

Notarial officers may be liable for civil damages caused by acts of false notarization. See, e.g. Annot., "Liability of Notary Public or His Bond for Negligence in Performance of Duties", 44 ALR 3d 555 (Supp. 1991); Annot., "Measure of Damages for False or Incomplete Certificate by Notary Public", 13 ALR

3d 1039 (Supp. 1991); Annot., "Liability of Notary Public or His Bond for Willful or Deliberate Misconduct in Performance of Duties", 44 ALR 3d 1243 (Supp. 1991). An attorney committing a false notarial act therefore incurs possible exposure in the civil courts. See e.g., *Madlem v. Arko*, Ind. App., 581 N.E. 2d 1290 (1991) (client sues lawyer for improper notarization).

False notarization is also generally characterized as a violation of the criminal laws. Under 11 Del.C. 1221, a person committing such an act is probably guilty of perjury in the third degree (a Class A misdemeanor) for "swearing falsely", which is specifically defined under 11 Del.C. 1224. If the falsely notarized document is filed in a court of law or recorded in a government office other criminal violations are probably being committed. The person engaging in such an act may be guilty of falsifying business records under 11 Del.C. 871 (a Class A misdemeanor), tampering with public records under 11 Del.C. 873 (a Class A misdemeanor), or 876 (a Class D felony), offering a false instrument for filing under 11 Del.C. 877 (a Class A misdemeanor) or issuing a false certificate under 11 Del.C. 878 (a Class E felony).

Because of the criminal element in false notarization, attorneys who are disciplined for this violation are generally required to report such activity to the Office of the Attorney General for possible criminal prosecution. Accordingly, an attorney who has already been sanctioned in the disciplinary system for an act that is also a crime can be separately sanctioned by the criminal system. Once an attorney is charged with or convicted of a crime, the attorney may be subject to even further disciplinary sanctions. See e.g. Rule 8.4(b) (professional misconduct for lawyer to commit a criminal act that reflects on lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects); see also Board Rule 16 (detailing procedure for interim suspension of attorneys charged with or convicted of a crime).

Although criminal prosecutions for the various crimes arising from acts of false notarization are relatively rare, the ODC has been informed by the Office of the Attorney General that cases involving this type of criminal activity will be treated appropriately. The possibility that a notarial officer might be prosecuted under the criminal statutes for false notarization is therefore very real. If a Delaware attorney is the defendant, the attendant publicity alone will be damaging.



Besides rules 8.4(b) and 8.4(c), and depending upon the attendant circumstances surrounding an act of false notarization, other disciplinary violations can be found. As mentioned above, if the falsified document is filed with a court or other judicial body, Rule 8.4(d) may apply, since it is professional misconduct for an attorney to engage in activity prejudicial to the administration of justice. If the document is presented as evidence at trial, Rules 3.3 and 3.4, which forbid the use and submission of false evidence, may apply. Even if no tribunal is involved, rule 4.1 forbids an attorney from making a false statement of material fact to a third person. Since acts of false notarization usually occur in the context of some underlying legal case or transaction, the presence of such additional disciplinary violations is typical.

#### *Common Excuses for False Notarization*

When attorneys are accused of violations of the ethics rules arising out of acts of false notarization, various excuses for this activity are normally raised. A review of the case law shows, however, that the courts generally have little patience with such excuses. Some of the most common are the following:

1. *"The formalities required for a notarial act need not be taken literally."* On the contrary, the courts consistently hold that without the proper formalities there is no notarial act. See e.g., "Oath and Affirmation", 58 Am Jur 2d 1043 (Supp. 1992), and cases cited therein. The formalities of oath-taking are precisely the characteristics that distinguish that activity from the making of bare assertions. Because the courts presume that notarizations are evidence that certain essential formalities have been observed, they do indeed take such formalities literally. As one court observed: "The administration of an oath means something or nothing. It cannot be distorted; there is no room for construction..." *In re Coughlin*, N.J. Supr., 450 A.2d 1326, 1327 (1982); see also *Matter of Friedman*, N.J. Supr., 523 A.2d 1071 (1987) ("... the solemnity of the oath is a substantial factor in assuring the verity of the materials therein.", 523 A.2d at 1074).

2. *"Notarizations have always been done informally, i.e., without literal adherence to the formalities."* This is a fallacious appeal to tradition, implying that if something has been the common practice for a long period of time, it is thereby justified. Any type of on-going misconduct or injustice can be supported

When Whittington & Aulgur  
wanted a state-of-the-art  
Local Area Network featuring  
Windows 3.1 and a  
communications link with the  
Delaware Division of Corporations  
whom did they select?

THE

LAN COMPANY

Tel: (215) 993-9992

Fax: (215) 993-9720

200 Chester Field Pkwy  
Suite 500  
Malvern, PA 19355

For fast and complete relief  
to resolve confidentially,  
complex business disputes.



ANDREW S. PRICE ASSOCIATES

Alternate Dispute Resolution Services

Custom Designed ADR Services/Mediation/Arbitration/Med-Arb/Mint-Trial/Fact-Finding

Philadelphia • Media Telephone (215) 566-4500 Fax (215) 566-3380



# George J. Weiner Associates

300 DELAWARE AVENUE  
SUITE 914  
WILMINGTON, DELAWARE 19801  
(302) 658-0218 (410) 398-7560  
FAX 302-658-2259

FINANCIAL PRODUCTS	RETIREMENT PLANS
LIFE INSURANCE	DISABILITY INSURANCE
EXECUTIVE INSURANCE	HEALTH INSURANCE
PLANS	LONG TERM NURSING
GROUP INSURANCE	CARE

GEORGE J. WEINER, RHU

XAVIER J. DECAIRE

DONALD T. FULTON, CLU, ChFC

TERRY L. WOLF, CLU, ChFC

**Exclusive Agency For:**  
Delaware State Bar Association  
Disability Program

## TRADEMARK

**& COPYRIGHT SEARCHES**  
TRADEMARK-Supply word and/or design plus goods or services.

### SEARCH FEES:

COMBINED SEARCH — \$ 205\*  
TRADEMARK OFFICE - \$70\*  
STATE TRADEMARKS - \$75  
COMMON LAW - \$65  
EXPANDED COMMON LAW - \$115\*  
DESIGNS - \$95\* per class minimum  
COPYRIGHT - \$105\*

\*plus photo copy cost.

### INTERNATIONAL SEARCHING

### DOCUMENT PREPARATION

(for attorneys only - Applications, Section 8 & 15, Assignments, renewals.)

**RESEARCH** - (SEC - 10K's, ICC, FCC, COURT RECORDS, CONGRESS) **APPROVED.** Our services meet standards set for us by a D.C. Court of Appeals Committee.

Over 100 years total staff experience - not connected with the Federal Government.

### GOVERNMENT LIAISON SERVICES, INC.

3030 Clarendon Blvd., Suite 209  
Arlington, VA 22201  
Phone: (703) 524-8200  
Fax: (703) 525-8451

All major credit cards accepted

**TOLL FREE: 800-842-6564**

Since 1957

with this kind of reasoning. Accordingly, the courts have consistently rejected this **EXCUSE.** See *e.g.*, *Committee on Professional Ethics v. Bauerle*, Iowa Supr., 460 N.W.2d 452 (1990).

3. "No one really observes notarial formalities." This is another invalid argument, akin to saying that something is justified if "everyone does it". In the first place, everyone does *not* do it. Many notarial officers take their responsibilities as officers of the state and its courts quite seriously. In the second place, where an attorney acts as a notarial officer, a higher standard of conduct is expected as a result of the attorney's unique position as an officer of the court. See, *e.g.*, *Matter of Finley*, Minn. Supr., 261 N.W.2d 841 (1978).

4. "There was no harm done." The courts have forcefully rejected this purported justification for false notarization. As one court observed: "The fact that no overt harm was done to the respondent's client by the false notarizations does not mean that no harm was done. Harm was done to the integrity of the legal system." *Matter of Danna*, Minn. Supr., 403 N.W.2d 239, 241 (1987).

5. "The client was benefitted by the false notarization." or "The attorney derived no benefit from the false notarization." While the courts sometimes consider such motivational arguments, these excuses have never been sufficient to justify false notarization. At most, such excuses may simply mitigate the severity of the sanctions imposed. See, *e.g.*, *Drociak v. State Bar of California*, Cal. Supr., 804 P.2d 711 (1991).

6. "The literal inconvenience of notarial formalities is too inconvenient in many cases." On the contrary, the purpose of notarizing a document or taking an oath has nothing to do with its "convenience". Yes, proper notarization often is inconvenient. The same argument could be used to justify various other types of misrepresentation and fraud, as well as forgery and many other crimes. In the Delaware disciplinary cases discussed above the Board has consistently rejected this weak excuse.

7. "There is no false notarization as long as the notarial officer is familiar with the signer's signature." Unfortunately, this is false. If the jurat of the notarial officer says that the signer appeared personally before him or her, the courts will take those words literally. The courts do *not* interpret the statement "the signer personally appeared before me" to be equivalent to "I know the

signer's signature, so I'm pretty sure he signed this document". When an attorney attests that a signer has appeared before him or her, and where the personal appearance did not occur, that statement is still a misrepresentation even though the signature may have been familiar, and in fact, was genuine. See, *e.g.*, "Acknowledgements", 1 Am Jur 2d 441 (Supp. 1992), and cases cited therein: see also "Notaries Public", 58 Am Jur 2d 519 (Supp. 1992), and cases cited therein.

**The possibility that a notarial officer might be prosecuted under the criminal statutes for false notarization is very real. If a Delaware attorney is the defendant, the attendant publicity alone will be damaging.**

8. "There was no time to observe notarial formalities because the deal had to be closed (or the complaint had to be filed) today." This rationale is a variant on the "inconvenience" excuse discussed above. Expediency or urgency, especially to prevent harm to a client, can sometimes mitigate the severity of the sanction, but does not negate the misconduct itself. The same argument is commonly used in cases involving forgery. The way to avoid the problem is to plan well enough ahead so that complaints are not filed at the last minute and that closings take into account the extra time and inconvenience that proper notarization demands. See, *e.g.*, *Attorney Grievance Commission v. Maxwell*, Md. Supr., 516 A.2d 570 (1987).

9. "The client authorized the attorney to sign for the client." In many cases, an attorney may sign a document on behalf of a client with the client's authorization. However, if the attorney then notarizes the document, which purports to show

that the client personally appeared before the attorney, this is a case of false notarization, simply because the "personally appeared before" statement is false. Since a notarial officer cannot officially witness his or her own signature, it is inappropriate for a notarial officer to sign a document in the client's name (and with the client's authorization) and then to notarize the signature. It is apparent that no "oath-taking" can occur in such proxy situations. See *e.g.*, Annot., "Perjury conviction as Affected by Notary's Nonobservance of Formalities for Administration of Oath to Affiant", 80 ALR 3d 278 (Supp. 1991), and cases cited therein.

10. "An attorney's false notarization of a document, especially for the benefit of the client, does not demonstrate an intent to misrepresent or deceive." The courts apparently hear this excuse from attorneys all the time, and regularly reject it. See *e.g.*, *Disciplinary Matter Involving West*, Alas. Supr., 805 P.2d 351 (1991); *In re Disciplinary Matter Against Mahoney*, Minn. Supr., 474 N.W. 2d 598 (1991). However, even when the courts find no "evil intent", the act of false notarization is still considered to be sufficiently intentional to result in disciplinary sanctions, since it is an act "deliberately taken ... to knowingly make a false statement of fact on a document filed for public record." *Committee on Professional Ethics v. O'Donohoe*, Iowa Supr., 426 N.W.2d 166, 168-69 (1988).

11. "It was my secretary/paralegal who did the actual false notarization." When an attorney has directed his or her secretary or paralegal to falsely notarize a document and then gives this excuse at a disciplinary hearing, it is not only undignified and unprofessional — it simply will not work. An attorney cannot violate a disciplinary rule through another person. See rule 8.4(a). In addition, an attorney with supervisory authority over a non-attorney is responsible for the non-attorney's ethical conduct. See Rule 5.3. If a criminal investigation is done, the attorney could still be convicted of aiding or abetting the perjury or forgery. See, *e.g.*, *In re Boyd*, Minn. Supr., 430 N.W.2d 663 (1988); *Committee on Professional Ethics v. West*, Iowa Supr., 387 N.W.2d 338 (1986).

#### *Future Disciplinary Sanctions for False Notarization*

The Delaware Supreme Court has recognized, through its adoption of flexible Board Rules in attorney disciplinary matters, that each case is unique and

## IN THE TRI-STATE AREA

**THE BMW  
525i TOURING  
SPORTS WAGON:  
YOU WON'T EVEN NOTICE  
THE KIDS AND THE  
GROCERIES.**



**Otto's BMW**

Rt. 202-West Chester (215) 399-6800; (800) 292-OTTO

## Taylor Mill

**NOW OPEN**  
Mon-Fri 8:30-4:30 PM  
Or By Appointment



### THE HEMINGWAY

Where Twenty-Five Exclusive Homesites  
Compliment A Landscape Only Nature  
Could Create. Choose From  
Four Semi-Custom Home Designs,  
From The Low 300's

HILLCREST  
ASSOCIATES INC.

Brokers  
Welcome



Built and backed by

**MAGNESS CONSTRUCTION**

Since 1948

**738-3800**

# Home Equity

## Low rate, no-gimmick home equity loans and lines of credit from Ninth Ward Savings

Turn the equity in your home into hard-working cash. Pay tuition or consolidate your summer debts into one lower monthly payment. Ninth Ward offers fixed rate loans and variable rate lines of credit that, in most cases, are tax-deductible.

At Ninth Ward you can be assured of friendly, personal service. We'll explain our loans, and help you with any questions you may have.

For current rates, call our 24-hour rate line: **(302) 654-7900**. For information or an application, visit us or call **(302) 654-7791** weekdays between 9 am and 4 pm.

400 Delaware Avenue  
Wilmington,  
DE 19801

Free  
parking lot  
on West St.



HOMETOWN SERVICE FOR 70 YEARS

FDIC  
Insured



must be evaluated with respect to the totality of factual circumstances. Regarding the proper sanctions, the Court has cited with approval the *ABA Standards for Imposing Lawyer Sanctions* (1986), which is used by disciplinary agencies throughout the country in determining the appropriate sanctions for attorney misconduct. *Matter of Christie*, Del. Supr., 574 A.2d 845, 854 (1990); *Matter of Clyne*, *supra*. The *ABA Standards* also set forth various factors which are considered as aggravating or mitigating circumstances in particular cases. See *ABA Standards* 9.2 and 9.3.

