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Pat Ciarrocchi
Interviews Three
Pioneers of the
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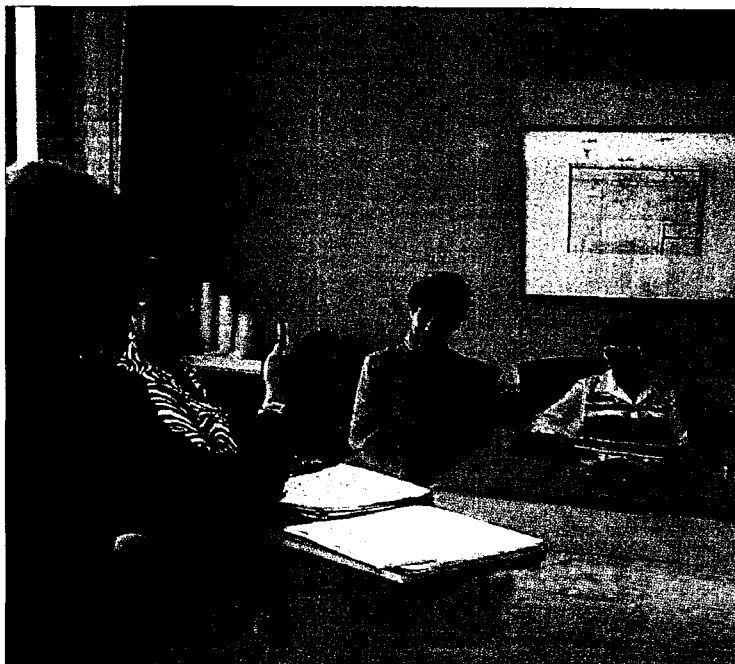
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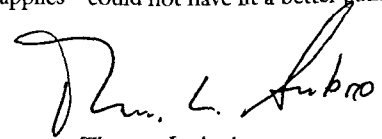
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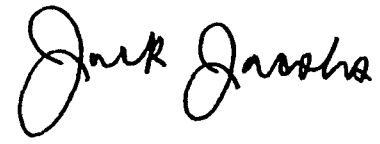
This issue of *Delaware Lawyer*, and the one that follows, tell stories—of men who continued the tradition of Delaware lawyers highly dignified and competent, and of women who proved beyond cavil that great dignity and competence know no one gender.

The persons on whom we focus in this issue came from different backgrounds. Ned Carpenter could claim entitlement by birthright. He did not. Instead he became one of Delaware's greatest trial lawyers and a synonym for integrity. Caleb Wright and Grover Brown were derided initially, and forcefully, as not up to the task of becoming jurists on our District Court and Court of Chancery, respectively. Those detractors, to their credit, conceded that they could not have been further afieid. Bill Prickett continued, even thrived in, the tradition begun by his grandfather and father. Jane Roth, Helen Balick and

Roxana Arshat had no tradition to follow as women, and thus created their own. We can ill afford to forget their struggles, their grace and the difference each has made.

Past is prologue only if we choose to follow. The generation of Delaware lawyers we remember in these issues—of whom the adjective "great" truly applies—could not have lit a better path.


Thomas L. Ambro


Jack B. Jacobs

CONTRIBUTORS



Edmund N. Carpenter, II, is one of Delaware's greatest trial lawyers. Mr. Carpenter retired as a senior partner at Richards, Layton & Finger a decade ago, the same firm where he began his practice in the late 1940s. Among Mr. Carpenter's many accomplishments, he is a former president of the Delaware State Bar Association.



The Honorable Jane R. Roth is a circuit judge on the United States Court of Appeals for the Third Circuit. Prior to becoming a member of the Third Circuit in 1991, Judge Roth served as a judge on the United States District Court for the District of Delaware since 1985. Judge Roth's career is one of firsts: the first female partner in a major Wilmington law firm—Richards, Layton & Finger, the first woman on the United States District Court for the District of Delaware and the first woman from Delaware on the Third Circuit.



William Prickett was a premier corporate law practitioner and prevailing counsel in several famous Delaware corporate law decisions. Until his recent retirement, Mr. Prickett's entire legal career was that of a private practitioner in the firm that was originally founded by his grandfather, William S. Prickett, and was later headed by his father, William Prickett.



After brief service on the Family Court, **Grover C. Brown** was appointed as Vice Chancellor of the Court of Chancery of the State of Delaware in 1973. He served in that position until May, 1982, when he was appointed Chancellor and served until May, 1985. Since then former Chancellor Brown has been engaged in the private practice of law, first as a partner in Morris, James, Hitchens & Williams, and currently at Gordon Fournaris & Mammarella, P.A.



The Honorable Ralph K. Winter, Jr. is a senior circuit judge on the United States Court of Appeals for the Second Circuit. Judge Winter, the former chief judge for the Second Circuit, began his illustrious career (which includes being a professor at Yale Law School) as a clerk to Judge Caleb Wright.

Jane R. Roth

HOW I BECAME A LAWYER

To understand how I became a lawyer, you have to go back to 1943. I was eight years old and wanted to be a fighter pilot. In World War II, the fighter pilots were the heroes. When I was eight, I played with boys, probably because there were no girls my age in the neighborhood. I could ride a bicycle, climb a tree, and shoot a BB gun as well as any of them—if not better. Later I found out that they could become fighter pilots but I couldn't—because I was a girl.

I remember being asked by a friend of my parents what I wanted to do when I grew up. I explained that I wanted to be a fighter pilot—or maybe the President of the United States—but probably I would have to be an “old housewife” like my mother. Obviously, housewifery was not my dream for the future. I wasn't quite sure where my dreams would lead me but I didn't give up on being a fighter pilot or swimming the English Channel or climbing Mount Everest.

In 1952, I went away to Smith College in Massachusetts. There, I began to satisfy my yearning for adventure by leaving Northampton and spending my junior year in France. While in Paris, I had the chance during my spring vacation to visit the law courts in London. This was an awakening. I happened on a trial involving a handyman who had fallen off a 40-foot ladder while washing an attic window. The window frame had pulled loose and the handyman's leg had been badly broken in the fall, disabling him from heavy labor. If the failure of the frame was due to World War II bomb damage, the handyman would get a life pension. If the frame had pulled out because of the carelessness of the handyman, he would have no recovery. I had never before thought about the purpose of lawsuits

and the role of lawyers. Suddenly, it made sense. I could see that there was a reason for resolving such a dispute and that the outcome could have a significant effect on the litigants.

Nevertheless, when I returned to Smith for my senior year and graduation, I didn't choose to go to law school. I considered it but I wanted a break from studying. The most obvious alternative, one which most of my classmates were selecting, was matrimony. There was, however, no gallant knight waiting to sweep me off my feet. So I decided that I would go out and see more of the world.

I prepared for my travels by going to typing school. I then joined the State Department as a clerk typist. My first post was Tehran, Iran, where I spent two years in the late 1950s. After Iran, I was sent to Africa, first to Salisbury, Southern Rhodesia (now Harare, Zimbabwe) for a year and then to Brazzaville in the Republic of Congo for 18 months. It was an exciting time to be in Africa. Many colonies had just become independent nations. I witnessed upheavals in the former Belgian Congo, both from the south, in Rhodesia, and from the north, in Brazzaville. My job, however, was not challenging, and I was concerned that it would be difficult to break out of the clerical ranks without a graduate degree of some sort. For that reason, while I was in Brazzaville I began applying to law schools. I had not forgotten my experience in the law courts in England. Moreover, as the daughter, granddaughter and great-granddaughter of lawyers, it seemed to be a profession that fit the family talents—but did it fit the female side of the family? No woman in the family had tried to become a lawyer. Indeed, I can remember my father saying twelve years earlier that his firm would certainly never hire a woman lawyer.

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Editorial inquiries should be directed to:
Megan M. F. Everhart, Associate Editor
ext. 211

Subscription orders and address changes
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ROTH

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When I returned to the States from Brazzaville, I took the LSATs and asked my parents if they would help me financially. I was greatly relieved when my father said he would pay my tuition and help with my living expenses. When Harvard admitted me, I accepted gladly. (I did have a choice of several other law schools, in particular Stanford. After more than two years in tropical Africa, however, I was anxious to go someplace with a snowy winter—so Harvard won out.) One of my professors at Harvard later told me that he had been on the admissions committee and he remembered my application well. I had been a very borderline applicant, but Harvard had never before received an application from Brazzaville. I was accepted for that reason.

Law school, as most readers of this publication are well aware, is not a particularly fun experience. Moreover, in 1962, most law schools still had a large majority of male students. My class at Harvard had 25 women in a class of over 500. This imbalance made law school a difficult experience for many women students. Dean Erwin Griswold did not make it any easier for us when, during the first week of classes, he invited the first-year women students to his house for dinner. He sat the 25 of us around his living room and asked each of us to introduce herself and to explain why she had come to the Harvard Law School. When we had gone around the room with our introductions, he then stated: "Well, I hope that each one of you realizes that you have taken the place of a young man who would have had a future in the law." In September 1962, none of us protested this statement. We just sat and gritted our teeth.

On many occasions during law school I became frustrated with reading endlessly dull cases and I wanted to quit the whole process. I would then reflect on my life when I had typed for a living, and go doggedly on. And, indeed, the effort required to get through law school made me all the more determined not to let my legal education go to waste. This determination was invaluable later, during the first few years that I practiced law.

More importantly, even though much of the reading was hard to plow through, I had to think very hard to understand what the legal process was

all about and why cases were decided in the way they were. In a way, it was like trying to be a fighter pilot. I was working as hard as I could to master a profession and I was being mightily challenged. No longer was I being relegated to a niche in life that I didn't aspire. I was competing with other able people to achieve a difficult goal.

Horror stories abound of the experiences women endured at Harvard Law School during this era—for example, Ladies Day, established by a professor who called on the women in his class only twice a year—on a day when he did not call on the men. I didn't experience any of this because I was in a different section than the one subjected to this ritual. My professors were courteous to women and expected me to perform at the same level as my male classmates. I was asked difficult questions in class and I answered them. Indeed, in retrospect, there were advantages to being one of 25 women in a class of more than 500. I was not lost in a sea of nameless faces. Many more of my classmates knew who I was than vice versa—and my six years in the Foreign Service had prepared me for a certain amount of adversity.

When I finished law school, I did not want to go back to the Foreign Service. My wanderlust had abated. I was ready to return to Wilmington and to start at Richards, Layton & Finger as an associate—and not just because my father had once said the firm would not hire a woman lawyer. I looked forward to putting to practical use the knowledge I had gained in law school.