As demonstrated by the Delaware disciplinary cases discussed above dealing with false notarization, until now an attorney with no prior disciplinary record who committed an act of false notarization has received a private admonition, which has sometimes been imposed with various conditions. See *ABA Standards* 5.13 and 5.14. The question is, should a private admonition, with or without conditions, continue to be considered an appropriate disciplinary sanction in Delaware for acts of false notarization?

It is an essential of jurisprudence that similar cases be treated in a similar manner. This is the idea underlying the principle of *stare decisis*. Along such lines, future cases of false notarization should generally result in the imposition of private admonitions. However, blind adherence to precedent is not always justified. As Holmes once observed: "It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV." On such grounds, perhaps future cases of false notarization should be treated differently — perhaps with heavier sanctions.

One way to reconcile these concerns is for the Court to issue a clear "warning" to all Delaware attorneys that acts such as false notarization, which violate their professed commitment to the ideals of professional integrity, will hereafter be given especially strict scrutiny. After such a "warning" is issued, attorneys who still engage in this type of professional misconduct will be on a different footing from the "unwarned" attorneys who were previously sanctioned with a private admonition.

The Delaware Supreme Court's circulation through the medium of DELAWARE LAWYER of this special memorandum is intended to be this type of "warning". Although future disciplinary cases will still be evaluated with respect to all relevant considerations,

## DeCaro Auction Sales, Inc.

### APPRAISALS

Estate • Insurance  
Fair Market

### AUCTIONS

Estate Liquidations  
Antiques & Fine Arts

### REAL ESTATE

Marketing & Auctioning of Residential,  
Commercial or Agricultural Real Estate.

Nationwide Service • (302) 629-4643



from this point on acts of false notarization that come to the attention of the ODC, the Board, and the Court will be given particularly close examination.

Several years ago, the Minnesota Supreme Court issued a similar "warning" to its attorneys of the "seriousness of this type of misconduct" in several opinions dealing with false notarization. *Matter of Finley*, 261 N.W.2d at 846; see also *In re Holmay*, Minn. Supr., 399 N.W.2d 564 (1987). Minnesota is now one among many states in which acts of false notarization by attorneys can result in public reprimands, suspensions, and even disbarment. Attached to this memorandum is a compilation of recent disciplinary cases of false notarization by attorneys in other jurisdictions. As can be seen from these cases, many states are disciplining attorneys severely for this type of misconduct.

Accordingly, no Delaware attorney thus warned should assume that an act of false notarization will henceforth result in the imposition of a mere private admonition. What may seem at the time to be a common and everyday act, namely, not following the proper formalities in notarizing documents, may now result in significant damage to an attorney's reputation and career if the misconduct results in a public sanction.

Since all Delaware lawyers begin their legal careers by taking public oaths or affirmations before the Supreme Court to "use no falsehood" in the conduct of their affairs, it is appropriate for the Court to hold Delaware lawyers to this pledge. This means that Delaware lawyers have a special responsibility to fulfill — the maintenance of a high standard of professional integrity.

Conforming to our everyday conduct to such a standard is admittedly not easy and many times not convenient, but in making our public pledges to the Court we were never promised that our legal practices would be easy or convenient. Upholding the professional integrity demanded of the Delaware lawyer is often a tough challenge. But since we freely chose to become Delaware lawyers, we should properly be expected to meet that challenge.

Recent Non-Delaware Disciplinary Cases of False Notarization

<u>Name of Case</u>	<u>Disciplinary Sanction</u>
<i>Lisi v. Resmini</i> , R.I. Supr., No. 92-15-MP (2-17-92)	Suspension (1 year)
<i>Disciplinary Matter Involving West</i>	

<i>Alas. Supr.</i> , 805 P.2d 351 (1991)	Suspension (90 days)
<i>Drociak v. State Bar of California</i>	
<i>Cal. Supr.</i> , 804 P.2d 711 (1991)	Suspension (1 year)
<i>Attorney Grievance Commission v. Pearson</i> ,	
<i>Md. App.</i> , 586 A.2d 25 (1991)	Disbarment (rcmd.)
<i>In re Disciplinary Action Against Mahoney</i> , Minn. Supr., 474 N.W.2d 598 (1991)	Suspension (30 days)
<i>Matter of Van Cook</i> , N.Y. App., 574 NYS2d 375 (1991)	Disbarment
<i>Matter of Robbins</i> ,	
<i>N.Y. App.</i> , 571 NYS2d 8 (1991)	Public Reprimand
<i>Matter of Nash</i> , N.Y. App., NYS2d 936 (1991)	Suspension (1 year)
<i>In re Benson</i> , Or. Supr., 814 P.2d 507 (1991)	Suspension (1 year)
<i>Board on Professional Responsibility</i> <i>v. Neilson Wy. Supr.</i> , 816 P.2d 120 (1991)	Disbarment
<i>Board on Professional Responsibility</i> <i>v. McLeod</i> , Wy. Supr., 804 P.2d 42 (1991)	Public Reprimand
<i>Aronin v. State Bar of California</i> ,	
<i>Cal. Supr.</i> , 801 P.2d 403 (1990)	Suspension (3 years)
<i>People v. Wilbur</i> , Co. Supr., 796 P.2d 976 (1990)	Suspension (3 years)
<i>In re Walker</i> , D.C. App., 573 A.2d 780 (1990)	Suspension (60 days)
<i>Committee on Professional Ethics v.</i> <i>Bauerle</i> , Iowa Supr., 460 N.W.2d 452 (1990)	Suspension (6 months)
<i>Committee on Professional Ethics v.</i>	

# MEDICAL MALPRACTICE

## CASE EVALUATION • EXPERT TESTIMONY

- Addiction Medicine
- Allergy
- Anesthesiology
- Blood Banking
- Cardiology
- Cardiovascular Surgery
- Clinical Nutrition
- Colorectal Surgery
- Critical Care
- Dentistry
- Dermatology
- Dermatological Surgery
- Dysmorphology
- Electrophysiology
- Emergency Medicine
- Endocrinology
- Epidemiology
- Family Practice
- Forensic Odontology
- Gastroenterology
- General Surgery
- Geriatric Medicine
- Gynecologic Oncology
- Gynecologic Urology
- Gynecology
- Hand Surgery
- Hematology
- Immunology
- Infectious Diseases
- Internal Medicine
- Interventional Radiology
- Mammography
- Medical Genetics
- Neonatology
- Nephrology
- Neurology
- Neuropathology
- Neuropsychology
- Neuroradiology
- Neurosurgery
- Nursing
- Obstetrics
- Occupational Medicine
- Oncology
- Ophthalmic Pathology
- Ophthalmology
- Orthodontics
- Orthopaedic Surgery
- Otolaryngology
- Pain Management
- Pathology
- Pediatrics
- Pediatric Allergy
- Pediatric Anesthesiology
- Pediatric Cardiology
- Pediatric Cardiovascular Surgery
- Pediatric Critical Care
- Pediatric Dermatology
- Pediatric Emergency Medicine
- Pediatric Endocrinology
- Pediatric Gastroenterology
- Pediatric Hematology
- Pediatric Infectious Diseases
- Pediatric Immunology
- Pediatric Intensive Care
- Pediatric Nephrology
- Pediatric Neurology
- Pediatric Oncology
- Pediatric Otolaryngology
- Pediatric Urology
- Pediatric Surgery
- Periodontics
- Pharmacy
- Pharmacology
- Physical Medicine
- Plastic Surgery
- Podiatric Surgery
- Psychiatry
- Psychopharmacology
- Public Health
- Pulmonary Medicine
- Quality Assurance
- Radiation Oncology
- Radiology
- Reconstructive Surgery
- Renal Transplantation Surgery
- Rheumatology
- Thoracic Surgery
- Toxicology
- Trauma and Stress Management
- Urology
- Vascular Surgery
- Weight Management

All physician specialists are board-certified medical school faculty members or are of medical school faculty caliber. Experience in over 5,000 medical and hospital malpractice, personal injury and product liability cases for plaintiff and defendant. Specialist's curriculum vitae and complete fee schedule based on hourly rate provided upon initial inquiry. Approximately three weeks after receipt of record specialist will contact attorney with oral opinion. If requested the specialist will then prepare and sign a written report and be available for testimony.

### DR. STEVEN E. LERNER & ASSOCIATES

Honolulu  
San Francisco  
San Rafael

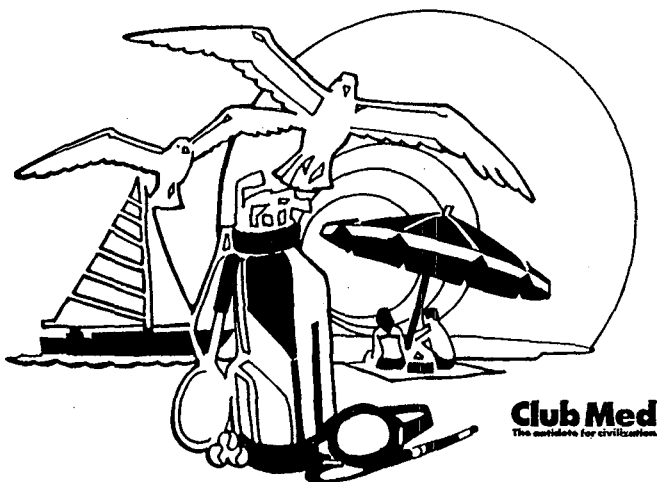
(808) 947-8400  
(415) 861-8787  
(415) 453-6900

Houston  
Chicago  
Washington, D.C.

(713) 799-1010  
(312) 631-3900  
(202) 628-8697

# CLE CREDITS IN MEXICO, FLORIDA AND THE CARIBBEAN!

(TAX DEDUCTIBLE)



**T**rolley Square Travel invites you to Club Med, the world's most popular all-inclusive resorts. They offer members of the bar on-site, interactive video seminars that qualify as continuing education credits. They take only a short time each day and the cost is minimal. They're available at five different Club Med villages in Mexico, Florida and the Caribbean.

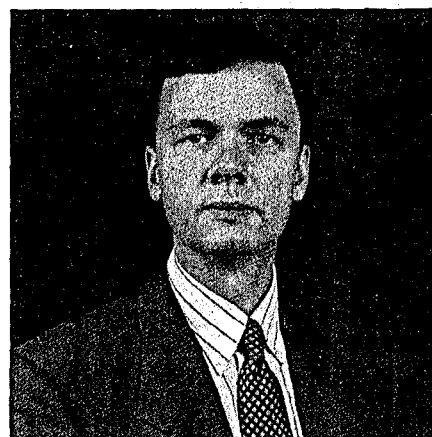
So, while your family and friends enjoy the vacation of a lifetime, you'll experience the most magical, relaxing, fun-filled, gourmet-delightful seminar you've ever attended.

Do you prefer a cruise, Europe or Asia? Call Lois Berryman or Joan Rizzo or any of our travel-wise, experienced staff for ideas. We've all travelled the world and take great pride in finding the best packages around while giving you the best service you've ever experienced.

Call us at (302) 654-1111, or (800) 336-1316, Monday thru Friday, 9 to 5, Saturday by appointment.

**Trolley Square**  
**TRAVEL**  
14A Trolley Square Wilmington, DE 19806

<i>Seff, Iowa Supr., 457 N.W.2d 924</i>	
(1990)	Suspension (2 years)
<i>In re Disciplinary Action Against</i>	
<i>Johnson, Minn. Supr., 462 N.W.2d</i>	
598 (1990)	Public Reprimand
<i>Matter of Dries, N.Y. App.,</i>	
559 NYS2d 357 (1990)	Disbarment
<i>Matter of Hughes, N.Y. App.,</i>	
551 NYS2d 151 (1990)	Suspension (3 years)
<i>In re Klein, Minn. Supr.,</i>	
442 N.W.2d 317 (1989)	Suspension (6 months)
<i>Matter of Raphael, N.Y. App.,</i>	
547 NYS2d 900 (1989)	Suspension (1 year)
<i>Committee on Professional Ethics v.</i>	
<i>O'Donohoe, Iowa Supr., 426 N.W.2d</i>	
166 (1988)	Public Reprimand
<i>In re Boyd, Minn. Supr.,</i>	
430 N.W.2d 663 (1988)	Suspension (6 months)
<i>In re Hawkins, Or. Supr.,</i>	
751 P.2d 780 (1988)	Disbarment
<i>Louisiana State Bar Association v.</i>	
<i>Schmidt, La. Supr., 506 So.2d 1186</i>	
(1987)	Disbarment
<i>Attorney Grievance Commission v.</i>	
<i>Parsons, Md. Supr., 527 A.2d</i>	
325 (1987)	Suspension (90 days)
<i>Attorney Grievance Commission v.</i>	
<i>Maxwell, Md. Supr., 516 A.2d</i>	
570 (1987)	Suspension (90 days)
<i>Matter of Danna, Minn. Supr.,</i>	
403 N.W.2d 239 (1987)	Suspension (90 days)
<i>In re Holmay, Minn. Supr.,</i>	
399 N.W.2d 564 (1987)	Suspension (30 days)
<i>Matter of Friedman, N.J. Supr.,</i>	
523 A.2d 1071 (1987)	Suspension (1 year)



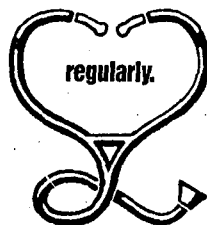
Mr. Johnson-Glebe, who holds B.A., M.A., and J.D. degrees from the University of Pennsylvania, has also earned M.A. and Ph.D. degrees in philosophy from the Ohio State University. His doctoral dissertation in philosophy is a comprehensive analysis of the legal theories of Justice Oliver Wendell Holmes, Jr. He is now completing his second year as the first Deputy Disciplinary Counsel of the Office of Disciplinary Counsel of the Supreme Court of Delaware.

**TRI-STATE  
POLYGRAPH CONSULTANTS  
INCORPORATED**  
Since 1978

*A Licensed Private  
Detective Agency Specializing  
in Professional Lie Detection Services*

526 Cricket Lane  
Hockessin, DE 19707  
Robert C. Shannon  
President, T.P.C., Inc. (302) 239-4750

Have a heart to heart  
with your doctor. . .



**American Heart  
Association**  
WE'RE FIGHTING FOR YOUR LIFE

# New Castle County Chamber of Commerce Introduces the

## LEND•A•HAND PLAN

HEALTH INSURANCE • WORKERS' COMP • BUSINESS INSURANCE • LONG DISTANCE • PRE-TAX SAVINGS

The New Castle County Chamber of Commerce has put together a plan that can save you 20% to 40% on business expenses: the LEND•A•HAND PLAN. By joining together with other businesses in your area, we can offer you a wide range of benefits and services for significantly less money.

- **HEALTH INSURANCE** -- Give your employees a choice of either **Travelers Insurance** or **Healthcare Delaware**, an HMO.

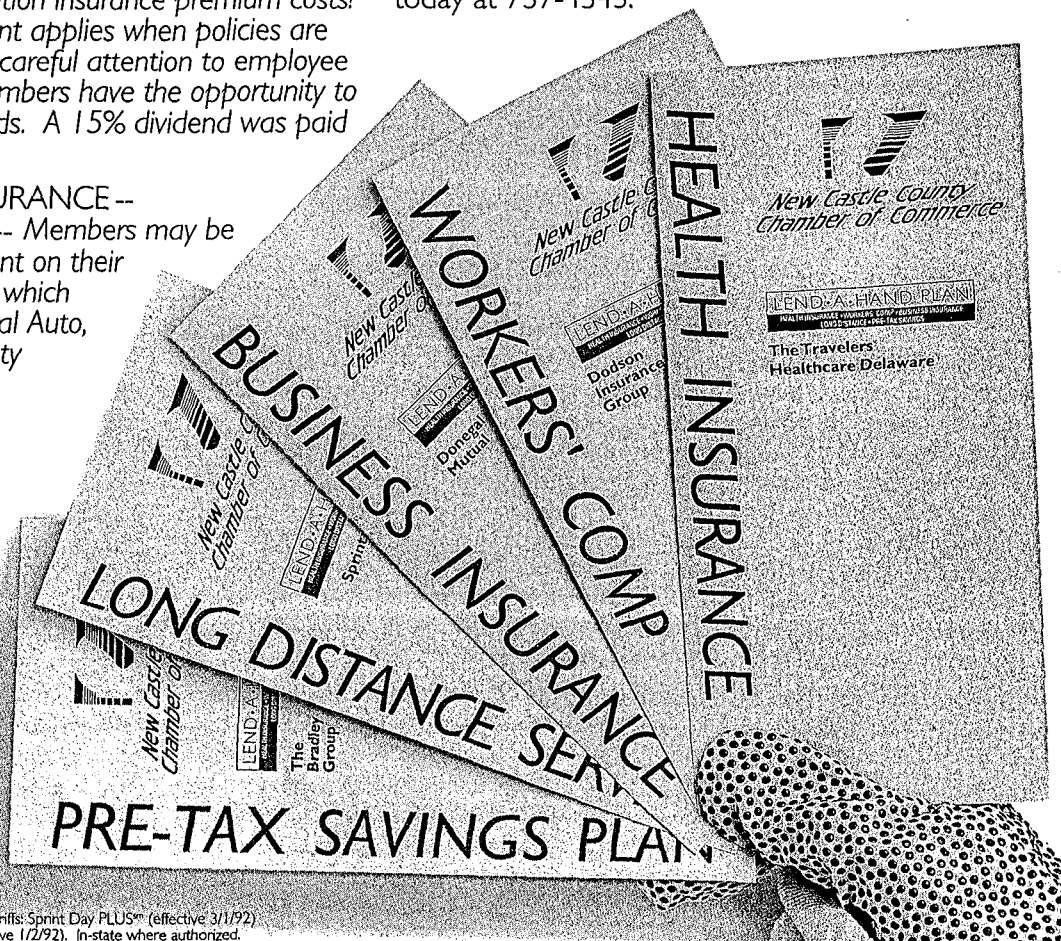
- **WORKERS' COMP** -- **Dodson Group** -- Members have two ways to help cut their workers' compensation insurance premium costs! First, a 10% discount applies when policies are issued. Then, with careful attention to employee safety, NCCCC members have the opportunity to earn yearly dividends. A 15% dividend was paid in 1991.

- **BUSINESS INSURANCE** -- **Donegal Mutual** -- Members may be eligible for a discount on their Business Insurance which includes Commercial Auto, Property and Liability coverages.

- **LONG DISTANCE** -- **Sprint** -- Members can save as much as 20%† on long distance for their business and home and can pass the savings on to their employees as a benefit.

- **PRE-TAX SAVINGS** -- **The Bradley Group** -- An opportunity to provide a Supplemental Retirement Program for employees with no out-of-pocket cost to the company or the employees.

Get a grip on the rising costs of business benefits and services. Sign your business up for the LEND•A•HAND PLAN. Call the New Castle County Chamber of Commerce today at 737-4343.



† Rate comparison based on current tariffs: Sprint Day PLUS™ (effective 3/1/92) vs. AT&T basic interstate rates (effective 1/2/92). In-state where authorized.

**“A** rising tide of mediocrity,” *A National at Risk* warned us in 1983, is engulfing our schools. Nine years later it is still rising. You are familiar with the data: half of our high school seniors cannot locate France on a map; less than one in five can write a persuasive letter or do a math problem involving fractions. Twenty years ago the SAT verbal average was 453; today it is 422. The number of students scoring above 600 on the verbal SATs, our best and brightest, has dropped 35% in those twenty years. Fresh data released in February show U.S. high school students place thirteenth in the world on international math and science tests. America is losing out.

But these are national data; let me bring the issue home to Delaware, where for sixteen years as a state legislator, Congressman, and Governor, I was very much involved in education policy. Sadly, the picture is no brighter.

A decade ago, Delaware students' SAT test scores stood well above the national average. But a 10 year regression to mediocrity has left scores the lowest ever. According to USA Today, the 1990-91 Delaware SAT score drop was the largest in America. The Department of Public Instruction reports that the Class of '91 in our high schools was 32% smaller than it started out in ninth grade just four years earlier — nearly a one-third dropout rate. Stanford Achievement Test scores on basic skills tests dropped last year in all major subjects for three out of four grades tested. Only 16% of our eighth graders are competent in math. Perhaps 3% meet Governor Castle's year 2000 goal of “first in the world.”

All of this bad news comes after the massive and far-reaching reforms of the late '70s and early '80s — after teacher testing, student testing, gifted and talented programs, special programs for learning disabled and disciplinary problem children. It comes after class size had been reduced 10%, math and science courses had been added as graduation requirements, mandatory kindergarten begun. It comes after teacher salaries had been dramatically raised and per pupil expenditure doubled in a decade to \$6,000 per pupil per year.

So what is the reaction of Delaware educators to this dismal performance? “Educators unswayed by test scores,” said one News Journal headline. “Officials downplay test results,” said another. Let's try a pop quiz: which of the fol-

lowing explanations was offered by school officials?

- a. Multiple choice questions don't accurately measure skills.
- b. Desert Storm could have affected students' concentration.
- c. The tests don't perfectly match Delaware's curriculum.
- d. Students aren't motivated since they don't get credit for taking the tests.
- e. Kids are doing amazing things that are not reflected in the test scores.
- f. Hey, we're better than that.

Answer: all of the above; those are quotations from press reports. Refuse to believe the facts, or blame the war, the students, or best of all, blame the tests — they're just not measuring the great job we know we're doing. (All of us tried that one, report card in hand, on our dads.)

Remarkably absent from the list is any reference to the structure and framework that we have chosen to educate our children. Many decades ago it was decided that American youngsters could best be educated through a single, centralized school system with a common curriculum, textbooks, and classroom climate. Over the years, this well intentioned view has calcified into a rigid bureaucratic regime plainly incapable of preparing students with skills for a lifetime. In spite of years of unsatisfactory results on almost every test, measuring almost every kind of student and ability, educators continue to express faith in this failing monolithic structure.

Could it be that it is the system itself that is failing us? That we are pouring money and good intentions and effort into an educational structure that simply won't work for today's and tomorrow's students? I think so. The system we are using cannot work because it is fatally flawed; we cannot educate young men and women with it; it must be changed.

In the past months, we have seen with our own eyes the final conclusion of deadly collectivist and centrally planned economies in Eastern Europe and the for-

PIERRE S. DUPONT, IV

# The Dela

mer Soviet Union. In the late 1980s, the showcase nation of central planning was shown to be a hollow shell: empty shelves in the markets, rotting food in the fields, a lower car per capita rate than that enjoyed by blacks in South Africa, a GNP smaller than that of Turkey and still falling. For 70 years the world's largest army, most powerful and vicious secret police, and a vast pervasive bureaucracy beyond George Orwell's wildest dreams, ruled a nation in which there was no private property, no free press, no political opposition, where all the power was concentrated in the hands of an elite bureaucracy ... and they still couldn't make it work. The '80s proved that central planning and the ownership of the means of production by the state is a bankrupt idea.

Yet this is the very system we use in the United States to attempt to educate our children: central planning and the ownership of the means of production by the state.

Central planners, not teachers, or principals or parents, but central planners, decide what textbooks are to be used, tests to be taken, which curriculum and study plan will be followed. In virtually every other segment of our society we have a rolling, 24-hour referendum by consumers on the products they accept. It is this ability to switch horses, to change products, to abandon the inferior and embrace the superior that gives free enterprise its fundamental superiority — both morally and practically — over centrally planned economies. Do you think General Motors would ever have improved its automobiles without Japanese competition? Do you think that the cost of electronic equipment would have come down as fast as it has without competition? Do you think you would be able to get the kind of food, clothing, and other consumer items you desire at a price you can afford if there were only one source of supply? Of course not.

But in education we have but one  
(Continued on page 30)

# ware Plan

**A**s Governor of Delaware, Pete duPont earned deservedly high marks for his efforts to improve the quality of elementary and secondary education in Delaware and, through his Chairmanship of the Education Commission of the States, nationally as well. Governor duPont put education near the top of his agenda and worked ceaselessly to implement and fund many recommendations and programs long espoused by professional educators. Class size was reduced, kindergarten made mandatory, math and science requirements increased. Teachers' compensation levels were raised substantially. During the governor's eight year tenure, Delaware's per pupil education expenditures increased at a rate far greater than inflation. Governor duPont left office in 1984 no doubt justifiably proud that he had accomplished more for Delaware's schoolchildren than anyone since an earlier P. S. duPont had created, virtually singlehandedly, Delaware's modern system of public education more than 60 years ago.

It must have been an especially bitter pill for Governor duPont to have had to acknowledge that, viewed objectively, his efforts had had little positive impact upon the performance of Delaware schoolchildren. S.A.T. scores did not improve measurably, graduation rates have continued to plummet, functional illiteracy, mathematical ineptitude, and historical and geographical ignorance remain rampant among those who received diplomas. Under these circumstances, it would have been natural if Governor duPont had abandoned improvement of education as a hopeless cause and sought other fields in which to focus his talents.

To his credit Governor duPont has not permitted his disappointment to degenerate into lack of interest. Rather, he has taken up the challenge with renewed vigor and imagination, embark-

ing upon a wholly different approach — one he has designated as "choice". He proposes to recast elementary and secondary education into a free market matrix, in which purveyors of educational services, both public and private, would compete for students by providing a broad and diverse menu of courses and curricula from which students and their parents could choose. As Governor duPont envisions it, this competition would nurture, in Darwinian fashion, a striving for excellence among these purveyors, inevitably raising the performance level of all educators, public and private, and, thereby, the achievement levels of the student-purchasers of their services.

While some of Governor duPont's specific ideas have considerable merit, his keystone element — the use of state-funded educational vouchers redeemable at either public or private schools — will, in my view, result inevitably in an accelerated deterioration of the public school system, an institution which, despite its obvious shortcomings, will remain the only real alternative for the overwhelming majority of American schoolchildren.

I do not for an instant question Governor duPont's good faith belief in his proposal. Because he is obviously ambitious for a further role in public life, it might be easy to dismiss his voucher plan as merely an attempt to curry political favor by providing subsidies to middle-class and upper-income families already committed to parochial or private schooling. His distinguished record leaves no room for doubt that he sincerely believes his program will impact favorably upon all schoolchildren. I believe, however, that, for the most part, it will be only those already committed families who will benefit from his plan, and their benefit will come at the expense of the majority of students who will be relegated to remain in a public school system weakened by loss of both funding and many of its better students.

Nor do I suggest that Governor

duPont has overstated the problem. The abysmal statistics about student performance he cites and their long-range impact upon America's competitiveness in the world are a screaming call for action. Something needs to be done. His conclusion — that the American educational system needs a healthy dose of innovation — is one with which no thinking person can disagree. Moreover, such persons must surely share his skepticism about the capacity of today's educational bureaucracy to foster significant and far-ranging changes in their approach, even if funding for new approaches is provided. Too many professional educators have too vested an interest in the existing system to examine new ideas with the detachment they should command. For too long too many of them have coasted along, redefining educational goals by what they think they can achieve, rather than by what needs they should be meeting. A thorough shakeup of the educational establishment is long overdue, including addressing what has become a cross borne by all American enterprise, both public and private, — overstaffing on administrative levels. My dispute with the former Governor is only over method.

Many of Governor duPont's specific recommendations for improvements deserve to be implemented, at least experimentally: magnet schools, achievement-based opportunities for individual students, specialized curricula which address the needs of identifiable groups, experimental pilot programs, even those developed by the private sector, all ought to be encouraged and funded where appropriate. There is an overwhelming need to break away from the type of thinking that equates desegregation and equal opportunity with a mindless egalitarianism that restricts the development of all students to the lowest common denominator, and which concludes, when performance of identifiable groups of students fail to measure up, that it is the purported biases of the system, not the the inadequate students or their teachers, which are at fault. Governor duPont correctly recognizes that the performance levels of American schoolchildren will rise generally only when the opportunity for growth is given to the performance of individual students.

Lastly, I share generally Governor duPont's view that, as an abstract matter, free markets and competition are preferable to government-imposed regulation.

(Continued on page 34)



source of supply — where the government's central planners supply the "one best product" for all students, regardless of background, ability, or motivation. And just as in the Soviet Union and Eastern Europe, the centralized bureaucracies have been unable to respond quickly enough to a rapidly changing world. So American students have continued to fall further and further behind.