My life was made more complicated by the fact that I took the bar exam in September of 1965, was married two weeks later, and then returned from my honeymoon to the life of the working wife.

As with law school at that time, female bar applicants were in a great minority. I was the only woman who took the Delaware bar examination in 1965. Nor were there any bar review courses in Delaware. Applicants would get together in study groups to review the materials for the bar exam. I called the secretary to the Secretary of the Board of Bar Examiners and asked if she knew of any study group I might join. She replied that she did not believe that any of the study groups would want a woman member—so I had to go through the materials by myself. I was appalled recently to read in *Delaware Supreme Court, Golden Anniversary* that

it was my grandfather, Robert H. Richards, who first suggested that James M. Zane's *The Story of the Law* be a reading requirement for bar applicants. Zane's tome was one of the most poorly written, ill-informed books I have ever read. I managed to get through Zane and the rest of the bar requirements, however, and in December 1965 I became a member of the Delaware bar—the tenth woman to do so. (For years, I believed I was number nine, and was not happy to be relegated to double digits.)

In December of 1965, there were two other women who were practicing law in Delaware, Brereton Sturtevant, who worked as a patent lawyer for the DuPont Company, and Sybil Ward, who did real estate work and title searches. I was the only woman appearing in the courts, however, and the only woman who attended the Bar Association meetings. Vincent Theisen, the president of the Bar Association that year, would begin the meetings: "Gentlemen and Mrs. Roth."

At Richards, Layton & Finger, I was not happy to be told that I would be doing the firm's domestic relations work. The reason I was given for this assignment was that women understood that area of the law so much better than men. I was not so sure of this and I found many aspects of domestic relations work very frustrating—particularly when I felt that the lawyers involved were exacerbating the situation rather than providing any assistance to a family in turmoil. My first hearing in a divorce case was an uncontested divorce on the grounds of adultery. I proved that the respondent wife was living with another man in a one-bedroom apartment which had only one bed. The divorce was granted. I learned later that the judge who heard it, a judge noted for his long opinions and his short sight, commented when I left the courtroom, "I didn't think nice young ladies handled that kind of case."

Besides domestic relations, I was given collection cases. In particular, I got to pursue deadbeats who didn't pay for their want ads in the News Journal. I had the chance to argue (unsuccessfully) before a justice of the peace the need for piercing the corporate veil. I placed a sheriff's lien on the bed from which I had just roused the sleeping debtor. I organized an auction of the contents of a menswear store. The complexity of the work I was doing was increasing but I

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wasn't entirely happy with it.

My own domestic life was then complicated by the fact that I became pregnant. The baby was due in the fall of 1966. I didn't want to get out of the practice of the law because I was afraid that I would never get back in again—that I would be labeled as a "quitter" and that no one would ever again hire me. I was delighted, when I asked for maternity leave, that it was granted. At the same time, my husband Bill decided to run for Congress and take a leave of absence from his job at Hercules, Inc.

Our son Bud was born in October, Bill was elected to the House of Representatives in November, and I returned to work in January. I was fortunate to find a nanny who would come to our house, but after I paid her salary and the tax on my salary, I had no money left. I was in effect working for nothing, and I was doing legal work that did not particularly interest me. Moreover, the firm had told me that a woman would not be made a partner. Bill was in Washington much of the time. I had to manage the house in Wilmington. I often felt, even before I left for the office in the morning, that I had done a day's work—especially on the days when I had to drive into town to pick up the nanny and bring her back out to the house before I drove back in again—and vice versa in the evening. My parents tried in vain to persuade me just to stay home with the baby. There were many days when I would ask myself as I drove into town, "Why am I doing this?" Well, I couldn't be a fighter pilot but I could be a lawyer and, by God, I would be one! So, I stuck it out.

In 1970, Bill was elected to the Senate. Since his presence in Washington seemed to be ensured for a long period of time, I decided to look for a position with a law firm there. At the same time, Rodney Layton had been assigned to be the partner at Richards, Layton & Finger who supervised me. I told him that I was unhappy with the legal work that I was doing and that I was looking at Washington law firms. He replied that, if I wanted to, I could assist him with the defense of medical malpractice cases. I accepted. I wanted to try complex cases and this was my chance.

Years later, I taught trial practice at Villanova Law School. As I lectured to my class, I found myself telling the students what I had

learned from Rodney Layton: speak to the jury; make sure the jury understands you; get the jury to trust you; don't betray that trust by not producing what you say you will produce; never deceive the jury; make the jury want to listen to you because what you say makes sense; know where you are going; don't ask a question if you don't know why you are asking that question; don't talk down to the jury; treat the jury with respect.

Later, when I was a District Court judge, I had an opportunity to question the jurors in a complex civil case about their impressions of the lawyers who tried the case. Their answers echoed what Rodney Layton had taught me. They said that they listened carefully to one of the lawyers because he knew what he was doing, and what he said made sense and was helpful to them. They tended to ignore the other lawyer because he was disorganized and didn't seem to know where he was going with his questions.

After sitting second seat for several medical malpractice trials and gradually taking on more and more of the questioning of witnesses and the trial planning, I took over the malpractice defense work for the firm—and became a partner. The old standards—we'll never hire a woman lawyer, a woman will never become partner—had been overturned. Maybe I wasn't a fighter pilot but I was doing what I wanted to do, I was being challenged, I was totally engaged in my profession, and, on top of all that, I had a husband I loved, I was helping him in his career, and I was raising a son and a daughter. Once in a while, I still thought, as I was driving into town in the morning, "Why am I doing this?"—but the answer was getting easier.

Sometimes I wonder if I would have persevered if the option of being a lawyer had been available to me from the beginning. You may not fight as hard for an easy goal as you do for a difficult one. When I think about it, however, I conclude that, whatever the circumstances, I probably would have ended up doing exactly what I did do.

Is there a moral to this story? I believe there is. As I see it, it is "Don't give up just because someone says you can't do what you want to do." Or perhaps, focused more personally, the message is "If you don't want me to do something, don't tell me I can't do it—because I may just do it anyway." ♦

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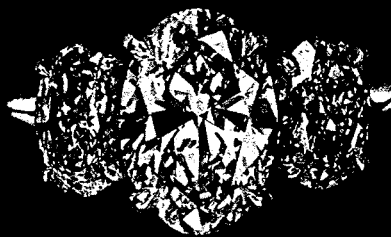


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Grover C. Brown

REFLECTIONS OF A COUNTRY LAWYER

When I first entered into the practice of law in August 1961 after a brief stint in the military, it was in Dover with my brother, Herman Brown, who had been a practicing attorney in Kent County for some ten years. In those days Herman was quite renowned as a trial attorney, primarily in the area of criminal defense. He was particularly good at talking to a downstate jury because he came across as one of them. He seemed to specialize in drunken driving cases, but occasionally he defended a high-profile felony case as well. He was affectionately known as "Loophole" in our native town of Harrington for the creative way he invoked technicalities to create the necessary reasonable doubt.

Herman also had a real estate and domestic relations practice and wrote wills, as did most of the attorneys in Dover. Of course, there weren't many of us. According to my count, I was the fifteenth active member of the Kent County bar when I started out (not counting Henry Horsey, who, although a pedigreed Kent Countian, was then in Wilmington). All the lawyers had their offices on The Green, or close to it. Almost all were sole practitioners. A commendable offshoot of this professional isolationism was that they all seemed genuinely to welcome a new member into their group. Every one of them was always willing to answer a question or to provide guidance to a beginning lawyer about those things you were not taught in law school. The same was true of the two resident Superior Court judges at the time, William Storey and Charles L. Terry, Jr., the latter going on to become Chief Justice and Governor. For me, the existence of this venerable pool of knowledge proved to be most fortunate.

When given my first assignments by Herman, I naturally looked to him for assistance in learning the practicalities of the practice of law. Herman, however, had this belief (probably deriving from his own experience) that if he told you how to go about doing something, then you wouldn't truly learn it. In his view, it wouldn't "stick" unless you went to the trouble of figuring it out for yourself. Secretly, I felt he was not motivated so

much by this personal philosophy as he was by the desire not to waste his time educating someone whom he believed should have the common sense to do it himself.

Herman was a veteran of World War II, and as a result he believed in living every day to the fullest. In those days he practiced law as a means to support his pursuit of happiness. He loved harness racing, and right up to the time he died he always managed to own one or more horses. Back then it was not uncommon for him to knock off work at about 4:00 p.m., jump in the car with a couple of his horse-loving cronies, and drive to Roosevelt or Yonkers Raceway in New York to attend a race in which one of them had a horse. Then, after analyzing the completed race over several drinks at some appropriate location, he'd get home around 4:00 a.m., grab three or four hours of sleep and head back to the office. Shorter trips to Ocean Downs or Rosecroft were liberally interspersed. As you might have surmised by now, being a teacher was not a part of Herman's make-up. I doubt the word "mentor" ever crossed his mind.

Accordingly, an inept lawyer such as myself was left to his own devices. I would ask questions of my fellow members of the bar, or of Mrs. Hayes or Delores in the Prothonotary's office, or Hazel in the Sheriff's office (she could always tell you which writ or form you really needed, regardless of what you thought the statute said) or Mrs. Honey, the Deputy Recorder of Deeds. Over time, this proved to be a great training ground, and in the end I suppose Herman was right—if you are forced to expend the time and endure the aggravation to figure out something for yourself, it is more likely to stick with you. (My experience, of course, predated the modern-day concept of billable hours, which now renders impractical—if not impossible—such a leisurely, non-billable learning process.)

The same was true in learning to try a case. There were no schools, no in-house mock trials, and no carrying a bag as a second-chair associate for several years. You simply went to court and took your lumps. But the important thing was to come away from each experience smarter than when you went in. As a beginning trial lawyer, you always hoped to learn something from your opposing counsel (who usually had years of experience on you).

Such was the case with my first trial. As every litigator surely recalls, that first trial marks the beginning of a body of legal

knowledge that accrues from harrowing experience. Mine was a custody case in Kent County Family (then "Juvenile") Court. The opposing attorney was Henry J. Ridgely, the father of the current President Judge of the Superior Court. I was never much on heroes or role models, but Henry Ridgely and Collins Seitz came about as close for me as you could get. Henry was tall and had a gangly gait. His stride was easy and confident, and as he walked across The Green from his office to the courthouse, he symbolized a man completely in control of whatever it was he had to do. He greeted you with a smile and always seemed concerned for your well-being. His eyebrows arched upward in apparent genuine interest as he made some inquiry or offered a compliment on something you had done. He had only one pace, at least as far as I ever saw him, and that was steady. I never knew him to show anger or give any indication that he would ever lose his composure, no matter what was going on around him, in court or out. He always spoke in the same soothing, measured tone. He was always just Henry.

He was also a very good lawyer. He had been the Deputy Attorney General for Kent County (in those days there was only one) at a time before my admission. I recall Herman telling me that Henry, in his easy-going way, was such an excellent cross-examiner that he could get a witness to agree that he'd just testified that he had walked from Milford to Dover in thirteen minutes, without the witness even realizing what he'd just agreed to.

Thus it was that I had my first learning experience as a trial lawyer against Henry Ridgely. I represented the mother of two (or maybe three) children of tender years. She and her husband had parted ways and she was living with the children in a cheap apartment over a gas station building in Harrington. Her husband's parents were fighting her for custody of the children. The in-laws were a kindly couple who lived in Pennsylvania. They were reasonably well-to-do and had a nice home with a yard, swing sets and other amenities that would have made for a better home for the children than what their mother was able to provide for them.

The trial went on for at least half a day. The judge was Marion Stevenson, a caring gentleman from Frederica who could easily have been the poster-person for the all-American grandfather. To his credit, I suppose, Judge Stevenson was not even a lawyer. (You did not need to be a lawyer in those days to be a Juvenile Court

judge.) But he had been Prothonotary and, I believe, Clerk of the Supreme Court. Along with an adequate knowledge of the law relating to his jurisdiction, Judge Stevenson knew a lot about life. He genuinely anguished over every decision, and he was a very good juvenile and domestic relations judge because of it. He didn't miss too many.

I had done hours of research and argued mightily in favor of the legal presumption that children of tender years need the care and attention that a mother can best give. Henry presented a convincing case as to how much better off the children would be in the home of their loving grandparents. Judge Stevenson anguished and soliloquized from the bench for many minutes (as was his habit) before ultimately ruling in favor of my client. Henry smiled and congratulated me and strode away, unperplexed and emotionless as usual, to his office across The Green.

As I left the courthouse with my happy client, I told her that we had been fortunate to prevail, since, as she could tell, Mr. Ridgely was a very good lawyer. She replied that she knew that, and then confessed that she had first gone to Henry to have him represent her and that initially he had agreed to do so. She explained that she had later come to Herman's office (and thus had been handed down to me) after Mr. Ridgely had subsequently informed her that he would not be able to represent her after all. According to her, the reason Mr. Ridgely had a change of heart was that the well-to-do grandparents were able to pay him a fee of \$500, while the best my client could scrape up was \$100 (which she eventually paid me). It was an early lesson—I'm not sure in what. Probably it had something to do with reality.

Another source of trial practice training in olden days was as a court-appointed attorney representing indigent criminal defendants. There was no Public Defender back then, and the members of the local bar who actually tried cases (and, as I mentioned, there weren't too many of us in Kent County) were expected to take their turn. No one wanted to do it, of course. The first and third Fridays of the month were arraignment days. The criminal arraignments immediately preceded the uncontested divorce hearings. If you were to appear with a divorce client, you had to be there ahead of time when the criminal arraignments were going on, which, of course, exposed you to possible court appointment. The

Superior Court courtroom in the Kent County Courthouse was quite large. It had a couple of decorative pillars behind the rail which segregated the counsel area from the public seating. We used to try to hide behind the pillars, but Judge Storey or Judge Terry would peer out and ask, "Mr. Brown, is that you behind the post? I am appointing you to represent this man."

When I first started, George R. Wright, who later became a Superior Court judge, was the Deputy Attorney General for Kent County. Since the Deputy AG was then a part-time job with a \$7,500 per year salary, George deemed it to be worth no more than a day or two of his time each week. Consequently, when you were court-appointed there was no difficulty in finding out what the case was about. George would simply tell you to go ask Alice, his secretary in his courthouse office, to give you the State's file, use his desk in his office, make yourself comfortable and review everything he had in his file to your heart's content. George said the State had nothing to hide. It saved a lot of time and sure beat the hell out of motion practice.

The result was that you were usually able to work out some plea bargain. But occasionally you were trapped into a trial. On one such occasion I got a double dose. I was appointed to represent a defendant with an unfavorable prior record who was charged with burglary. He swore he didn't do it. The problem was that he had signed a written confession (this was pre-*Miranda*). At trial, however, even when confronted with his signature on the document, he testified that he had not signed the confession. The jury didn't believe him and found him guilty. I was graciously awarded the going rate of \$75 by the Levy Court for my services.

The then-prosecuting attorney, however, was indignant at what he perceived to be blatant lying under oath, and determined that Kent County criminals needed to be taught a lesson. He promptly charged my former client with perjury. Since I was already familiar with the defendant and the case, I was again appointed by the court to represent him. We went back before a jury.

Realizing that I had no defense on the facts, I resorted to researching the law. I discovered some precedent for the proposition that before one can be convicted of perjury the prosecution must prove that the false statement was given under a lawfully administered oath. I

believed this might get me a judgment of acquittal if the State neglected to offer such proof, but I did not want to embarrass Elizabeth Hayes, the long-time Chief Deputy Prothonotary who acted as court clerk in Superior Court trials and who had always been helpful and friendly to me as a young lawyer. So, I went to Mrs. Hayes, told her what I had in mind, and suggested that she might want to have her oath of office handy in case she got caught in the middle. Her reply was, "Good Lord, Grover, I haven't had a written oath of office from the court since the one I was given when I was first sworn in and I haven't seen it in years." She thanked me for alerting her, however, and she later informed me that, as she should have done, she made the Superior Court judges aware of the potential problem.

At trial the prosecution was swift. The confession was admitted, two State Police detectives testified that they were present when the defendant signed it voluntarily, and proof was offered that the defendant had denied signing it while testifying at the previous trial. The State rested without offering proof as to who had administered the oath or as to its lawfulness. I rose to move for a judgment of acquittal, confident that for once I had a lock. I cited my authorities and made my argument. The State made a fumbling, unpersuasive, caught-off-guard response. By then, however, it was Judge Wright, the old prosecutor, who was presiding. Imagine my deflation when he resolved the issue without batting an eye by simply taking judicial notice that Mrs. Hayes was the Chief Deputy Prothonotary and as such had the lawful authority to administer oaths to witnesses. Motion denied. The defendant was convicted again (although I believe his sentence was made to run concurrently with his burglary sentence so as to obviate the likelihood for an appeal), and I was awarded the thanks of the Court and, eventually, another \$75.

My early Chancery experience was similarly deflating. One summer, Herman volunteered me to assist N. Maxson Terry, father of the late Superior Court judge and then a senior Kent County attorney, in obtaining a temporary restraining order. Young Max was away for some reason. I had never obtained a restraining order and had no idea how to go about it. Despite his years at the bar, Max didn't either. His client was a former wife (or husband, I can't remember which) who as part of a divorce settlement had agreed that the

title to their real property could stay in the name of the other spouse on the condition that when it was sold, a specified portion of the net proceeds would be paid to Max's client. Max had gotten wind that the property was being sold at the end of the week at a settlement to be held down the street at Jimmy Hughes's office, and that immediately thereafter Jimmy's client would be moving out west. He decreed that we needed an immediate restraint to prevent the titled former spouse from fleeing the State with all the money.

Dropping all else, I scrambled around the Kent County law library desperately rummaging through form books, court rules, case precedents, etc. In the nick of time, I came up with what I hoped would be an acceptable set of papers with which to seek the extraordinary relief Max was after. Max's contribution was to check on me every two or three hours to see how I was doing. After the papers were sent to Jimmy Hughes, Jimmy called Max, wondering why Max had gone to all this trouble. Jimmy said that if Max had simply called him and explained the situation, he would have seen to it that the obligation was discharged at the time of the settlement, which he thereafter did. So, except for me, it ended happily for everyone. Max never offered to pay me anything for my several days of frantic work. Herman said to let it go, it was good experience. Looking back, I suppose he was probably right.

Finally, there was my initial exposure to the federal courts. I believe it was in my second year of practice that Herman dispatched me to Wilmington to have our client enter a plea of guilty to a reduced mail fraud charge. The client was a young mother. Her husband was a long-distance truck driver who was purchasing his own rig. A dispute had arisen as to whether a certain payment or payments on the truck had been made to the finance company. In an effort to rectify the situation, our client had gone to the local Western Union office and obtained some blank telegram forms. She then typed out in all capitals on yellow paper one or more messages she claimed she had previously sent to the finance company, cut out the printed words into strips and pasted the yellow strips onto the yellow telegram form to simulate a telegram, and mailed the finished product to the finance company, ostensibly to confirm that the disputed payment or payments had been made. As far as fraud goes, it wouldn't have fooled a second

grader. The printed words obviously came from a typewriter and were smaller than the print of Western Union, and the flour and water paste that she used to attach the cut-outs to the telegram form did not hold, leaving the ends of the strips sticking up. Nonetheless, when alerted, the authorities acted swiftly to indict her.

We had no defense other than her explanation. In any event, nothing had been lost, no harm had been done, and she and her husband had no money for an elaborate defense. Since she was a mother with small children and no prior record, Herman had determined that a plea to a reduced misdemeanor charge was the way to go. When I met her, however, I discovered a problem. The lady was what I would best describe as a natural-born double-talker. Her voice was sweet and innocent and she had a good vocabulary. But as nice as she sounded, her thoughts did not seem to flow logically and it was impossible to make any sense out of a lot of what she said. This proved to be our undoing at her arraignment. When asked to acknowledge her guilt, she told the judge (I believe it was Judge Layton) that she guessed she was guilty as charged but that she hadn't really intended to defraud anyone and was only trying to get her husband's account straightened out. The more she explained the more perplexed the judge became. At last, in exasperation, he threw up his hands, rejected her plea, and ordered the case set for immediate trial.

Unbelievably, the trial that followed lasted four days. I had to commute back and forth from Dover each day. In an effort to cut my growing losses I used the family's Volkswagen Beetle for the trips. I soon discovered that while those vehicles were great around town, you never appreciated how much they bounced until you took one on a long haul. I was fearful of developing truck driver's kidneys before the week was out. At the trial, the government brought in FBI agents and forensic experts from Detroit and other outlying regions. Witness after witness was called to expose my client's supposedly devious plot. The telegram forms with the typewritten strips sticking up were displayed prominently to the jury. All I could do in rebuttal was call my lady to the stand.