America did not come to grow and prosper through 200 years with the government providing "one best product". It is time to bring the proven American values of choice and competition into education, to replace a centrally planned education system run from Washington and state capitols with a customer-driven system in which parents choose the schools for their children and schools must compete for their students.

We should have dozens, if not hundreds, of different kinds of schools that offer choices to our children. We should have schools that specialize in mathematics; schools that specialize in English and grammar; schools that specialize in the arts and sciences; schools that meet in the evenings and in the summer; where excellent teachers are paid \$75,000 and all teachers can offer their services to the school in which they want to teach. Education is an industry in which a thousand flowers should bloom. And they can bloom, not by the wise decisions of well-intentioned government planners, but only by thousands of free choices made by millions of free people in a free society.

For lots of reasons, allowing parents to choose their children's schools makes all kinds of sense.

First, choice gives people a sense of shared ownership in whatever it is they have chosen. This means more interest, concern, and participation by the owners.

Second, choice ends the stifling bureaucracy that has given us the thirteenth best schools in the world. It cuts through the myriad rules of the federal government, state governments, state school boards, local school boards, and union contracts — rules that make it impossible to innovate, to fit education to the needs of the individual student, indeed, to change anything within the classroom at all to improve education.

Choice means fairness — giving all families access to the best schools now within the economic grasp of only the few. Some 20% of our school aged population already exercise choice, the most

affluent 20%. It is poor and middle class working families whose children are most often trapped in inferior schools; it is time they were given the power to do better for their children.

Finally, choice means power — the power of every parent to choose the school best suited to each child — the power to choose our child's education as we choose our jobs, our houses, our churches, and our leaders.

In some states, parents are falsifying street addresses to get their children into better schools. The response of school districts has been to hire private detectives, to stake out bus stops and houses, and even to institute door-to-door bed-checks to be sure no student emigrates out of the district to which he or she has been assigned. It would be comic if it weren't tragic: using the police power of the state to ensure no one gets a better education that he is supposed to have. Choice would end this sorry spectacle and return to parents the inalienable right to do what is best for their children.

You should have the power to do what is best for your children. I do not know your children; neither does the central planner who assigns them to their school. He or she has never met your children, or you, and doesn't know a thing about your family. You know best what your children need.

My wife, Elise, and I have four children. They're all different, and they all had different educational needs. One is very bright and needed a challenging academic environment. Another is dyslexic and needed a very special school. Another is scientifically inclined, the other more artistic; they needed schools that would suit them. One cannot treat all children the same way, because every child is different. Fortunately, we could choose the school best suited to each of our children. I believe all parents should have that opportunity.

But most of all, choice forces all schools to improve and this raises the quality of education in every classroom in every school. Choice and competition — use of markets — could stem that rising tide of mediocrity and quickly improve our schools.

Keith Geiger, the national president of the teachers union and the NEA, said in our debate a year ago that there is no evidence that "school choice by itself does anything to improve schools." That is a true statement; but its converse is also true, that without choice schools have not improved and are unlikely to

improve. Choice is not a panacea, but a prerequisite to improved education.

In the past decade, many choice plans empowering parents to choose the school best suited for each of their children have come into existence.

The Milwaukee plan championed through the state legislature by Representative Polly Williams is for low income city parents. Approximately 1,000 of the city's lowest income families are eligible for \$2,500 scholarships to send their children to any private, nonsectarian school in the city. In March this plan was held constitutional by the Wisconsin Supreme Court.

The Indiana plan, which is still in the discussion stage, would provide all parents, regardless of income, a scholarship certificate worth the total amount of state and local funding allocated for each student in a school district. The scholarship could be used at any school, public or private. If school tuition were less than the value of the scholarship, the difference would be held in a lifetime account for the student, to be used for any educational purpose, including tuition at colleges, universities, or vocational education programs. This latter point is both interesting and important, for it provides the economic incentive for parents to demand the lowest possible school costs. Without it, private school tuitions would simply rise to the level of the scholarship, helping no one but school administrators.

A variety of public school choice plans also exist, and provided they contain a supply side mechanism to permit new public schools to be easily created, they also will improve the quality of education in all schools. The Harlem plan, now some 15 years old, allowing choice among twenty-two junior high schools in a school district 40% black, 40% Hispanic, and 20% white, with 90% of all mothers on welfare, is raising student comprehension and test scores markedly.

A newly enacted plan in Minnesota complements the existing statewide public school choice program with "charter schools". Groups of licensed teachers may, with the approval of the State Board of Education, create new schools in a community. Here is power to teachers to form and lead your own schools, to offer your services to the school that wants you, and thus pays you, the most. The charter schools would be free of most existing regulations; they may specialize in students of a certain age, in certain subjects, or in a particular learning method; but they cannot discriminate or select students on the

basis of intelligence, achievement, or athletic ability. Although still a demonstration project, increasing the supply of schools remains one of the most important goals of improved education, so the charter school project may prove a useful model. So there are many models, many ways to choose. But choice is critically important for it is the one missing ingredient in a third-of-a century effort to reverse dwindling educational achievement.

In September of 1990 I proposed a school choice plan for Delaware in the belief that our state, too, must offer better opportunities to our young people. The details are summarized in the box, but the idea is simple: choice for parents in a marketplace of options will improve each student's education.

All of us know we must do better, that America is losing out, that our current education system is failing us. Teachers know it. Education professionals know it. Parents know it. So do you and I. What we have is not good enough. We need a dramatic change for the better.

Fortunately, we have some benchmarks to guide us in designing a better way to educate our children: we know what doesn't work, and we know what does.

Education as it is currently structured doesn't work. Our high schools graduate 700,000 functional illiterates every spring (not counting the twenty to fifty percent of the students who have dropped out along the way). U.S. students are twelfth best in the world in math and science, and with test scores flat or falling, our students continue to lose ground internationally.

Reform from within doesn't work either. Education reform was promised after Sputnik in 1957; it didn't happen. It was promised again after *A Nation at Risk* in 1983; it didn't happen. And in spite of all the ringing rhetoric, it's not happening now. If we want change, we need a new system.

We also know what does work: markets, city parochial schools, American higher education, and the GI Bill.

America is the envy of the world because of its dynamic market economy. Markets work for schools, too — in East Harlem, Milwaukee, Minnesota. They could work everywhere.

City parochial schools have better discipline, higher graduation rates and college admissions, lower dropout rates and higher student achievement. James Coleman found students of comparable socioeconomic background gain one full grade level in just two years in city parochial

# THE DESIGN SOLUTION

THE DESIGN SOLUTION

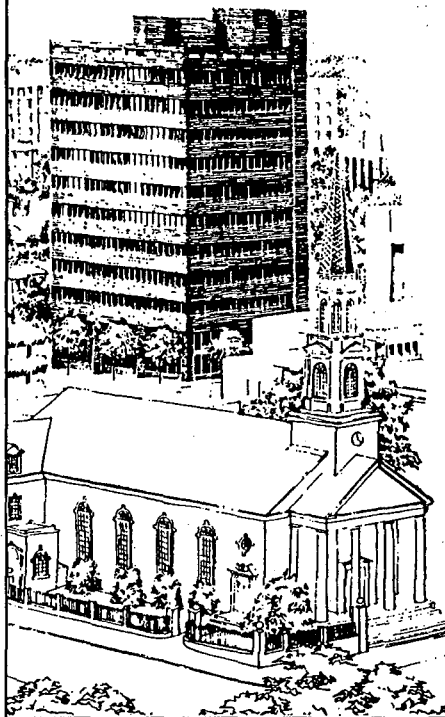
## Complete Interior Design Services

- ▼ Space Planning
- ▼ Feasibility Study
- ▼ Predesign Programming
- ▼ Design Development
- ▼ Cost Estimation
- ▼ Contract Documentation
- ▼ Contract Administration
- ▼ Art
- ▼ Graphics
- ▼ Landscape Interiors

**TETRA TECH RICHARDSON**  
ENGINEERS/ARCHITECTS/SCIENTISTS

1105 North Market Street • Wilmington, DE 19801 • (302) 656-2341

## Executive Office Suites



Available  
at  
**One Commerce Center**  
12th & Orange St.  
Wilmington, DE

Prominent Location  
Convenient For You  
And Your Clients

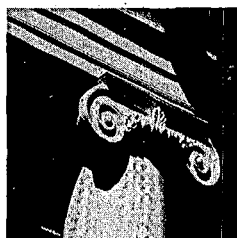
Since 1984

Nearby Parking Available

Call John Osborn  
**302/573-2512**

for details of  
suite selection  
and office services.

NEWARK  
UNIVERSITY  
OF DELAWARE  
WILMINGTON  
LEWES  
CONFERENCE FACILITIES



## THE EDUCATED CHOICE IN CONFERENCE CENTERS

YOU CAN CHOOSE ANY CONFERENCE CENTER. OR YOU CAN CHOOSE THE CONFERENCE CENTERS THAT ARE THE STANDARD BY WHICH OTHERS ARE JUDGED. 🎓 OUR CENTERS HAVE THE ENVIRONMENTS THAT ONLY AN AFFILIATION WITH A MAJOR UNIVERSITY CAN PROVIDE. UNIQUE, TOO, ARE OUR FACILITIES, AMENITIES, SUPPORT STAFF AND CENTER SITES. WE OFFER THREE DIVERSE CENTERS WHICH CAN MEET THE NEEDS OF VIRTUALLY ALL TYPES AND SIZES OF CONFERENCES, MEETINGS, PROFESSIONAL DEVELOPMENT PROGRAMS, BANQUETS AND SPECIAL EVENTS. 🎓 OUR **NEWARK** CENTER FEATURES CLAYTON HALL, THE MOST TECHNOLOGICALLY ADVANCED CONFERENCE FACILITY IN THE STATE, WITH ON-CAMPUS HOUSING AVAILABLE JUNE THROUGH AUGUST. 🎓 THE FACILITIES AT OUR **WILMINGTON** CENTER ARE MORE INTIMATE, RANGING FROM THE STATELY GOODSTAY MANSION TO THE NEWLY OPENED ARSHT HALL. 🎓 THE ATMOSPHERE AT OUR **VIRDEN** CENTER IN **LEWES** IS RETREAT-LIKE; THE SEASIDE SURROUNDINGS ARE BEAUTIFUL AND UNSPOILED. 🎓 CALL FOR MORE INFORMATION. NOW MAKING AN EDUCATED CHOICE IN CONFERENCES IS ACADEMIC. 🎓



**NEWARK**  
John M. Clayton Hall  
(302) 831-2214

**WILMINGTON**  
Goodstay/Wilcastle Centers and Arsht Hall  
(302) 573-4419

**LEWES**  
Virden Retreat Center  
(302) 645-4100

compared with city public schools.

Finally, we know the GI Bill works — brilliantly. From world War II to Desert Storm, eighteen million American men and women have gone to college or post-secondary schooling using its benefits. They have attended public, private, and religious institutions — without constitutional controversy.

So why not a GI Bill for kids? Such a scholarship plan would be based upon proven principles: market choices, schools that offer a choice of discipline and academic excellence, a world class higher education system, and the largest and most successful scholarship program in history with eighteen million graduates.

Let there be no mistake about the need to fundamentally restructure education in America: change we must, for we are losing out. We must bring choice to parents, competition into our system, and opportunity into our classrooms. Now is the time to end the government stranglehold on the education of our children, to bring excellence, opportunity and a world-class education into every classroom, and place the power of choice on the kitchen table of every American family. America's future — and the future of the next generation of Americans — depends upon it.



*The author is, of course, well known to Delaware readers and, for that matter, to literates throughout the Republic. His career of public service, beginning in the Delaware General Assembly, followed by his representation of Delaware in the United States Congress, and his two terms as Governor of this State constitute an exceptional record of political success and responsible leadership. A lawyer, former Governor duPont is a member of the Wilmington firm of Richards, Layton & Finger.*

DESIGN ■ COPY ■ PRINT

**alphagraphics®**

*presents...*  
**LITIGATION COPYING**

**Confidential • Conscientious • Quick and Accurate**

**Pick Up and Delivery**

**Plus:**

*Quality multi-color printing, Color copying, Desktop publishing, Fax service and much, much more!!*

**You Can't Duplicate Our Service!**

3801 Kennett Pike • Greenville Shopping Center • Wilmington, Delaware  
(302) 656-6555 • Fax (302) 656-4904

#### THE DELAWARE PLAN

In September 1990, Former Governor duPont proposed a Delaware school choice plan based upon three principles. First, that the citizens of each school district should be able to choose whether they wish a choice plan; second, that any choice plan would be phased in slowly to provide time to work out the inevitable practical problems; and, third, that the plan be revenue neutral to the state government.

So how might such a choice plan work? The state legislature would first enact enabling legislation to provide each school district the option of adopting an "Education Scholarship Program," either by majority vote of the School Board or by the voters in a referendum. No district would be required to participate in the plan.

Once a choice plan has been approved by the School Board or by the voters of a particular district, it would be phased into elementary schools, one grade at a time to avoid disruption. The parents of each first grade student would in the spring make a selection, choosing to send their child to any government first grade school in their home school district, or to any government school in another district which would accept the student, or, in the alternative, parents could accept a \$2,150 scholarship for their child to attend any accredited private first grade school within or outside Delaware. (For religious schools the scholarship will be \$1,935 (90 percent) to avoid the constitutional problems of paying for the religious part of the curriculum of sectarian schools with tax dollars.) The \$2,150 will more than cover the tuition at 31 of the 39 private schools in Delaware. Once choice is fully phased into elementary schools, school districts could elect to move more quickly to bring choice to the remaining grades.

This proposal is a win-win proposal for all segments of the educational community. For parents, it provides a choice of schools to which to send their children, to ensure that each child learns in the best environment possible for that individual child.

Local school districts win too. Because the cost of operating Delaware's government schools is so much greater than tuition at private schools (\$6,650 per student versus \$2,100 per student), there will be extra dollars to educate children choosing government schools. For every student who departs a government school, approximately \$2,400 of the \$6,650 it cost to educate the departing student will be retained by the district to upgrade programs for the remaining students. While the local school district would have less total dollars, it would have more dollars per student to run its programs for the remaining students.