True to form, she testified sweetly and innocently—and I believe sincerely—that she had not intended to defraud anyone and she was only attempting to persuade

the finance company that it had made a mistake. As she spoke, you could see several jurors leaning forward, cocking their heads to one side while concentrating intently on her every word as if to ask "What is she saying?" The United States attorney experienced a similar degree of frustration on cross examination. Everyone, including the judge, was surprised that the jury deliberated for more than three hours before returning a verdict of guilty. I presume the delay was caused by the members comparing their recollections on what they thought she had said.

I later bounced back up to Wilmington for her sentencing. I believe she got the same probation terms she would have been given if the court had accepted her plea in the first place. As best I can recall, my total compensation was the richness of the experience and the comment of Judge Edwin Steel, the trial judge, communicated to me by one of the court staff, that surprisingly the young man from downstate had done a good job.

And so it went through the decade of the 1960s as a small group of us became new admittees to the Delaware bar and gradually became indoctrinated to the ways of a Kent County lawyer of that era. The stories (and the successes, frustrations and laughs that went with them) were many. Overall, the memories were good and the opportunity to learn and grow as a Delaware lawyer in that collegial professional setting was priceless.

In 1985, after having spent some 14 years as a member of the state judiciary, I served for a short stint as a member of the Governor's Judicial Nominating Commission. At one point, I was paired with former Governor Elbert Carvel to interview aspiring candidates for the judiciary. As we were musing about the past while awaiting the arrival of a candidate, Big Bert looked down upon me and said wistfully, "Son, we've had the good fortune to live in the best of times." I think he was right. ♦

*The factual details for this article admittedly derive from a 35- to 40-year-old recollection without the benefit of present-day verification. Given the nature of this article, I deemed it sufficient to be guided by an observation once made by Philadelphia Phillies' broadcaster Rich Ashburn to his partner in the broadcast booth: "It's all in the delivery, Harry. Never let the facts get in the way of a good story."

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E.N. Carpenter, II

MEMORIES OF A LUCKY DELAWARE LAWYER

"**T**he man who finds the work he loves, the gods have smiled on him."
Robert Louis Stevenson

My entry into the practice of law began with three successive remarkable strokes of good luck: my admission to law school, my decision to locate in Delaware, and my employment by a first-rate firm. It was the middle of World War II, and I was stationed with the U.S. Army in Kunming, China, a remote and isolated spot where I had no access to personal records and very

little capacity even to correspond. Thinking that one day the war would end, I wrote to Harvard Law School, saying that I did not have my high school transcript, nor did I have my college transcript, and so I was wondering how, under the circumstances, I could apply for admission. I had no special connection to Harvard; my father had never graduated from college and no member of my family or any one I knew had even attended Harvard Law School. I hardly expected a response to my inquiry.

But I did get a response, a wonderful response from a Professor Seavey, then a giant in the field of torts, civil wrongs, and one of the most distinguished members of the distinguished faculty at Harvard. To my amazement Seavey said Harvard would get my high school transcript and my college transcript, and would be back in touch with me in a few months. I suppose the Law School was dividing up among the faculty such plaintive letters from soldiers and it was my good

fortune to be assigned to Professor Seavey. In a couple of months I received a further letter from him, informing me that I had been accepted for admission and simply asking when would I like to matriculate? Law school aptitude tests had not been invented, and so that was all there was to it. Had I not received that letter I doubt I would have applied elsewhere. Indeed, up to that point I had quite a different career in mind.

And then, after the war, and after accelerating and completing my law school experience by attending the summer sessions, and despite strong advice about opportunities elsewhere I decided to return to Delaware where I had grown up. That was a second stroke of luck. A third one was that I sought and received employment at Richards, Layton & Finger, a firm I never left until I retired from the practice of law more than 40 years later, and only then pursuant to a mandatory retirement plan that I had insisted upon many years before. I was one of the first two victims of that plan, though I still believe it to be a good arrangement.

There was a delightful informality and humanity about the practice of law and the administration of justice when I started my career in Delaware in 1948. Law clerks completing their mandatory six-month clerkship prior to taking the bar exam were, in general, paid nothing. It was perceived a privilege to be permitted to clerk.

When I arrived at Richards, Layton & Finger in the fall of 1948 it was headed by three men who were prominent leaders in the Delaware bar and prominent nationally in the field of corporation law: Robert Richards, Sr., Caleb Layton and Aaron Finger. Mr. Richards had left a country practice in the tiny southern Delaware town of Georgetown to become Delaware's Attorney General, a position which then was not just adminis-

trative, but also a working position where he personally tried most of the State's criminal cases. Because that was a part-time position, he simultaneously developed a leading private practice.

In the early 1900s Richards moved to Wilmington and thereafter became the first tenant of the DuPont Company in its new office building on Rodney Square. He achieved fame in the Delaware courts, especially its Court of Chancery, presided over in the 1920s and 1930s by the nationally prominent Chancellor Josiah Wolcott. Chancellor Wolcott's clear, erudite, precedent-setting opinions were furnishing guidance for corporate organizations and procedures throughout the country and attracting the great corporations of the day to move their domiciles to Delaware. That trend never stopped, and today more than half of the corporations listed on the New York Stock Exchange, and more than half of the largest corporations in the country, have their legal homes in this tiny state.

Richards was not a man to be trifled with. I recall one occasion when Chancellor Harrington was sitting across from him at the large central table at the Wilmington Club. An important corporation law decision had just been handed down by the Chancellor, who had the temerity to call across to Mr. Richards while all the other members seated there were listening: "What did you think of my opinion in that case, Bob?" There was a thunderous reply: "I don't see how any reasonable man could have come to such a conclusion!"

When Robert Richards died in 1951 after being a recognized leader of the Delaware bar for more than half a century, his honorary pall bearers included every prominent leader—political, social, legal or governmental—in the state.

Caleb Layton had also established a large, glowing reputation for himself in corporation law, in the law of trusts and estates and in general practice. He also had come from the southern part of the state. He got his start in Dover reading the new law cases to the eminent blind lawyer, Henry Ridgely. Later, Mr. Layton teamed with Josiah Marvel, the only Delawarean ever to become a President of the American Bar Association. He subsequently left that firm to join Mr. Richards.

But the most unusual career had been enjoyed by the third partner, Aaron Finger. His father was Mr. Richards' mailman, and before Mr. Finger had even finished high school his father applied to

Mr. Richards for a job for his son as Mr. Richards' secretary. Young Finger had learned shorthand, which qualified him for that position. After a few years in this capacity Mr. Finger asked his employer if he could "read law" in his office, then a method still accepted as a substitute for law school. He did that and then, although he had never attended law school, never attended college, never even graduated from high school, he took a "college equivalency" examination, and then the bar exam, passing both, and launching a brilliant career.

Aaron Finger was the first Jewish lawyer in Delaware. He was soon appointed a judge of the Municipal Court in Wilmington, the first Jewish judge in Delaware and a hero to the entire Jewish community. However, with the entry of the United States into the World War I, notwithstanding his exemption from the draft by virtue of his judicial position, Mr. Finger resigned from the court and enlisted in the Army. After the war he returned to the bench for a short while, but then retired from the bench and focused on the private practice of law, especially corporation law. With Robert Richards and Caleb Layton, Aaron Finger achieved a distinguished national reputation of his own.

It was this powerful triumvirate, plus a distinguished group of younger colleagues (including a couple of young Richardses, a young Layton and a young Finger and another leading corporate attorney, Henry Canby), that I had the good fortune to join in 1948.

Practice was informal and somewhat more humane then because of incidents like this one: A few years after I passed the bar exam, Aaron Finger and I defended Chrysler Corporation in a large suit brought by a dealer who had been dropped by Chrysler. After a protracted trial where we lost, we took an appeal to the Delaware Supreme Court. When we turned to preparation of the record to send up to the Supreme Court, we discovered that the official court record had completely disappeared. It developed that Judge Terry, the trial judge, had taken the record with him to the beach and lost it. I do not know how many times this had happened previously, but the Prothonotary did not seem to be exactly astonished at this development and mumbled something about sand frequently appearing in the records.

Counsel for the plaintiff and for the defendant had to get together and reconstitute the record from copies in their

own files. And it is a tribute to Delaware lawyers that counsel for both sides were willing to do that and were easily able to agree on what the record contained.

Did we work hard in those days? Yes! The hours were long. Saturday was a regularly scheduled workday when I started out, at least until noon, and there were plenty of 12, 14, 16 and even 24-hour workdays. The old adage that "the law is a jealous mistress" is true. But she is also a loving, passionate, sexy and everlastingly enchanting mistress. Shakespeare said of Cleopatra that "age cannot wither her, nor custom stale her infinite variety." This is also true of the practice of law in Delaware. Where in the world could one find a location where one could live in the country, with deer grazing outside the window while you were having breakfast, yet practice law in a law office that was but 15 or 20 minutes away, and where the practice was of an importance and magnitude far out of proportion to the size of the community and included the major business organizations of the world: General Motors, General Electric, Chrysler, DuPont, Hercules, to name just a few?

And that was just the start. The Delaware judiciary, carrying on a tradition of long standing, had the well-earned reputation of being of the highest integrity. It was also scholarly, sophisticated, diligent, prompt, and faithful to the Wolcott tradition of turning out clear, understandable, and predictable opinions, especially in the field of corporation law, which continued to make Delaware the domicile of choice of many of the great business organizations of the world.

Delaware judges are not elected. They are appointed by the governor with the consent of the State Senate. Successive governors, whether Democrat or Republican, have regarded their responsibility to appoint new judges as one of the most important privileges accorded to them. The Delaware Constitution requires that the courts be balanced politically between the two political parties, and this has served the state well. And since the election of Governor Pete du Pont in 1976, each governor has followed his lead and by gubernatorial order appointed a politically balanced Judicial Nominating Commission composed of both lawyers and non-lawyers. This Commission transmits to the governor, upon his notification that a vacancy exists or is about to arise, three or

more candidates who, after an intensive investigation, are recommended to fill that vacancy. The governor normally chooses his nominee from that list, thus avoiding the pressure, political or otherwise, to appoint unqualified candidates. He also may call for a new list if none of the proposed candidates receives his approval.