# KRESTON

## LIQUOR MART

**A TOUR OF OUR  
WINE CELLAR  
IS LIKE A TRIP  
AROUND THE WORLD!**

**WINE TASTING EVERY SATURDAY 12-5**

**DELAWARE'S LARGEST & MOST COMPLETE LIQUOR STORE  
FINE IMPORTS & RARITIES FROM THE WORLD OVER**

904 CONCORD AVENUE  
(CONCORD AVENUE & BROOM STREETS)  
WILMINGTON, DELAWARE

*Major Credit Cards & Mac Card Accepted  
Ample Parking On Our Lot*

**652-3792**

9am - 9pm Monday thru Saturday

**SEEING IS BELIEVING!**

## Supportive Care Services, Inc.



**Delaware's First and Most Experienced Independent  
Fiduciary with Limited Asset Guardianships.**

**Professional - Specialized in Problem Cases  
- Person and/or Property**

**507 West 9th Street  
Wilmington, DE 19801  
302-655-5518**

But my confidence in the free market is tempered by a recognition that it has limitations — witness the S&L mess — and that it does not provide an appropriate matrix for all forms of human endeavor. After all, Adam Smith's theories foresaw efficiency and low prices as the benefits to be derived from free market competition, not necessarily higher quality in the products or services made available for sale.

With the foregoing points of agreement as preface, I turn to why I believe the voucher system proposed by Governor duPont will *not* achieve the salutary goals he seeks.

The first question to be addressed in considering "choice" is who the new private purveyors of educational services will be. No doubt, if the present proposal is enacted, already existing private and parochial schools will seize the opportunity to expand to fill presently unused capacity, such as it may be. However, this will provide openings for a comparatively few only. Moreover, given an expanded base of students to draw from, these schools will no doubt "cherry-pick" the public schools for new students, selecting only the most promising, depriving the public schools of their best peer role-models. The short-range prospects are for an immediate drop in public school performance levels.

Governor duPont may contemplate that in the long run a new category of for-profit schools will come into existence to take advantage of the "market opportunity", by offering high quality private educational opportunities to a greater number of students. In recent months, Benno Schmidt, the president of Yale University, resigned to become president of a venture which proposes to establish a chain of private schools to uplift the quality of American education. However, it is still uncertain that Dr. Schmidt's endeavor will seek public financing, by vouchers or otherwise. Of the questions raised so far about this project, none has yet focussed meaningfully on its economics. Moreover, to the extent tuition costs have been alluded to, they are far above the levels of the vouchers which Governor duPont proposes, so that Dr. Schmidt appears to be looking to an up-scale market.

Notwithstanding the good intentions of Dr. Schmidt and others, I fear, however, that the odds are long against newly-established schools achieving their goals

of quality education for large numbers of students if they operate within the parameters of Governor duPont's voucher program. Under Governor duPont's plan, the dollar value of the vouchers initially will be roughly equivalent to present private and parochial school tuitions. But existing schools utilize facilities which were long ago paid for, and their tuition revenues are generally supplemented by endowments or other outside contributions. Given the high outlays required to build and properly equip new schools, it seems almost inevitable that such schools, which will lack the outside financial resources of existing schools, will be at best marginal operations in which "cost containment" will inevitably supersede "quality enhancement" as the operative watchwords.

This will be especially true of secondary schools. Where will their computers, laboratories, libraries, gymnasias and other essential elements of the modern educational facility come from? Can new, properly equipped and staffed institutions possibly provide quality education to significant numbers of students within the financial levels Governor duPont's plan envisions? It seems highly doubtful. Dr. Schmidt's plan looks to tuition levels 2 to 3 times the proposed voucher levels. In all events, there will be a need for a cadre of inspectors to make sure any new institutions do not economize at the expense of safety and health standards. The costs of such inspectors are a hidden additional expense to taxpayers of the voucher proposal.

Nor has Governor duPont's plan calculated the educational and emotional price to be paid by the students whose parents enroll them in those schools which inevitably must collapse under financial pressures. If significant numbers of new for-profit schools open and thereafter fail or fall short of meeting their stated goals for financial or other reasons, where will their students go? It is foreseeable that the parents of those students will form a powerful lobby in favor of a public bailout, increasing materially the costs of the plan.

For these reasons, I believe that it is highly unlikely that the voucher plan will lead in the long run to a significant expansion of private educational facilities of the quality Governor duPont envisions, and that the more likely consequence will be to provide private schooling opportunities to a comparatively few additional students, while diverting significant public resources from the public schools. In

this connection, Governor duPont's cost analysis is somewhat misleading. Since the amount of the vouchers is less than the present per student cost of public schools and he does not propose to reduce public school funding, he sees his plan as increasing the amounts available to public schools on a per student basis. While this may be mathematically true, it does not follow that there will be significant amounts freed up for new educational programming. By way of example, paying off the bonded indebtedness on a half-used public school costs twice as much per student as one utilized to full capacity, even though the dollar amounts are identical for each institution.

The second question which Governor duPont's "choice" proposal raises concerns who will be making the choices. On this point Governor duPont's position appears paradoxical. By focusing upon improvement of education as a cause, he implicitly recognizes that education of American schoolchildren is a societal issue which transcends the mere interests of individual parents in providing for their own. Yet, his solution is to turn the problem wholly over to the parents — arguing that parents can surely make better choices for their own children than faceless governmental bureaucrats. While this kind of glib, government-bashing argument has had a considerable vogue in recent years, sharing the platform with family values and the flag as crowd-pleasers among the more comfortable segments of our populace, the fundamental changes which Governor duPont proposes in the delivery of educational services ought to be premised in reality, not rhetoric.

Of course there are many parents who can make better educational decisions for their children than the bureaucrats. But, generally speaking, the kids of such parents are not the problem with American education. Parents who take a genuine interest in their children's education, limit their weekday access to television, check on their homework, and consistently prod them toward academic achievement, are the parents of the kids who set the curve and manage to succeed, even in today's public schools. Note, for example, the phenomenal record of Asian-Americans in recent years. One can be comfortable in giving such parents a "choice" that it will be intelligently made. However, it seems equally certain that, afforded the opportunity and the wherewithal, such parents will take their children out of the public schools.



However, the blunt fact is that far too many children do not have the benefits of supportive, education-conscious families who value and nurture their children's development. There are too many parents who are ill-equipped to make intelligent choices, even for their own children. Does Governor duPont really believe that, for example, a struggling single mother in her late teens or early twenties, who herself dropped out of school, pregnant, at age 13 or 14, can really make better decisions about her children's education than a professional educator? Yet it is precisely the children from such backgrounds who in significant numbers fail today and who provide the grist for the statistical mill of educational inadequacy which properly alarms Governor duPont. To be blunt, an educational program which facilitates the ability of educationally and socially advantaged families to produce more lawyers, investment bankers, or even doctors and politicians, while desirable, does not really address the problem. What is needed to draw us out of the doldrums and restore our competitive edge in the world are large numbers of technicians educated adequately enough both to function competently in a high-tech industrial society and to break out of the recurring cycle of poverty into which our present educational structure has thrust them. Yet, I do not see the "choice" plan as addressing this fundamental need.

Rather, under the voucher plan, children from educationally deprived backgrounds seem doomed to merely continue to parade through the public school system, acquiring few usable skills and perpetuating the inadequacies of the present system into successive generations. The public schools which they attend will be even the poorer for the loss of support from the involved parents who seize the opportunity to pull their children and themselves away from public education.

There is a potential for even greater damage to the educationally disadvantaged unless steps are taken to forestall it. The availability of vouchers to parents ill-equipped to utilize them knowledgeably is an open invitation to cultists, opportunists, and charlatans to entice children into educationally dubious programs, either for profit or self-aggrandizement. Preventing substandard education and fraud in the private sector will require the establishment of acceptable standards, the enforcement of teacher qualification by licensing, and the review

# Details

They can make or break your business meeting. Making sure all your *i*'s are dotted and *t*'s are crossed could be the difference.

## THAT'S WHERE WE CAN HELP.

While concerning yourself with the details of your business, our professional meeting staff can handle the details in preparing for this important event. From suite accommodations for your clients, to conference room preparation, to custom refreshment or dining menus.

Call Christina House today at (302) 656-9300 and schedule your next business meeting. Show your clients that doing *business* with you can be a *pleasure*... even with all the details.

## CHRISTINA ♦ HOUSE

CONTINENTAL SUITES HOTEL

707 NORTH KING STREET ▼ WILMINGTON, DELAWARE 19801  
(302) 656-9300 ▼ (800) 543-9106 ▼ FAX (302) 656-2459

## SUBSCRIPTION ORDER FORM

- ☐ YES! Please enter my subscription for 4 issues at \$12.00. My check is enclosed payable to DELAWARE LAWYER.
- ☐ I would like information about obtaining back issues of DELAWARE LAWYER. Please send me a list of those still available.
- ☐ I would like to send a gift subscription for 4 issues at \$12.00 to a colleague.

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Gift from \_\_\_\_\_ Tel. ( ) \_\_\_\_\_

Mail to: Suburban Marketing Associates, Inc., P.O. Box 2087, Wilmington, DE 19899-2087 • 302-656-8440

of actual performance by inspection and testing. The costs of policing new private schools is potentially enormous. They represent another hidden expense to taxpayers of the "choice" plan.

The third questionable factor in the voucher plan is its impact upon teachers and administrators. In this area as well, Governor duPont's approach seems paradoxical. His approach seems to be premised upon a vision of a public school system manned by lethargic time-servers, whose desire to provide educational opportunities to their charges at the highest possible level has long ago been sapped by a system which makes few demands upon them. Such teachers, the hypothesis goes, are permitted in the present public schools to sleepwalk through their careers indifferent to the results which are achieved by their students. Even if the hypothesis were true, I find it difficult to follow how the voucher system, which will enable the best and the brightest students to escape their clutches, will somehow motivate these drones to shake off their bureaucratic lassitude.

I do not, however, accept the hypothesis. I believe that there are a considerable number of public school teachers who remain enthusiastic about their profession, who are highly motivated, and who work long and hard to instill their own motivation and love of learning in their students. Given the circumstances, these teachers undoubtedly continually fight a personal battle against despair and discouragement. But I expect that what keeps them going is the justifiable pride and satisfaction and the renewed commitment they gain from the achievements of those among their present students who succeed. I cannot help but think that such dedicated public school teachers will view the voucher plan as a collective slap in the face, not as an incentive for self-improvement, which they really do not need. I believe such teachers, deprived, as they inevitably will be, of some of the occasional victories embodied in the successes of their better students, are more likely either to follow them into the private sector or to join the already too crowded ranks of their fellows who have been permitted by what they have come to perceive as a Sisyphean task to lapse into lassitude and indifference. What is required are programs which will either jolt these presently underperforming teachers to perform up to acceptable levels or, if they cannot, to oust them from the schools. The voucher plan really doesn't

address this need.

In sum, the voucher proposal seems doomed ultimately to become merely another entitlements program providing financial and educational assistance, for the most part, to that segment of society which needs it least — the children of educationally advantaged, college-oriented families — at the ultimate expense of those who are the source of our problem, greater both in numbers and in the need for assistance — the children of the disadvantaged. Once a voucher plan is in place, I feel it is inevitable that society will be on the slippery slope to ever greater and greater governmental outlays to the private sector the inevitable detriment of the public schools. This will occur even where not compelled by the inevitable political pressures. It is difficult enough today to garner support for referendums on local educational supplements. Vouchers which enable large numbers of families to eschew the public school system entirely will make their passage all the more difficult.

I am not a professional educator, and it is, of course, possible that the voucher plan will produce the benefits which Governor duPont foresees. But, before undertaking such a potentially risk-laden experiment, at the least more study is required. Americans have had in place for many years what is in effect a voucher system in post-secondary school education. These are the student loan and grant programs, which enable students to attend institutions of their choice at governmental expense. While these programs have had considerable success at the college level and in publicly-administered community colleges of more recent vintage, their accomplishments in what I believe to be the more relevant area — for profit trade schools — have been far more checkered and problematic. Indeed a recent news article may presage the probable outcome of a voucher program on the secondary-school level.

According to a front-page article in *The New York Times* of March 25, 1992, the availability of government loans, combine with "choice", on the trade-school level became a national scandal in the late 1980s, when it became clear that providing low-cost loans to students who could select their own schools had led to the establishment of great numbers of for-profit diploma mills, which did not adequately prepare their attendees for the working world. The article went on to describe how unscrupulous entrepreneurs, recruiting near housing projects

and welfare offices, had inveigled ill-equipped students into poorly-run programs in order to get the federal dollars which were available. Because of an alarming default rate in loan repayments by attendees of these private "choice"-inspired institutions, strong pressure developed in favor of legislation which would have stopped the flow of government dollars to dubious for-profit schools.

All to the good, one might say, except that the aforesaid recapitulation of the scandal was for background purposes only. What had put the story on Page 1 in 1992 was a victory announcement by the lobbyists for these private-sector trade schools. Through judicious use of political clout, they had successfully resisted the reformers, who would have restricted their clients' access to government funding. The for-profit trade schools, despite their abysmal record, will remain in business continuing to offer "choice" to their attendees.

Before undertaking similar programs in the elementary and secondary schools, some reflection ought to be given to the experience of "choice-inspired", private trade schools as compared with their public community college competitors. Otherwise, it is likely to be, in the words of Yogi Berra, *deja vu* all over again.



*David Drexler, a member of the Wilmington firm of Morris, Nichols, Arsht & Tunnell, is a long-time member of the Board of Editors of this magazine. As one of the most accomplished prose stylists of the Delaware bar he is an especially apt choice as editor of this issue dealing with education.* ♦

## DEWEY BEACH IS NOT JUST FOR SUMMER FUN!

If the budget for your next conference is too low for that Florida location, you can still think beach.

Relax and enjoy your business conference at the Baycenter in Ruddertowne. Our year round facility features a highly trained staff ready to take care of all the details, letting you focus on the important things. We accommodate from 5 to 500 people with 2 large banquet rooms and varying breakout rooms. Fantastic meals and breathtaking views will make your conference a memorable one.

Indulge in comfort at the Best Western Gold Leaf Hotel. Features indoor garage, rooftop pool, & always a professional staff - at competitive prices! Within walking distance to bay & ocean.

Have your next conference at the beach and leave the worrying to us. In winter, spring and fall enjoy off-season rates when the crowds are gone but the weather's fine. One billing system available for both locations.



113 Dickinson Street  
Dewey Beach, DE 19971  
302/227-3888



1400 Highway One  
Dewey-Rehoboth Beach, DE 19971  
302/226-1100

## ★★★★ Steaks. Equally stellar seafood.

Filet mignon has kept us famous for 55 years. But, we feel it's time you learn more about our seafood, veal, pork and chicken. We invite you to join us for a star-filled meal.

*~*  
**PICCIOTTI'S**  
RESTAURANT  
*Fine dining in a relaxed setting*

Luncheon • Dinner • Major charge cards welcomed  
3001 Lancaster Avenue, Wilmington • 652-3563



## THE TERRACE AT GREENHILL

### The Terrace at Greenhill

Come in for the view, come back for the food.

Casual dining  
Elegant banquets

Just minutes from downtown.

Lunch and dinner daily.  
Sunday brunch.

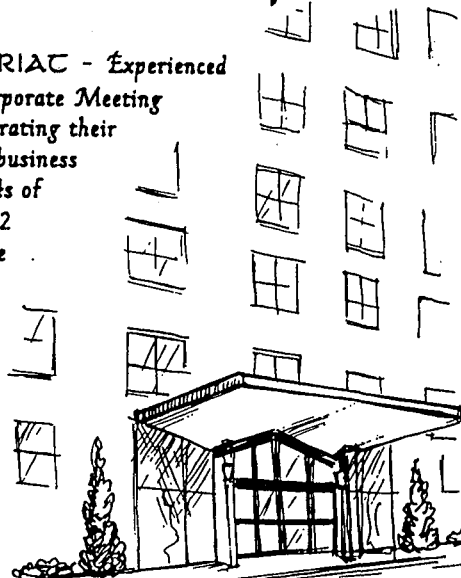
Located on the Ed Oliver Golf Course

800 North DuPont Road  
Wilmington, Delaware  
575-1990

## SECRETARIAT Moves to The Plaza

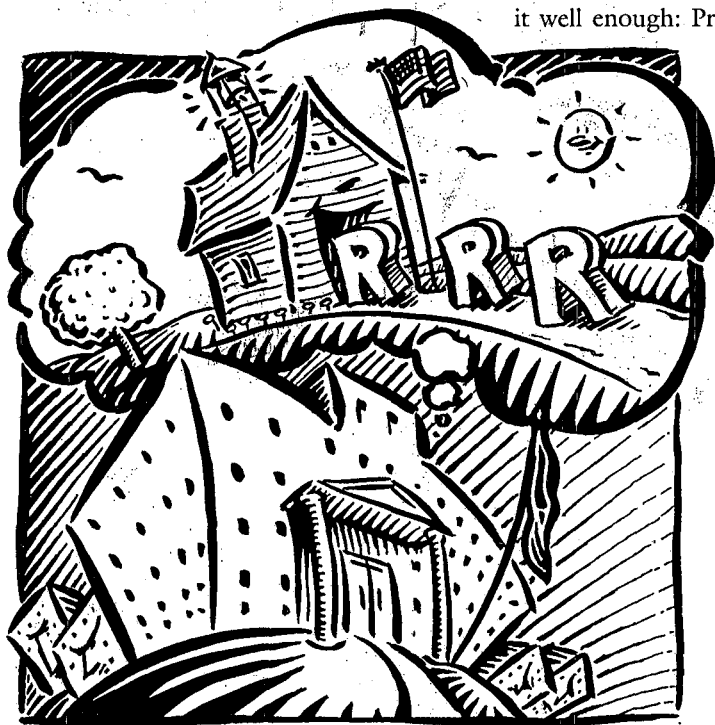
SECRETARIAT - Experienced  
Social and Corporate Meeting  
Planners celebrating their  
44th year in business  
has moved. As of  
August 1, 1992  
visit us at The  
Plaza, 1303  
Delaware  
Avenue,  
Suite 112.  
The phone  
number re-  
mains the  
same (302)  
654-4479.  
The hours  
are 9 - 5,  
Monday - Friday.

Stop by SECRETARIAT to see our expanded selection  
of invitations, stationery, wedding and gift items.



## The New Schoolhouse

There are two ways to look at public education. One is that schools are doing a better job for more students than ever before. True, the other is that schools are not doing enough, or doing it well enough: Problems outrun solutions.



Will one fourth of our students not graduate from high school?

True again, and that tells us what the agenda should be for Delaware schools.

Across the country, schools have been battered with criticism for turning out shoddy products, to a point where this has become "a nation at risk." That blanket condemnation is undeserved — many students come out of Delaware schools with excellent preparation — but what is certain is that many children today are "at risk,"

at risk of failing to get the education they need, of dropping out, and of getting into serious trouble and becoming burdens to society. We can let them take those risks on their own, knowing that many will fail, or we can mount an all-out effort to correct the problems and reverse the trends. For both humane and economic reasons, the latter is clearly the right choice. The necessary programs should be centered in the schools, because that is where the help is needed. For many youngsters today, the school has become the community agency of last resort.

There are four parts to the action package that the State Board of Education is encouraging: better teaching; more counseling and support services for "at risk" students; more participation and individual initiative by everyone with a role in education; and more flexible and efficient use of facilities. There will be costs, but this is unavoidable. As the expression goes, we can pay now or pay (more) later.

None of this applied in the days of the Little Red Schoolhouse. We look back with nostalgia at those simpler times and smaller education budgets. But it is wrong to suppose that schools were a better bargain then or did a better job. They attempted less and had smaller problems.

In earlier generations, schools let "problem" students fend for themselves, or unceremoniously dumped them as "unteachable." Today we know that strategy only buys bigger problems later. We try to help such youngsters whatever their difficulties. Rightly so. They and society both come out ahead.

"Universal public education" initially meant eight years or less of formal schooling. (In Thomas Jefferson's time, when the idea took root, the target was four years.) Then most youngsters went to work full time, usually on the farm. Now we have higher goals, driven by economic and social requirements. K-12 has become minimal schooling. It takes at least that long for young people to develop needed survival skills; that is to say, the knowledge and skill to qualify for entry to a quality job or higher education, citizenship capabilities, plus an ability to continue learning to cope with economic and technological change.

As those kinds of change have raised

the requirements of education. social change has made the goal harder to reach. Look at the conditions with which schools are trying to cope, and count the social costs.

**Dropouts and underprepared students:** Unless the trend line changes, one fourth of the students now in Delaware high schools will not graduate. Some of them will join the ranks of the perpetually needy, on welfare. Some may be drawn back to education later, as adults — at higher per capita teaching costs. Those who find and keep jobs will face discount wage rates. Dropouts average less than 60 percent of the pay of vocationally-trained graduates, and about \$350 per month less than the average high school graduate. (Census Bureau study, cited 10/3/87 New York Times.) One national estimate says that employers will be spending \$25 billion a year teaching basic skills to one million new employees. (David Kearns, Xerox Chairman, 10/26/87 Detroit Economic Club speech.) Some of those trainees hold high school diplomas, but those were gifts. These individuals are functional illiterates, and graduates in name only.

**Drug and alcohol abusers:** The problem reaches down into junior high schools. Millions are being spent on teenage abuse prevention and rehabilitation programs, but later correctives, for adult addicts, cost even more.

**Teenage pregnancy:** Youngsters having babies build double social tragedy. The 13-to-16-year-old-mothers rarely return to school. As a result, many of them end up on welfare or in jobs at minimum wage. Their children are likely to follow in their footsteps, with equally dismal prospects. The problem is widespread in the lowest-income, least-educated population. Although teenage pregnancies have been high among blacks, the rate is now stable. Among whites it is rising. In effect, the short-cycling of generations is building a long cycle of rising welfare costs.

**Unsupportive families:** Many youngsters in school come from single-parent homes or families where both parents work. Some children from such a background receive little of the nurturing and adult guidance they need. Before judging the parents for non-support, though, we should put ourselves in their shoes. Many of the parents have little education themselves and few resources. They do not know enough to help their children with homework.

They are embarrassed to go to PTA meetings because they "feel dumb." They do not know where to turn.

Many couples have two jobs of necessity: their combined paychecks total less than that of one skilled worker. Delaware celebrates a low unemployment rate (currently, under three percent) but nobody talks about the fact that many jobs are low skilled, and pay minimum wage or little more. They do not generate enough income to raise children decently.

**Youth crime:** The crime rate is at its worst among young, poorly educated people. They were not born intending to become criminals, anymore than girls are born intending to become teenage mothers. Neglect puts them there. First their families fail them; then the community support system fails them as well.

It makes sense to heed the early warning signs. That avoids paying for serious damage-control later. The state puts more than \$5,000 per student into education each year, but it costs the taxpayers \$21,000 a year to keep someone in prison, and \$80,000 to build another cell for the next violator.

#### FOUR STEPS IN THE RIGHT DIRECTION

**Better Teaching:** There is no substitute for good teachers and good teaching. The key to success is to have a corps of teachers who are fully professional in training and ability, who think of themselves as professionals and act accordingly, and who are professionally rewarded in pay and public support.

This cuts both ways. Teachers continue to complain about low pay and they have a point. Recent increases in scales have helped a great deal, but teachers are still paid much less than most other professionals. For a stark contrast in pay and status, set teachers here against those in Japan. Teachers there are better paid than white-collar workers in business, or even engineers. Here, highly experienced teachers with advanced degrees make roughly a beginner's salary for an engineer at Hercules or DuPont. Moreover, the teachers, unlike private-sector professionals, receive few bonuses for extra effort and outstanding performance. Under present pay schedules, mediocrity nets as much as superiority.

To meet the varying needs of today's students teachers need more control of schedules and teaching materials. No one set of course offerings and timetables will fit for all. Lockstep programs imposed from the top down, based on

average needs, cannot succeed broadly. For programs to be effective, they have to come up from the bottom, with teachers committed to them.

Students have to be treated not as averages but as individuals. Teachers need time to work with them on that basis, freed from nonteaching distractions and arbitrary rules.

All of this is an argument for more control of teaching activities and budgets at the local level, rather than by district or state offices. No one is more likely than the teachers on the firing line to know what the youngsters in front of them need. Teachers should have the authority to shape their own programs, and be given incentives to do so.

Teachers argue that society should look upon their services not as a cost but as an investment. Correct, but quid pro quo, the public wants a return on its investment. Teachers have to show that they are good at their jobs, and are giving their level best. Career drifters who do no more than "get along," spending a little time as possible with students, teaching each course like a TV rerun, ought to be taken out of the profession. They do too much damage.

There has to be some sort of performance review. Nervous as some teachers may be about it, they have to provide an answer to the obvious question: how well are they doing with their students? The state-awarded teaching certificate, of itself, is not enough. As experienced teachers will tell you, that certificate is really a learner's permit. It indicates preparation and potential, not results.

To their credit, Delaware teachers have helped to create and are supporting a new approach to evaluation. It is now in the pilot state. On the horizon is a voluntary national screening process leading to special certification for experienced teachers. It will be similar to the system used in the medical profession. Delaware teachers should participate in this. If it makes sense to have "board certified" physicians attending to the ills of our bodies, it makes equal sense to have "board certified" teachers nurturing and expanding our minds.

**More support services:** Of necessity more than choice, schools today must go far beyond the Three R's and deal with other growing-up needs. Examples of what is happening in selected Delaware schools reflect the new educational responsibilities. Guidance and counseling programs are being expanded. The state legislature this year authorized



funds for additional counselors. Day care centers have been started at several schools. Special Education programs have been expanding for years, to a point where Delaware now has one of the most extensive programs in the nation. A new "wellness" program has been authorized by the State Board of Education. Offered to schools statewide, K-12, it covers nutrition, health, and sex education (AIDS included).

More is needed. Counseling programs need to be strengthened, and pushed down to lower grade levels. Even good guidance at the 11th or 12th Grade level may come five years too late. Day care centers in Delaware have room for 12,000 youngsters: 75,000 spaces are needed. More centers should be set up on school property, to be operated by community groups or other private vendors. Social workers concentrating on youth problems should be housed in the schools, reporting to the principals.

**More participation:** Teachers can work most effectively, and students can overcome problems only if there is wide-based support for education from all parts of the community. Parents, community organizations, business firms, government officials — everyone in a

position to influence education — should be focusing on the needs of students, and matching the resources of their groups and institutions to those needs.

More cooperation and coordination are required within schools, and between school and community. Teachers should be helping teachers, looking not only at the subjects to which they are assigned, but also to their common goal as counselors and mentors. Administrators should be looking for ways to help teachers plan their own programs and launch their own initiatives, not pressing them to follow a given course line in pursuit of a false goal of consistency. Education has to offer "different strokes for different folks."

Educators and parents all should be trying to identify the "at risk" students and bring them the help they need. In one case that may mean an outreach program among parents — i.e. parents offering to help other parents build good study habits with children, to keep youngsters from falling between the chairs. In another case, it may be a joint business-school-parent effort to install a day care center in unused classrooms.

Those examples have two common factors: All of them are keyed to local

and specific needs, and all of them have been tried before, generally with success, in Delaware or elsewhere. The need is not to devise wholly new approaches, which would have only hope to recommend them. Instead, what Delaware needs to do is to build on its own experience, and that of other states, to expand programs already proving to be effective.

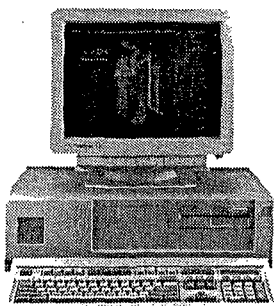
**More use of facilities:** Education's physical plant is grossly underused. We ought to look at the school schedule for what it is — an anachronism left over from an agrarian economy and lifestyle — and change it. We ought to bring schools into the 20th Century before it is over.

We have to challenge a schedule under which an expensive public asset is in use less than one-half of the time: the 180-day school year, 3:00 P.M. closing times, and buildings empty on weekends and all summer. That makes no sense in view of the need for educational services by students of all ages, not to mention the high costs of building and maintaining schools. Schools ought to be open for extended hours and year-round, to provide extra help and activities for young students, for adult education and job training, and to serve other community needs.