When I arrived back in Delaware, the practice of law in this small bar of only a few hundred lawyers was infinitely varied and exciting. Within the first few years, like many of my colleagues, I had appeared in every court in the state, including the U.S. District Court, the Family Court, the Superior Court where civil cases were then tried, and the criminal courts, the Court of General Sessions and the Court of Oyer and Terminer (both now merged into the Superior Court), plus the lower courts including the Wilmington Municipal Court, the Justice of the Peace Courts and the Court of Common Pleas and courts in other states, such as the Tax Court in Washington, D.C. And I am sure Messrs. Richards and Layton and Finger had a similar experience because in those days there were few specialists practicing law in communities like Wilmington. Moreover, virtually every lawyer took both civil and criminal cases, along with divorces and other domestic relations matters, plus matters involving wills, trusts, personal injury, tax and whatever, including dog-bite cases. The only recognized trial specialty then was patent law.

And we practiced in a bar that was both professional and congenial. It was so small that it seemed everyone in it knew everyone else, and most of the lawyers genuinely liked their fellow attorneys, including those whom they frequently strongly opposed in court or negotiations. It was a genuine pleasure to attend the frequent sessions of the call of the calendar in court where one saw many friends, including some very best friends, and could swap stories and jokes in the intermissions or at lunch. And there was always a lawyers' table at the restaurants or in the cigar store on the corner where members of the bar would congregate and have coffee, perhaps lunch, and chat of things legal and non-legal. Bar meetings were attended by a large percentage of the practicing lawyers, and the first bench and bar meeting had nearly 100% of all Delaware lawyers in attendance—indeed, the Chief Justice's invitation noted that those who desired to skip the meeting could submit written requests for his consideration.

I am sure that most Delaware lawyers at that time, and even today, would agree with the oft-quoted statement of prominent New York lawyer Harrison Tweed: "I have a high opinion of lawyers. With all their faults, they stack up well against those in every other occupation or profession. They are better to work with or play with or fight with or drink with than most other varieties of mankind."

Delaware, its courts and its bar have all grown enormously since those days. But much of the original culture of the legal community has been retained, including the traditions of courtesy by lawyers to each other, respect for and deference to the courts. And the beauty of the surrounding countryside is still nearby and still a special charm.

The cases I handled, and the trials in which I participated, were, as I have already noted, enormously varied. And looking back at the ones that were memorable to me, I am constantly surprised that they stick in my mind not so much because of what happened in the development of the case, or what principles of law were established, but because of extraneous circumstances.

Back in the early 1950s, when I was a Deputy Attorney General prosecuting criminal cases, there was a shocking, spectacular event at Delaware Park, the lovely local racetrack. Andrea Luchenbach, the heiress of a vast shipping fortune, was in the paddock watching one of her thoroughbreds being saddled when her estranged husband, Fred Hammer, entered behind her, gun in hand. He opened fire, shooting her several times, hitting one of the race horses, and scattering the jockeys and other owners in all directions amidst terrified screams. One jockey even climbed a nearby tree! Then, standing over the prostrate form of his wife, he put the pistol to her head and pulled the trigger, but fortunately after that barrage the gun was empty. She survived.

Hammer was indicted for attempt to commit murder and the trial was held in our largest courtroom on the third floor of the courthouse overlooking Rodney Square, the little park in the middle of Wilmington. Hammer had retained some distinguished, capable criminal lawyers from New York, and they presented a vigorous defense based largely on the theory that Hammer's wife had led him on such a dissolute and degenerate way of life that he was driven to this insane act. But the climax of the case

arose outside the courthouse when, after we had completed our closing arguments and the jury had retired to begin its deliberations, Hurricane Hazel hit Wilmington with its full force and frenzy.

Sitting in the court reporters' office, my usual spot while awaiting a jury verdict, I could see across Rodney Square as the storm developed. The giant glass globes on the top of the lampposts blew off one by one, crashing in fragments on the pavement below. A block away at the intersection next to the DuPont Company's home office building, while I watched in horror, a woman was blown under a bus and killed. A few moments later a man was blown down the concrete steps into Rodney Square and was injured.

Still there was no complaint from the jury, despite the howl of the wind and the lashing of the rain. By 3:30 p.m. it was already pitch black, and about 4 p.m. all electric power failed and the courthouse was plunged into darkness until flashlights, kerosene lamps, and candles could be found. Some lights were obtained, but it was a very gloomy scene. Then about 5 p.m. a large plate glass door at the top of the stairs blew in with a resounding crash. Still the jury labored on, silently and without complaint.

Around 7 p.m. the jurors announced they had reached a verdict. The big courtroom was almost completely dark except for a flickering kerosene lamp on the table in front of the jury box, and one of those portable electric spotlights on Judge Terry's desk. It was a Rembrandt chiaroscuro scene of light and shadow, with only the lighted side of each juror's face visible from our counsel table. The verdict was "guilty," but then the defendant's attorneys demanded that the jury be polled. One by one, each juror arose and intoned "guilty," giving their individual verdicts in the darkened courtroom. It was an unforgettable few minutes.

Some years later I found myself on the other side of a criminal case involving a prominent African-American lawyer who had successfully represented parties in the celebrated U.S. Supreme Court case of *Brown v. Board of Education*, but who had failed to file any income tax returns for six or seven years and accordingly was charged with tax evasion. He was denounced in the United States Senate by a prominent Delaware senator from the southern part

of the state, Senator John Williams, and my response characterizing his tirade as "politically inspired" led to a six-month break in my previously friendly relations with that fine senator.

That trial was a long and emotional, but once again, after that jury had retired to begin its deliberations some startling events began to occur. First, I received a telephone call that a medical emergency had arisen in my family. I dashed out to my car, and sped out toward my house in the country. En route I passed an ambulance speeding in and guessed it was my family member on the way to the hospital. I pulled into a gas station and telephoned my house and found that the problem was really not all that serious and was under control, but that the bailiff had telephoned from the courtroom to say the judge wanted me to return immediately since the jury had reached a verdict.

The courthouse was near the hospital so I went first to the courtroom, which was packed with friends of the defendant, lawyers who had come to see the climax, a mass of spectators and others, including a band of reporters. The jury came in with a verdict of "not guilty," and immediately there arose loud cries of "Lordy, Lordy," and I was overwhelmed with kisses and hugs and handshakings and cries of congratulations. It took me what seemed like ages to disentangle myself and rush over to the hospital where, fortunately, all was well. It was an experience, which, on recollection, still brings tears to my eyes.

Last month I was taking a late afternoon walk out near Centerville, about twenty minutes from downtown Wilmington. Although I was on a back road there was some traffic as people were returning from work. Suddenly, ahead of me, a doe with a very small fawn darted across the road. I held up my hand to slow down some approaching cars and, sure enough, two more tiny fawns approached the edge of the road. All traffic stopped until the fawns could get across and rejoin their mother. I felt again how very lucky I was to have been able to practice law just twenty minutes away from a rural scene like this one, and among people who were still willing to slow down and stop on their way home in order to permit this family of animals to get back together. The scene told me something about the practice of law in Delaware and something about Delaware and Delawareans.

Indeed, the gods have smiled on me. ♦

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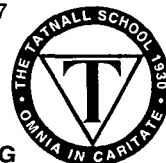
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William Prickett

POST-ADMISSION MENTORING: A VENERABLE DELAWARE TRADITION

PART I. REMINISCENCES OF MY FATHER AS A MENTOR

When I was admitted to the Delaware Bar in 1955,¹ I felt fully qualified to represent clients in all state and federal courts (right up to the Supreme Court of the United States) and all regulatory and administrative agencies. However, my father (who was at that time a very senior Delaware lawyer and a former member of the fearsome Board of Bar Examiners) knew far better. He told me, "Young man, simply passing the Delaware bar examination does not even remotely qualify you to be able to discharge all the duties and responsibilities of a Delaware lawyer. Much more is required. At a bare minimum, you must adhere at all times to the high ethical standards of the Delaware bar, you must have a practical knowledge of the workings of at least the Delaware court system, and you must gain some actual experience in trying cases and representing clients."

First and foremost, my father admonished me that as a newly admitted Delaware lawyer I must now adhere strictly

to high standards of probity, integrity and candor. He said, "No Delaware lawyer can afford even once to deviate from the whole truth, especially in oral and written representations to the courts. All judges are rightly dependent on the complete accuracy of the attorneys' representations of the facts and the law." As an example, he pointed out that "one of the reasons for Richard F. Corroon's success as a corporate lawyer lies in the fact that all judges know by long experience over the years that they can totally rely on the truth, accuracy and completeness of any and all of Mr. Corroon's representations." My father concluded, "A deserved reputation for candor with the courts is probably a Delaware lawyer's most valuable professional asset." His advice was sound at the time and still is.

That high standard included rejecting tricky maneuvers, sharp practices and cutting corners. When my father found me engaging in such behavior, he was quick to correct me. At one point, when I was trying jury cases, I would at times slide into the jury room after the jury had been discharged and scour the trash baskets, seeking and often finding jurors' notes. Those notes reflected the jury's shifting divisions, at times their (often incorrect) arithmetic, and sometimes their reasons—unrelated to the evidence or the law—why they had reached a particular verdict. When my father learned of these post-verdict "investigations," he immediately quick-stepped me before the trial judge in question. The judge

was highly amused by the faulty arithmetic of the jury in that particular case, but firmly forbade me from making any further forays into the jury room trash baskets.

On another occasion, my father was observing me as I defended a "rear ender." The plaintiff fervently swore that it had been impossible for her to turn her neck one tiny "squish" since the accident. While the attorney for the plaintiff was examining his client, I went over to the side of the courtroom and suddenly dropped a whole load of books. The startled plaintiff demonstrated to everyone in the courtroom that she could indeed turn her neck—almost all the way around. The trial judge was furious and read me the riot act. He thundered, "Members of the jury, you will disregard the illegal trial tactics of the young and inexperienced attorney for the defendant!" (Note: I lost that case.) My father was horrified at my stunt, and told me later that I was lucky the trial judge had confined himself to a stinging reprimand.

I am also abashed to relate that in an appeal before the Supreme Court of Delaware, as the Court was about to come on the bench, I slid over to the podium and told my elderly nervous opponent, "I believe your fly may be partially open." (Of course, it was not; however, the damage had been done.) The elderly lawyer was more concerned about his fly than he was about the points he was arguing to the Court. When my father heard me recount this tale with glee, he promptly made an appointment with Chief Justice Southerland and made me shamefacedly confess my misdeed. The Chief Justice was amused, but ordered me to write a letter of apology to the senior lawyer. The Chief Justice even wrote a note to the senior lawyer, assuring him that the Court's ultimate decision *in his favor* had nothing to do with my improper remark about his dress.

Second, my father made it clear that before I would be competent to practice in Delaware, I needed a working knowledge of the Delaware court system. He therefore saw to it that I practiced before the Justice of the Peace Courts and the Court of Common Pleas, in addition to the Zoning Board, the Board of Pardons and other administrative tribunals, as well as the Superior Court and the Court of Chancery. He also tried (unsuccessfully) to teach me how to search a real

estate title. He stressed the importance of being on professionally friendly terms with court personnel, such as the prothonotaries, the registers in chancery, the clerks and other staff, who often can determine the ultimate outcome of cases by their handling of schedules and procedural matters.

Third, my father impressed upon me at an early stage in my legal career that the successful working of the Delaware judicial system was totally dependent on many kinds of pro bono work, including criminal defense work and service on court committees and bar committees. As my father pointed out, "admission to the bar involves far more than simply being granted a general license to charge the public fees for unlocking the doors of the halls of justice." I was not merely encouraged—but was made—to do my fair share of the pro bono work so necessary to the orderly working of the judicial system. I was appointed as defense counsel for indigent criminals, and served on the Superior Court Rules Committee, as well as the committee that drafted a statute legalizing bingo. I succeeded my father on the Delaware State Bar Association Committee on Judicial Portraits, and thereby helped maintain the tradition of having a judicial portrait of every single Justice who ever served on the Delaware Supreme Court (as well as the Chancellors and other judges).

At one point, my father mentioned that as of the time of my admission, membership in the Delaware bar was far more selective than being elected to the United States Senate. When I asked why, my father explained that "there are far fewer people who have enjoyed the honor of being admitted to practice in Delaware than the total number of those elected to serve in the U.S. Senate. "Well, then," I idly responded, "the distinction of becoming a Delaware lawyer should be memorialized in some way." To make a long story short, that comment resulted in Chief Justice Wolcott appointing me to a special committee charged with listing all Delaware lawyers on plaques that now grace the hallways outside the Supreme Court chambers in Dover. Assembling the names and dates of admission of all the Delaware lawyers would, I knew, involve substantial work. Prior to the creation of a separate Supreme Court in 1952, Delaware lawyers were admitted in all of the *visi prius* courts in the three counties (as

distinguished from being admitted solely by the Supreme Court). In an effort to lessen the enormity of the task, I suggested to the Chief Justice that the names on the plaques start as of 1952, when the separate Supreme Court was created. The Chief Justice quickly saw through, and summarily overruled, my lazy man's suggestion, decreeing that "the list will include the names of *all* Delaware attorneys starting with Thomas Spry, the first attorney admitted in Delaware in 1676."² When the work of the committee was finally done, it served then—and continues now—to memorialize our bar with a handsome bronze record listing all those admitted to the select company of Delaware lawyers.

Another committee on which I served established and administered the Interest on Lawyer Trust Accounts ("IOLTA"). Delaware's IOLTA program generated huge amounts of money earned from interest that would otherwise have been unavailable to support important work of the Delaware bar, such as the Community Legal Aid Society, Inc. ("CLASI"). Eventually I received the honor of being elected and serving as President of the Delaware State Bar Association.

My father also required me to accept appointment as a Special Deputy Attorney General to represent the former State Highway Department in connection with litigation brought against Delaware road contractors arising from massive cost overruns. I recall complaining to my father that accepting such an appointment would entail a large amount of work without remuneration. "Are fees all you think about?" came my father's withering reply. (My father paid me the handsome sum of \$2,500 per year for six and a half days and quite a few nights of work.) Nonetheless, I did what he told me, toiling away at these huge cases month after month. Later, after my father's death, his earlier admonition concerning my obligation to accept appointed work on behalf of the State of Delaware made it easy for me rapidly to conclude that I could not refuse an invitation to serve as Delaware counsel for the State Board of Education in the federal desegregation cases. (As this article is being written, I am mulling over a request of the current attorney general to become,

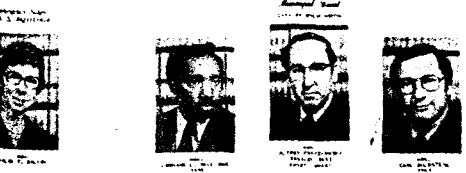
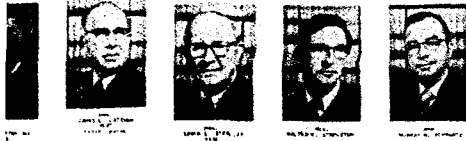
Continued on page 20



U.S. House of Representatives



U.S. Senate



of the
Delaware

MENTORING

continued from page 17

once again, a pro bono volunteer Deputy Attorney General.)

It may sound as if I have spent the majority of my time over the last fifty years doing pro bono work. That is not correct; indeed, most of my contemporaries did as much if not more than I did. In retrospect, I wish I had done more pro bono work, to more adequately repay the privilege of having been admitted to practice in Delaware. I would have liked to emulate the record of William Poole, whose exemplary public service as a Delaware lawyer is legendary.

Finally, my father taught me in hundreds of small ways what good practice for a Delaware attorney really meant. To be sure, good practice required the strictest adherence to the Supreme Court Rules pertaining to annual filings and fees, but that was only the minimum. There was a host of matters—not covered by any rules—that also constituted good practice. Good practice included promptness and diligence, such as returning all phone calls before leaving the office every night and never leaving a letter, let alone a pleading, unanswered for any longer than was absolutely necessary. Good practice included uniform respect and courtesy, not only to all courts but also to one's colleagues at the Delaware bar, including young and old, male and female, African-American, Asiatic and Hispanic lawyers.

PART II. A CALL TO PRESERVE OUR MENTORING TRADITION

I was fortunate to have had my father as a mentor during my early years of practice. But I had many other mentors as well. When I was admitted to practice the Delaware bench and bar was very small, especially when compared to the size to which it has now grown. Often, senior lawyers and judges played a benevolent and friendly role in mentoring their own law clerks or junior lawyers employed by other offices. My father did likewise for other young lawyers practicing with other firms or as clerks of the court.

Most important, he and other senior lawyers and judges mentored the young lawyers who had hung out their own shingles as sole practitioners. Such informal mentoring by senior members of the bar and the judiciary spoke volumes about the collegiality of a truly small and intimate bench and bar.

My father died in 1964. The trusted mentor to whom I could always turn for guidance was gone. My own role was transformed: I was now an older lawyer in our firm, and of necessity I had to assume a measure of responsibility for the mentoring of younger lawyers. While doing my best to discharge this new and unaccustomed role, I would often thank my lucky stars that I could fall back on my father's own careful but firm role in my own mentoring.

As time went on, things changed. It became apparent to me and to many of my contemporaries, both lawyers and judges, that some young lawyers who had been admitted to the Delaware bar were not "measuring up." In some cases, their actions and activities were unethical, if not downright illegal. In other cases, they simply were not living up to the standards of good practice as Delaware lawyers. Why was this happening? It became evident to me, and to others as well, that some of these young lawyers who were getting themselves into difficulty did not have senior mentors. There was no one to whom they could turn for advice, and no one who could and would impose the discipline and training that is required when a mentor discovers a younger lawyer cutting corners or in other ways not measuring up to the high standards of the Delaware bar.

This mounting problem cried out for a remedy. Under the leadership of Judge Roderick McKelvie and others, an effort was made to provide a measure of mentoring by having informal lunches. The lunches were open to all lawyers, especially young lawyers, and were to be attended by judges as well as senior lawyers. Unfortunately, the lunches were sparsely attended and did not fulfill the widening need for mentoring. Later, under the guidance of Judge James L. Latchum, the Richard Rodney Inn of Court was formed. Together with the Terry Inn of Court in Dover, the Rodney Inn provided a measure of mentoring for those lawyers fortunate enough to be invited

to participate. In addition, all candidates for the Delaware bar had to satisfy a checklist of legal activities and practical experience (such as attending trials and other proceedings in various courts and administrative tribunals, and even performing a title search) as a prerequisite to bar admission. But none of these alternatives adequately solved the problem that resulted from the unavailability of mentoring to post-admission young lawyers.

And then there is Delaware's system of mandatory continuing legal education. As a member of a committee to review CLE, I questioned (and still question) the value of CLE, as it is now structured, to practicing lawyers and judges. However, this article is not intended as a reargument on the merits of CLE or how it is conducted. My point is that CLE, at least in its current form, provides no form of mentoring for younger lawyers. Indeed, it might even have a counterproductive effect, if the prevailing cynicism of many members of the Delaware bar about the forced drudgery of mandatory CLE serves to engender a lack of respect and cooperation among newly admitted members of the Bar for these and other practice-related requirements and standards.

Eventually the "mentoring" problem became so serious that the Delaware Supreme Court appointed a committee to consider the issue and recommend a solution. The committee, after long and careful study, drafted a set of proposed rules for the Supreme Court and the Supreme Court's Board on Professional Responsibility providing for post-admission mentoring.³ The proposed system would supply regular mentoring for newly admitted lawyers for two years, in order to provide these lawyers the all-important guidance and knowledge that was readily available to all newly admitted Delaware attorneys in years gone by. To date, the Court has never adopted, and never directed the Board on Professional Responsibility to consider or adopt, the proposed rules.

I strongly believe that the unmet need of many members of the Delaware bar for post-admission mentoring justifies reargument on this issue. Therefore, I exhort the present leadership of the bar to devise, and respectfully urge the Delaware Supreme Court to adopt, a mandatory mentoring program that will nurture and preserve for the future that quality which has made membership in the Delaware bar so meaningful and special.♦

FOOTNOTES

1. It was only after my second attempt that I passed the Delaware bar examination—see a painful recitation entitled “Flunking the Bar” in my book of memoirs (*IN MY FATHER'S HOUSE*, Cedartree Press, 1993).

2. The first attorney admitted in Delaware was Thomas Spry on November 7, 1676. Spry was not only a lawyer but also a doctor. Indeed, he was admitted three times, having been disbarred twice. See John Frederick Lewis, *THOMAS SPRY, LAWYER AND PHYSICIAN*, Patterson & White Company, Philadelphia (1932).

3. The following was the proposed Supreme Court rule:

For a period of not less than two years from the date of admission to the Bar, the attorney shall participate in the mentoring program provided for in Rule [] of the Board on Professional Responsibility.

The committee also proposed a set of rules for the Board on Professional Responsibility:

1. For a period of not less than two years following the date of a lawyer's admission to the bar, the lawyer shall participate in a mentoring program under the supervision of the lawyer's preceptor as herein provided.