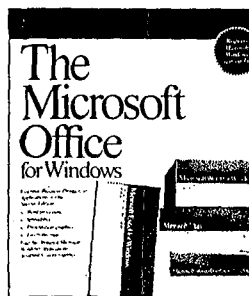
We are paying for hangups in our

## Fast Hardware - Powerful Software Get it Together!

*Introducing the total Windows computing solution.*



- Intel 80386SX processor
- 20 MHz processing speed
- 4 MB RAM
- 89 MB hard disk drive
- 5.25" & 3.25" floppy drives
- Super VGA monitor
- MS DOS 5.0
- Windows 3.0
- Microsoft Mouse



- Microsoft Word for Windows.  
A powerful word processing program.
- Microsoft Excel for Windows.  
A stunning presentation graphics program.
- Microsoft Mail windows Workstation.  
An electronic mail solution for PC networks.

*Ease, power and speed. That's the total Windows computing system.*

**MICRO MASTERS<sup>INC.</sup>**  
18 Boulden Circle  
New Castle, DE 19720

**325-5500**

*Call for training  
sessions on all  
Microsoft applications.*



## *To be a winner, you must be a leader.*

The Winner Group dealerships are leaders. Winner sells more retail cars and trucks than anyone else in Delaware.

Why? Selection and satisfaction.

Choose from hundreds of new and quality pre-owned cars and trucks at each Winner location.

Count on the kind of treatment you want when it comes time to invest in a vehicle. We try to make buying a car or truck the experience you'd like it to be.

Factory surveys and customer comments rank our award-winning dealerships at the top! And the *Delaware Today Magazine* readers' poll says Winner is "the Best of Delaware!" *Again.*

A winner and a leader.  
Delaware's favorite car dealer! Visit any of our showrooms and find out for yourself.



### ***"Delaware's Favorite Car Dealer!"***

**Winner Group Companies:** LINCOLN-MERCURY, Wilmington • FORD-SUZUKI, Newark  
• FORD-STERLING, Dover • OLDS-CADILLAC-GMC, Pennsville, NJ • BUICK, Newark  
• NISSAN, Newark • MITSUBISHI, Dover • HYUNDAI, Dover • SATURN of Newark  
• INFINITI, Newark (coming soon) • WINNER GROUP LEASING • WINNER AUTO BODY

administrative system too. Population shifts have left some districts with too much square-footage, or schools in the wrong place, while other districts are short of space. As a result, new elementary schools are on the drawing board in Delaware, while some old schools remain boarded up or have been sold. Taxpayers should not be asked to pay for such overlaps unless all alternatives have been explored, including school-swaps among districts and changes in district boundaries. There is nothing sacred about either the school schedules or the property lines.

The mounting problems that schools face, and the long-term costs of failing to solve them, make it clear that there is no more time for "business as usual" in the schools. Because we must expect more of our schools now, we have to support them more, and make better use of their human and other resources.

We have a new State Superintendent of Schools who is now bringing many innovative ideas to the solution of our problems. He and the State Board of Education should be given full support by all of those interested in education.



*Charles Welch, a member of the Delaware bar served with distinction as Chairman of the Delaware State School Board. The excellence of his leadership in that role led to the award to Mr. Welch by the Delaware State Bar Association of its highest honor, the First State Distinguished Service Award. In retirement he continues to lengthen his splendid record of public service as Chairman of the Board of the Mary Campbell Center.* ♦

# goodwill means GOOD JOB TRAINING

***i**f you think Goodwill only means "secondhand," it's a good thing we caught your attention.*

*Goodwill Industries of Delaware and Delaware County, Inc., offers job training programs for persons with disabilities and other special needs. We provide employers with a good source of qualified workers.*

*And give people who really want to earn a living a "second chance."*

**we train  
the best workers**



©1992, Goodwill Industries of Delaware, Inc.

## TOMORROW'S SOLUTIONS...TODAY

**We Offer Comprehensive  
Environmental Services**

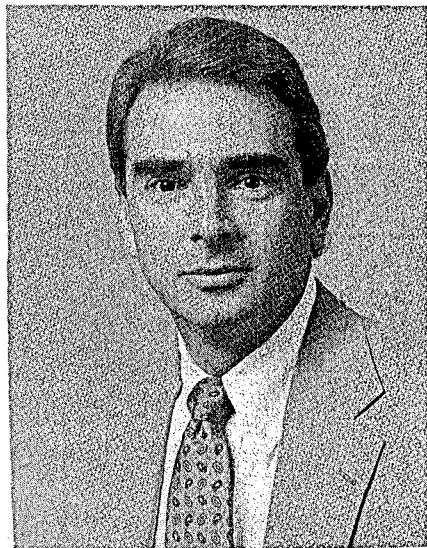
**TETRA TECH RICHARDSON**  
ENGINEERS/ARCHITECTS/SCIENTISTS

**Headquarters Office**  
56 West Main Street  
Christiana, DE 19702  
(302) 738-7551

- ▶ Compliance Audits
- ▶ Confidential Investigations
- ▶ Health and Ecological Risk Assessments
- ▶ Litigation Support
- ▶ Permitting Strategies
- ▶ Remedial Cost Estimation
- ▶ Risk Evaluation and Management
- ▶ Site Assessments
- ▶ Traffic Mitigation Studies (Clean Air Act)
- ▶ Well-head Protection Area Investigations
- ▶ Wetlands Delineation and Mitigation

my children know nothing about a language that is the language of culture and choice of many Americans. Other parents will be free to think differently and pursue other educational emphasis.

In conclusion, I recognize that others whose articles appear on these pages resist the notion that choice will improve our schools or create equality of educational opportunity. For my part and for a growing number of Delawareans that has been settled. We have seen other communities where choice has led to improved education and a more satisfied citizenry. We have seen it begin to happen in Delaware. We invite all those who presume to criticize educational choice because of political bias to join with us and share the rewards of creating something that is new and good.



*Bill Manning, a member of the firm Duane, Morris & Heckscher, is well acquainted with the realities of public education. He serves as the Board President of the Red Clay Consolidated School District. He served as a law clerk to the late Caleb R. Layton, Judge of the United States District Court for the District of Delaware. In 1979 to 1981 he was counsel to then Governor Pierre S. duPont, IV, and from 1981 to 1983 served Governor duPont as his Chief of Staff.*

**(FOOTNOTES)**

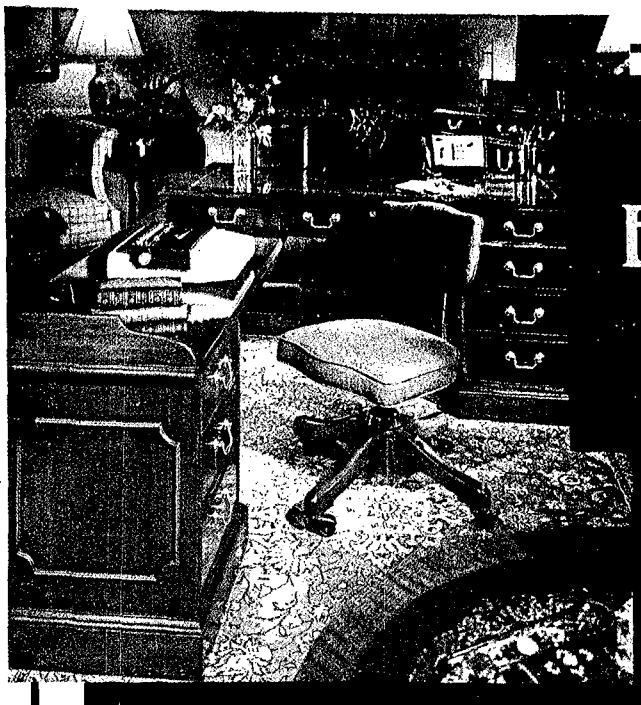
1. *Brown v. Board of Educa.*, 347 U.S. 483, 74 S. Ct. 686, 98 L.Ed. 873 (1954).

2. *Evans v. Buchanan*, 152 F. Supp. 886 (D. Del. 1957).

3. J. Chubb & T. Moe, *Politics, Markets and America's Schools* (1990).

4. Katarzyna Skorzynska, *The Bottom Line* (The Commonwealth Foundation, Harrisburg, PA), June, 1992 at 2.

5. *Freeman*, 112 S. Ct. at 1452. ♦



**Office  
Experts  
Since  
1919**

3RD &  
MARKET STS.  
WILMINGTON  
655-7166



***WIK Associates, Inc.***

**Environmental Consultants**

- Delaware Hazardous Substance Cleanup Act work plan preparation and consent decree technical assistance
- Environmental Audits for real estate transactions and Industry
- Underground Storage Tank Management
- Hydro-Geological Investigations
- Soil Gas Surveys
- Soil Bio-Remediation Programs
- Regulatory and Compliance Reviews

**Representing:**

- The Legal Community
- Commercial Lenders
- Industry
- Real Estate Developers

West Wing of the Courthouse  
Post Office Box 287, New Castle, DE 19720  
(302) 322-2558  
Fax (302) 322-8921

## Towards A Truce in the Holy Wars

Four years ago I ran for a seat on a local school board because I prefer public education for my children, but I had concluded that the quality of our public schools, generally speaking, isn't good enough. I was also frustrated, and

angry that, in the voyage toward educational equality — a fundamental tenet of public education and a right of all our citizens — we had been lured on to the rocks by siren songs from the political left, a common refrain of which chants that each child is an asset owned by the system to be deployed principally according to color, with the system's highest purpose being to fill each building with the politically correct balance of

whites, blacks, and others.

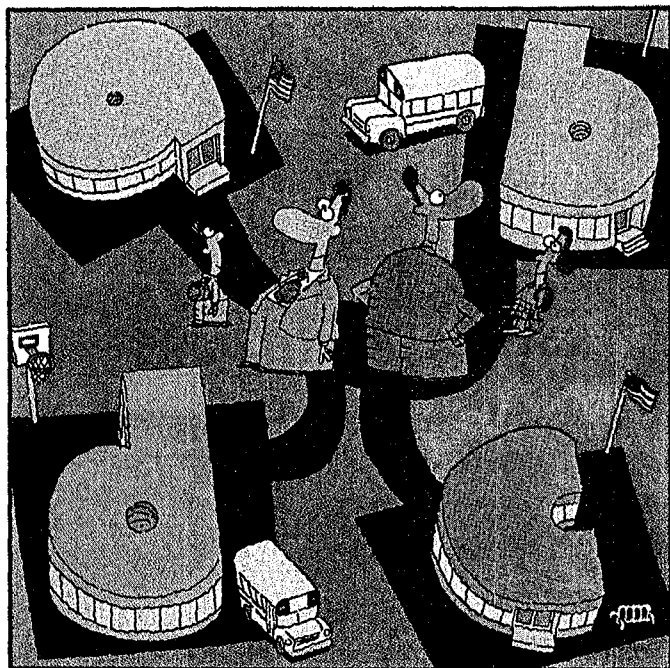
No matter that some of those assets were children who didn't want to go to their assigned schools or that those assigned schools were sometimes poor schools. The siren song intoned that those would get better if only they had the "correct" racial mix and that the anger felt by disappointed families — white, black, and other — was an acceptable price to pay.

The politics of desegregation have brought us full circle back to the point where children were being denied access to their chosen schools because of the color of their skin. After all, America's journey toward desegregation began

when little Oliver Brown<sup>1</sup> and Brenda Evans<sup>2</sup> said, "Judge, that school over there is better than mine but they won't let me go because I'm black. I choose to go to a better school. Please help." More than a quarter century later we were still assigning children to schools depending upon the color of their skin. All the while the quality of public schools plummeted.

Four years later, I write to suggest that educational excellence cannot be served by a bureaucracy-bound system politically averse to choice, variety, and innovation. I should also like to submit that educational equality requires only that each child have access to the school of his or her choice. Finally, I hope to provide evidence that our system is coming to its senses and overcoming its unfortunate recent history.

There is no serious debate any longer that public schools are failing. Rather than continuing to document that, educational thinkers have begun to examine why good schools are good. In their seminal work, *Politics, Markets and America's Schools*,<sup>3</sup> John Chubb, formerly of the Brookings Institute and Terry Moe of Stanford University examined hundreds of schools for characteristics common to successful ones. Their findings are fascinating, particularly the list of characteristics that don't seem to correlate to better education. More money, smaller classrooms, teacher competence testing, or particular pedagogy — notwithstanding our tinkering over the past ten or twenty years with these initiatives — apparently none of these improves schools. Instead, Chubb and Moe have demonstrated what many of us intuitively believed all along: good schools emerge where parents and professional educators are empowered to shape each school according to a common vision, accepting the risks and consequences of failure and



The notion that education can be improved only by importing children of a different color is patronizing at best and racist at worst.



# OUR BEST TO YOUR BUSINESS




The right people can make all the difference in the success of your business. Our team of corporate officers is ready to help you develop financial strategies to meet your company's goals.

That's why Bank of Delaware is a premier provider of financial services to small and large businesses. For more information, call us at (302) 429-5670. ☒ It's your choice.

 **BANK OF DELAWARE**

A **PNC** BANK

*(Clockwise from top) Bruce Jones, Vice President - Commercial Real Estate Lending and Gayle Rogers, Vice President - Construction Lending. Bill Coffing, Assistant Vice President - National Department and Gale Lattanzio, Assistant Vice President - National Department. Linda Outlaw, Vice President & Regional Manager - Commercial Lending and Steve Clark, Vice President - Commercial Lending. Bill Major, Vice President - Commercial Lending and Peter Fulweiler, Vice President - Corporate Financial Services.*

 An Equal Housing/  
Opportunity Lender

Member FDIC

having the means to produce success. It turns out that the level of bureaucracy varies inversely with educational quality, and a rich variety of schools is necessary to satisfy and serve students with varying needs and preferences.

Chubb and Moe list the very qualities common to successful schools absent from public education. Surprisingly in a society that trumpets competition, self-determination, and freedom, we have turned public education over to school boards, bureaucrats, and unions, who manage schools from a distance and fear the political consequences of letting schools differ. Unions turn their teacher/members into fungible units of production, each paid according to seniority rather than ability. Students are *assigned* to schools because to permit *choice* is to reveal that some schools are unwanted. In short, even though we know that permitting families to choose among a variety of schools each managed on site by parents and teachers will improve those schools, we nevertheless entrust them to those who have kept those things from us for decades. It is ironic that Eastern European countries have made more progress in overcoming centrist bureaucrats than have we. In a recent visit to the United States, the director of Poland's Office of Innovation and Independent Schools, observed, "you have the same people who oppose choice as in my country: the trade unions and the education bureaucrats. The difference is that in my country their failures have completely discredited those groups."<sup>4</sup>

So we begin to see a path to educational excellence — choice among public schools, each shaped by a community of parents, teachers, and school administrators empowered to determine the educational outcomes they expect and to seek them. Does that path also take us toward educational equality? Let me answer the question with another. Isn't the perfect remedy for racial discrimination in education the opportunity to attend any chosen school and the correlative guaranty that no child will be forced because of his color to attend an unwanted school?