2. At the lawyer's election, the lawyer may also participate in a voluntary mentoring program conducted under the auspices of the Delaware State Bar Association in which event the lawyer's preceptor may serve as one of the designated mentors.

3. A member of the bar serving as mentor, as a preceptor, or under a voluntary mentoring program, shall have no civil, criminal or ethical responsibility for the lawyer's conduct subject to the provisions of Rule 1.6 of the Rules of Professional Conduct.

4. All communications between a preceptor and the lawyer in the conduct of a mentoring program under this paragraph or a voluntary mentoring program conducted under the auspices of the Delaware State Bar Association shall be subject to the attorney-client privileges as provided for under the Delaware Rules of Evidence.

5. The lawyer shall prepare and file with the Board on Professional Responsibility a brief report on the first and second anniversaries of the lawyer's admission to the bar, countersigned by the preceptor, setting out the dates of the face-to-face meetings between the preceptor and lawyer.

6. Upon the expiration of the two-year mentoring program or an

extension thereof of the lawyer's admission to the bar, the preceptor shall (i) certify that the post admission program herein provided has been satisfactorily completed and that the lawyer is not in further need of mentoring in the opinion of the preceptor, or (ii) if the preceptor cannot certify to the foregoing, the preceptor shall report the reasons and make recommendations on a course of action to the Board on Professional Responsibility. A copy of the preceptor's certification or report shall be furnished to the lawyer. If the preceptor does not issue a certification, the Board shall take such action as it deems appropriate. Upon the filing of the certification or report at the expiration of the two-year mentoring program, the preceptor is discharged without more from the office and duties of acting as a preceptor.

7. (a) The Board on Professional Responsibility will adopt and publish guidelines for the preceptor's and the lawyer's duties during the two-year post-admission period.

(b) Preceptors shall consult [the Delaware Rules for Continuing Legal Education] for biannual CLE credits for acting as a preceptor either prior to or following the lawyer's admission to the Bar.

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IN MEMORIAM: CALEB M. WRIGHT 1908-2001

We gather this morning to celebrate the life of a very special, very beautiful man.

The cold biographical facts of his life are themselves impressive. Caleb Wright was born in Georgetown, Delaware, in 1908. He graduated from the University of Delaware in 1930 and from the Yale Law School in 1933. After law school, he served as a Deputy Attorney General for Sussex County and at the same time carried on a private practice as a sole practitioner in Georgetown. In that practice, he took his clients as they came in the door and dealt with their legal problems as necessary, whatever field of law they involved. In November 1937, he married Katherine McAfee. Legend has it that he closed that deal with jewelry, a necklace of small white horses, each of which had originally been attached to a bottle of White Horse Scotch. They had four children. The marriage lasted a brief sixty-three years, until he passed away.

In one of those odd twists of fate that change careers, Caleb Wright had a client by the name of John Williams, who operated a business in Sussex County and who became a United States Senator. Senator Williams had suspicions about federal operations in upstate Delaware and a political interest in seeing downstate lawyers represented on the federal bench in the District of Delaware. Moreover, the District was facing something of a crisis in the mid-1950s because of the aging of Judge Rodney and the tragic illness of Judge Leahy when there were a number of very major cases pending in that court, including, if I remember correctly, the basic patents relating to color television.

Congress created a new judgeship, and Senator Williams insisted on appointing a downstate lawyer to that vacancy. That downstate lawyer was Caleb Wright. The bar of New Castle County and the American Bar Association opposed the nomination and persuaded the Eisenhower Administration initially not to nominate him. After some time, however, Senator Williams's

adamant stand and his seniority in the Senate prevailed. Caleb Wright became a United States District Judge, and, shortly thereafter, Chief Judge of the District of Delaware.

The rest, as they say, is history. Those who opposed him could not have been more wrong. He served as a district judge for almost forty years and was universally regarded as one of the best district judges in the country.

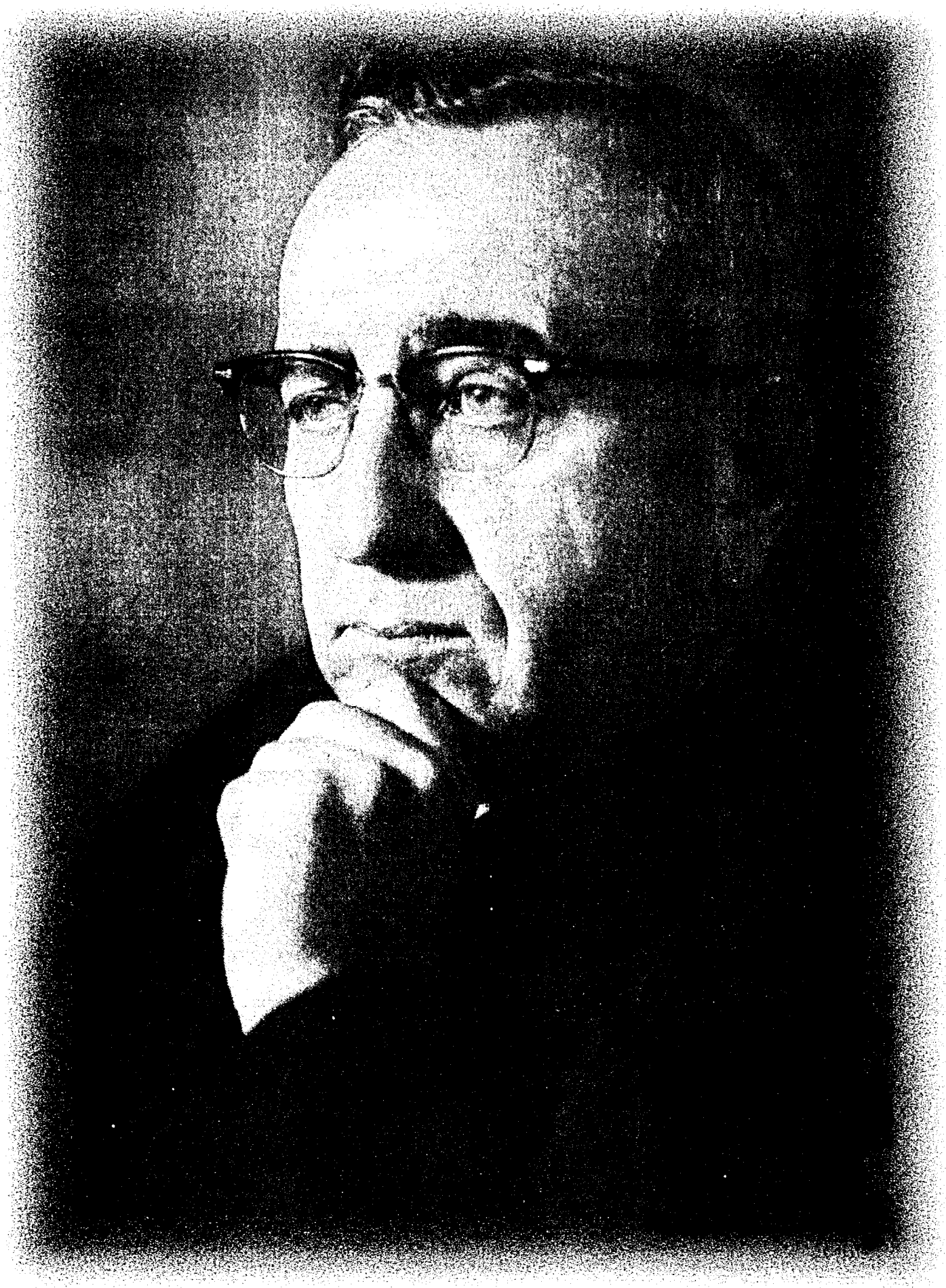
The biographical facts, although impressive, nevertheless, do not come close to describing the full measure of the man. It is given to some that they will become among the most highly respected in their professions. It is given to others that they will be beloved by family, friends, and professional associates. It was given to Caleb Wright that he would be that rare person who attained the highest professional respect while also attaining the love of those who came into contact with him.

As a member of the legal profession, although soft-spoken, unpretentious, and folksy, he is remembered as a giant by his law clerks, by lawyers who appeared before him, and by his colleagues on the bench, which, I am quick to note, includes former law clerks.

Judge Wright was particularly loved by his clerks. Most if not all of them still regard their time in Wilmington as the best job they ever had. There are few district judges who leave a dual legacy of nationally admired decisions and a prominent group of law clerks, including three federal judges, one of whom, Murray Schwartz, served in the District of Delaware itself. Those practitioners and judges have made their own contributions to the law, and those contributions are in no little measure the result of working for Judge Wright in the formative years of their careers.

When I was a full-time faculty member at Yale, I was often able to steer a worthy student to the magnificent opportunity of working for Judge Wright. In the end, however, he was able to get good clerks because he was a good judge.

Judge Wright carried on an ongoing seminar with his clerks and the clerks of other judges who dropped into his chambers. His lack of pretension and genuinely open and friendly manner ensured a large crowd of clerks at lunch. In my time, the crowd included some who stayed in Wilmington, such as Bill



Weir and Dick Sutton, and others who moved elsewhere, including Stan Sporkin and Floyd Abrams.

The discussion was informal, sometimes heated, sometimes loud, particularly when Stan Sporkin and I were both at the table—Judge Wright's warmth and friendship had drawn both Stan and myself out of our shells—but always friendly.

Judge Wright was a great teacher but not a lecturer; he taught by example. Among the lessons we learned were the essential characteristics of a civilized and just system of adjudication: the need for civility in an adversarial setting, the need for judges to listen to all reasoned arguments, the need to treat all matters coming before the court with seriousness, and, finally, the need for care and attention to detail in rendering judicial decisions.

Judge Wright's approach to his work of course also redounded to the benefit of lawyers who appeared before him. He was unfailingly courteous to lawyers and to litigants and set an example for them. He never attempted to intimidate lawyers in the courtroom through body language or tone of voice and never used coercion to force a lawyer to settle a case against the lawyer's better judgment. On the other hand, he insisted that lawyers and parties also behave within the bounds of civility. He would never tolerate the kind of conduct that occurs in the courts of some of our larger cities. I remember once when a lawyer from New York stood up in Judge Wright's courtroom and began what was obviously his stock argument, namely, shouting at the top of his lungs that "the plaintiff is a crook" or "the defendant is a crook," depending on whether he could remember whom he was representing. This went on for thirty seconds or so when Judge Wright abruptly adjourned court for ten minutes and, in a whisper, told the court clerk, the late Ed Pollard, to straighten the fellow out as to how one behaved in the Delaware federal court.