Legal scholars have written and will continue to write volumes about *Freeman v. Pitts*, \_\_\_ U.S. \_\_\_, 112 S.Ct. 1430 (1992), the Supreme Court's latest school desegregation decision. Rather than adding to these mounting volumes, let me instead identify what I think is the most telling passage from the opinions of the Court. In concurring, Mr. Justice Scalia reviewed the development of

desegregation jurisprudence and reflected upon its illogic and procedural unfairness. He then mused that, "... an observer unfamiliar with the history surrounding this issue might suggest that we avoid the problem by requiring only that the school authorities establish a regime in which parents are free to disregard neighborhood-school assignment and send their children (with transportation paid) to whichever school they choose. So long as there is free choice, he would say, there is no reason to require that schools be made identical. The constitutional right is equal racial access to schools, not access to racially equal schools; whatever racial imbalances such a free-choice system might produce would be the product of private forces."<sup>5</sup>

I hope that Mr. Justice Scalia's observation of the symmetry between the constitutional injury — denial of access to a public institution because of the color of one's skin — and the constitutional remedy — access to the chosen institution, regardless of that skin color — will represent emerging judicial thought and that educational choice will no longer be resisted because, according to some, "the judge won't let you do it." My speculation, given the changing mood of the minority community toward standard desegregation techniques employed by federal courts in the past quarter century, is that racial minorities are about to reject the notion that their educational lot can be improved only with the importation of children of a different color. That notion has always struck me as patronizing at best and racist at worst and we need to be rid of it as a fundamental principle in shaping our educational system.

Fortunately, we in the Red Clay Consolidated School District — the "Peck's Bad Boy" of public education — have begun to come together as a community over the power of educational choice to improve schools and promote real equality of opportunity. The task is not complete and perfect consensus has not yet been formed, but there are very encouraging signs. Earlier this year a group of parents, some of whom are former combatants in the educational holy wars that have raged in Red Clay since 1978, met in an attempt to resolve old differences. One thing led to another and before long the group found itself on the sidewalks of East Harlem, New York City, visiting the schools of District No. 4 — a district which, because it had nothing to lose, embraced educational innovation and

choice nearly 20 years ago.

The trip was inspirational. The group saw schools with fascinating differences in method and approach, each filled with children who chose to be there. A school once having a dropout rate approaching 90% now sends a majority of its students to college. District test scores, once the lowest of New York City's 32 districts, now rank solidly in the middle and are climbing.

No debate exists in East Harlem about school choice. In fact, it really doesn't get much attention from the locals — only from the swarm of visitors who, like us, were neighbors from across America coming to borrow a cup of educational sugar. The educators and parents of East Harlem recognize, in a way usually articulated only for the benefit of outsiders, that choice is not an educational end, but rather a beginning from which new schools can grow. It simply follows in East Harlem that, if you are to promote variety among schools with each school shaped by parents and educators who share a common vision, you must then permit families to move among those communities seeking a school that best matches each child's preferences and needs.

The result of that trip and other investigation was a proposal, adopted by the Red Clay Board of Education in April, to transform the Wilmington High School into the Center For Educational Innovation. Three new schools will take the place of one. Two of them, a new middle school for the creative and performing arts and a new high school formed around the principles promoted by Dr. TheodoreSizer of Brown University, will open this September. The third school, a new high school, will be designed through a request-for-proposal process and will open in September, 1993.

Each school will be managed by its own Dean and Board of Directors. For the first time in the history of public education in Delaware, teaching professionals will join parents and others on a board having both the power to shape and manage a school and the accountability for its success or failure.

No child will be forced to attend any of these three new schools but all children in Red Clay are invited to do so. No racial balance will be required, except that, in the event there are more applicants than seats, the student body must mirror the racial composition of the applicant pool, that is, the community of families who chose that school. To peg the student body to any other racial

composition would be to diminish the chances of acceptance for some children because of their race.

The first results have been both impressive and interesting. The middle school for the creative and performing arts attracted nearly twice as many applicants as it could hold. The resulting admissions lottery created a student body from all over the district with a racial composition (for those to whom this matters) within 10% of the district-wide average.

Thus, as the dust begins to settle over the Center For Educational Innovation at Wilmington High School, Wilmington and Red Clay now have two new and different schools, each of which has attracted an enthusiastic student body and teachers eager to shape the identities of the schools and to participate in their management. A school building, once the center of debate, litigation, and hard feelings in Red Clay, is on its way to becoming a home for schools composed only of students and teachers who want to be there.

In addition to creating the Center For Educational Innovation at Wilmington High School, the Red Clay Board has concluded that every high school will become a school of choice by 1994. In anticipation of that event, principals, teachers and interested parents are already planning to reshape Red Clay's schools around a variety of themes and teaching methods. No one can tell what the educational landscape will look like in five or ten years. We may have schools engaged in partnership with Wilmington's scientific community to promote excellence and achievement in mathematics and science. We may have a school for families who believe that, in addition to knowing more about one's world, one must be able to communicate better with others in it.

In addition to varying instructional emphasis, our schools may look very different. One school community may choose to have its children wear uniforms, believing that the daily fashion show occurring in the hallways of our public schools isn't as important as the development of the children on whom the clothes are hung. Other schools may be created for families and teachers who believe the educational process should not be interrupted by the vestigial summer vacation. Elementary schools might be formed by those who believe that their children should be fluent in a second language before they leave the sixth grade. I, for one, am embarrassed that

(continued on page 43)

## We'll Find Out Fast if Your Clients Are Clean.

### Environmental Attorneys rely on EEC.

An environmental problem can endanger workers, jobs, a company's future. So when clients come to attorneys with environmental concerns, attorneys call on EEC for technical solutions.

The region's top environmental attorneys rely on EEC because we understand the business of the environment. We conduct timely and thorough site assessments, a full range of advanced engineering solutions and expert witness testimony/ litigation support.

To learn how EEC serves leading law firms, call James M. Macaulay at 215-627-4505 for our references.



**EEC ENVIRONMENTAL INC.**

BUSINESS. ENVIRONMENT. SOLUTIONS.



HEADQUARTERS: 131 North Third Street • Philadelphia, PA 19106-1903 Telephone 215 • 627 • 4505

## Experience Award Winning Service and Quality that Proves Itself.

with DSBA Corporate Rates at :

### VOICESTAR SYSTEMS INC.



#### You'll Find

- No Activation Fee • Low Monthly Line Fees
- Lowest Rates Per Minute Available in the Area.



~ Largest selection of phones on display in the Area ~

Starting at \$99.00 Any Questions? Call Today!

302-998-7525 800-427-3999 302-736-1888

Wilmington

Dover



**VOICESTAR SYSTEMS INC.**

"The Total Communications Company"

Proud to be named top agency for the  
Third Consecutive Year 1989, 1990, 1991.

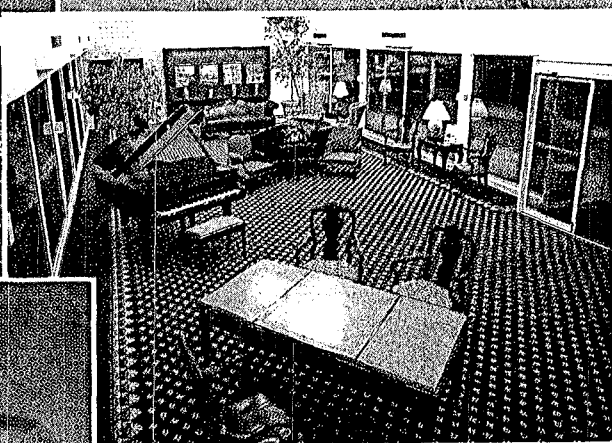
1300 First State Boulevard, First State Industrial Park, Newport, DE 19804

140 S. DuPont Hwy., Dover, DE 19901



# COMPANY?

*For business or pleasure, your guests will thank you for sending them here.*



OUR COURTYARD DELUXE GUESTROOM, shown above, is a Company Coming and Wedding Group favorite. It features pool-front location, two double beds, premium movies, in-room complimentary coffee and deluxe amenities all for only \$59.50. Your friends can relax in our spacious WINTERTHUR REPRODUCTION GALLERY LOBBY and let our professional staff pamper them with the highest degree of hospitality and service. Also, be sure to ask about our special OUT OF TOWN WEDDING GUEST program! Call today for more details.

*Wilmington's Corporate Business Address*

## Brandywine Valley Inn

1807 CONCORD PIKE, WILM., DE 19804 • 302-656-9436

All rates single or double occupancy and are subject to Delaware State Lodging Tax and availability.



Corporate weekly and monthly rates available upon request.



# PROFESSIONAL LIABILITY INSURANCE, INC.

*We keep good company.*

*Committed to  
Creative Insurance  
and Risk  
Management  
Solutions.*

**O**nly two professional liability programs have earned the Delaware State Bar Association's endorsement. CNA's Lawyer Protector Plan is one of them.

Professional Liability Insurance, Inc., is the sponsored administrator for the CNA Lawyer Protection Plan. CNA is just one of many fine carriers through which PLI can provide all the insurance protection you need.

As an independent broker, we offer a broad range of professional liability options and services that have earned us our own endorsement—the admiration and trust of Delaware attorneys.

MORE THAN 50 YEARS OF CONTINUED SERVICE



**Professional Liability Insurance, Inc.**  
an affiliate of Harry David Zutz Insurance, Inc.

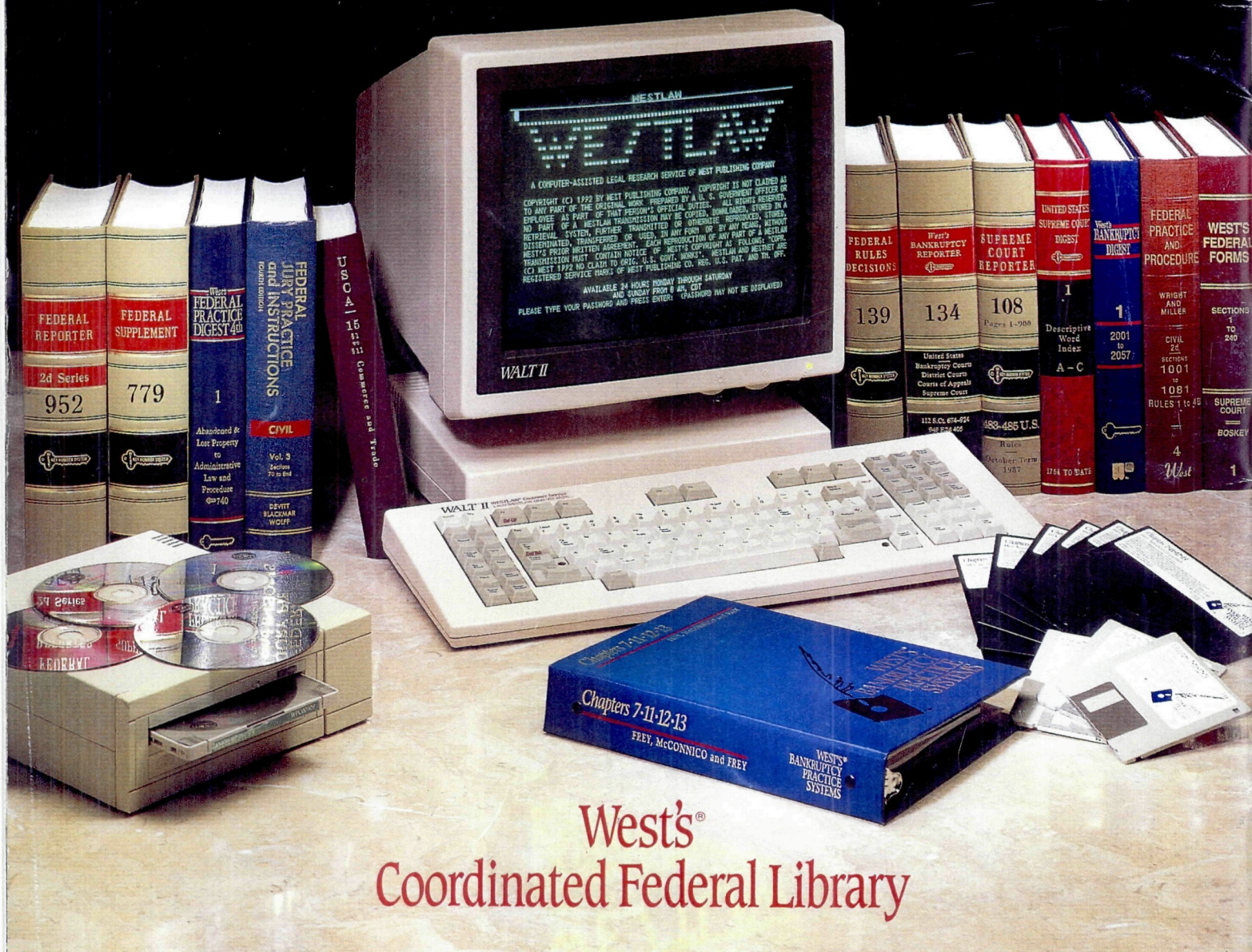
300 Delaware Ave. • P.O. Box 2287  
Wilmington, DE 19899 (302) 658-8000

Albion House 87-89 Aldgate High Street  
London EC3N 1 LH, England



For All the Commitments You Make®





## West's® Coordinated Federal Library

# Find the "other half of the law" to advise your clients more effectively.

As federal law becomes more pervasive, it has a greater impact on your clients. Be prepared to advise your clients on federal matters with West's coordinated federal library.

You'll get fast answers to the surprising number of federal law questions arising from your state

practice files. Receive expert guidance on the many state procedures, rules and statutes grounded in federal law—especially when your state courts haven't ruled on a question. And be able to represent your clients with confidence in the federal courts as you build your federal practice.

Discover all of the ways West's coordinated federal library can give you and your clients more ways to win.

Call now: **1-800-328-9352**

**West Publishing**   
More ways to win