Judge Wright was always ready to listen to any reasoned argument in a case. He never approached legal questions with preconceived notions that stopped him from giving full consideration to a lawyer's argument. Even when he had a strong view on an issue, this never prevented him from rethinking it when a lawyer was prepared to set forth contrary arguments.

He loved to discuss questions of law at length with his clerks, chewing them over and over, viewing them in different lights, and often deciding that an important argument had not been adequately briefed. He would then call for rebriefing, a request no doubt regarded by many

lawyers as an inconvenience, but one that often saved them from themselves. The capacity to listen to all reasoned arguments at length is a marvelous quality in a judge because the easy route is to reach a quick conclusion without fully listening to a lawyer's entire argument. With Judge Wright, the efforts of good lawyers to spell out reasoned arguments were rewarded by an attentive ear.

Judge Wright never regarded a matter before him as too unimportant for full and careful deliberation. Discovery motions were subject to the full research and chambers' debate normally reserved for decisions on the merits of a case. He never ruled from the bench and spent an enormous amount of time on written opinions disposing of motions. When I was clerking for him, the *Harvard Law Review* published a long article on the state of law in the discovery area. The footnotes were dominated by citations to opinions in D. Del., many of them written by Judge Wright, although he had been on the bench only a few years.

Finally, he left his clerks with a sense of the importance of care and detail in rendering judicial decisions. I can remember spending an entire day with the Judge and counsel in an effort to ensure that his orders in a particular case were final and appealable. His findings of fact in bench trials were always accompanied by citations to the transcript or to exhibits that indicated precisely what evidence he was relying upon in making a particular finding. This not only served as a method by which he was able to double-check the accuracy of his own findings but also facilitated review in the Court of Appeals. When I left Judge Wright, I thought that all district judges did this as a matter of course. In my first week clerking on the court on which I now sit, I learned that some district judges made no effort to determine whether their orders were final or interlocutory and that their findings of fact were often documents prepared by counsel and rubberstamped by the judge, often without even bothering to make the technical changes necessary to transform proposed findings into actual findings. What I had thought were standard operating procedures were in fact the unique habits of a unique judge.

Caleb Wright's judicial work was marked by a remarkable combination of pragmatism, intellectual curiosity, and a solid foundation in legal principle. During the time that I worked for him, federal law enforcement in Delaware tended not to involve serious crimes. Those were the days of prosecutions for gambling stamp

tax violations, or violations of the Dyer Act involving joyriding teenagers who crossed the Delaware Memorial Bridge in stolen cars. Crossing the bridge, of course, necessarily entails crossing a state line and crossing a state line in a stolen car is a federal crime, albeit of a law that was intended to aid in breaking up multistate, organized car-theft rings rather than joyriding teenagers. These arrests probably fulfilled some quota or other for FBI agents but they could hardly be considered serious federal crimes. Nevertheless, the government would seek to hold each arrested teenager on a large bond. The Judge, unfailingly polite, would never indicate to the prosecutors how silly he regarded all of this, but would say simply, "Well, I think we can take a chance this one time, and let him go on his own recognizance."

Judge Wright took the same common-sense approach in monitoring discovery and other pretrial proceedings in complex cases. His intellectual curiosity was demonstrated by the interest he took in patent cases, an area of the law with which he had only marginal prior contact, but one that fascinated him. It is quite unusual for someone in his fifties to seek to master, and then actually to master, an entirely new body of law. It is probably unique for someone of that age to select as his new interest a body of law considered to be as difficult and as complex as patent law. Nevertheless, the Judge became perhaps the leading patent law judge in the country and was once quoted as saying that, if you understood the technology involved in a patent case, the law was not that difficult.

I was Judge Wright's clerk when he tried his first patent case, an action for infringement of a design patent that involved more than a quarter of the television sets sold in the United States over a span of years. This case was not only important and interesting for its issues of law and fact, but it also allowed the law clerks to see Bill Mazerowski's winning home run in the ninth inning of the seventh game of the 1960 World Series while watching Plaintiff's Exhibit 3. I must also add that the Judge's decision in the case, after years of litigation and a month-long trial, was so sound that there was no appeal.

Another patent case—usually described by the Judge as the Montecatini case—involved the separate but simultaneous work on a patented item by four companies and the question of who owned the patent. Because the work of each company had to be explored in detail, the case went on for what seemed an eternity. At one point, a considerable amount of discovery

had to be taken in Italy, and the parties wanted the Judge to go over there, at their expense, to monitor the discovery. He was very reluctant to go because he thought that some other judges had strong-armed parties to fund trips to Europe when there was no real need for the presence of a judge to make discovery rulings. It was characteristic of him that he would avoid any act that might dishonor the judiciary, but the parties really wanted him to go, and, grudgingly, he agreed. But—again characteristically—he kept a detailed account of his and Katie's expenses, and returned money to the parties.

Judge Wright also meant much to his colleagues in the District of Delaware. After he became Chief Judge, the crisis in the court passed, both because of his skills as an administrator and because of the confidence his colleagues had in him. Indeed, a most notable event in 1960 was the return of Judge Leahy to productive work, partly as a result of Judge Wright's sympathetic friendship and support.

Judge Wright served as Chief Judge for more than fifteen years. He took senior status on his sixty-fifth birthday, while he was visiting us. In fact, I helped him change his special judiciary license plates that day. Characteristically, he took senior status so that there would be a vacancy to fill, with the result that the workload of his colleagues would be reduced by the addition of a new judge, even though the Chief Judgeship would pass on. I will add the personal note that this was an example that did not escape me.

This act was symptomatic of Judge Wright's devotion to duty and his work ethic. He was always willing to pull his oar, and while on senior status, he relieved his colleagues of the very considerable burden of many stunningly complex and protracted patent cases.

Caleb Wright's persona was that of a country lawyer—albeit a very shrewd country lawyer—who believed in common courtesies and who behaved in a way that one might describe as unpretentious courtliness. He was not profane. An event that would evoke a strong expletive from most of us would cause him to say, "Gosh sakes." A series of events that would invite even stronger and perhaps obscene language from most of us would lead him to say, "This is one grand mess." He was also a religious man in his own way, and I have seen him pray on his knees.

One reason Caleb Wright was so beloved was that he was an upbeat, positive person with far more likes than dislikes. His likes were developed on the spot

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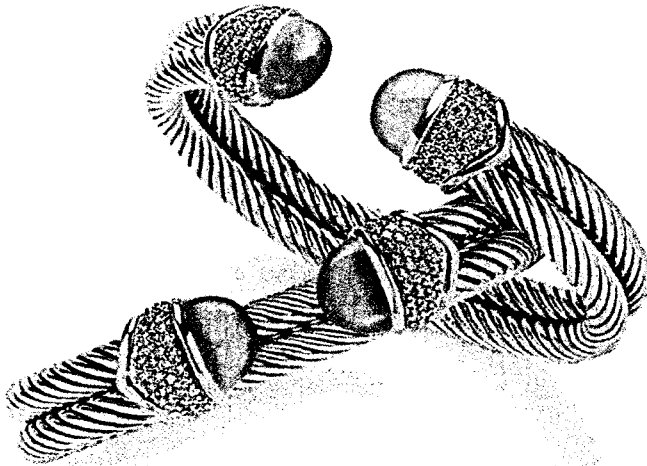
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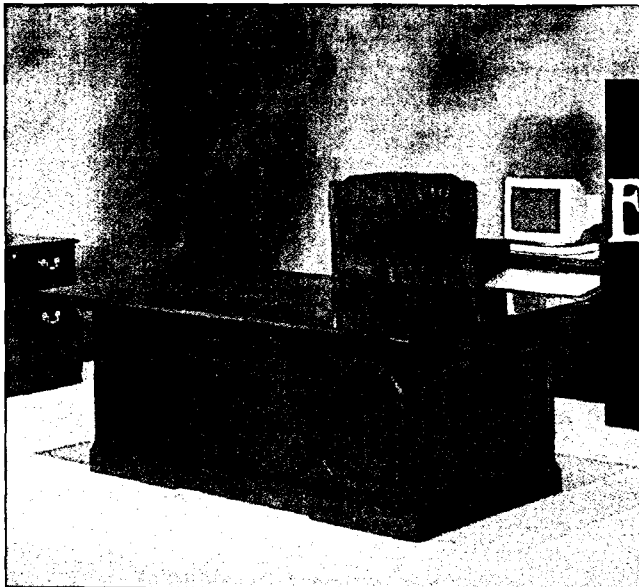
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and passionately. A trip to Maine took him through the town of Wells. He talked for years about how wonderful it was. Finally, he got to go back, but, sadly, couldn't remember what he liked about Wells. As a young man, he loved the circus and would talk about it in later years. He loved chocolate, and, on Sunday mornings, would often drive to get the papers and a chocolate bar. He also loved golf, although, not sharing that particular fancy, I cannot provide details.

He also loved sailing, although his tales so often involved descriptions of the problems of marine toilets and the safety of running aground on the soft sand of the Chesapeake Bay that one was rarely prompted to share that hobby.

The list of his likes cannot be concluded without mentioning Beefeater martinis, which he regarded as the hallmark of an advanced society. I remember an occasion in the 1970s when the *Wall Street Journal* published a short article noting that martinis were going out of style and had become, in the lexicon of today, "politically incorrect." I got a note from him with a copy of the article, declaring that this trend marked the end of civilization as we knew it. When, in the 1980s, the *Wall Street Journal* published a longer article suggesting that martinis were making a comeback, I received a note from him optimistically declaring that there was still hope for mankind. This correspondence demonstrated what a passionate man of principle Judge Wright was.

Judge Wright was also passionate about Delaware football. If you were lucky enough to be with him for the first home game of a new season, you would learn just how serious Delaware football fans like him could be. If, in the first offensive series, the Blue Hens did not get a first down until the third-down play, the Judge and the other season-ticket holders around him would all declare that the team was awful this year.

Judge Wright loved Delaware and its extended family, the Delmarva peninsula. He reveled in its wonders and treated various law clerks to field trips. It is now safe for me to reveal that a weekday trip to Sussex County in my era was always carefully planned to avoid passing by Senator Williams's place of business, lest the Senator spot a prominent federal official with the license plate "CMW" away from his desk on a workday. It was in the course of such trips that I accumulated considerable knowledge about the details—often gruesome—of the

chicken business. Of the many things I learned from my association with Judge Wright, that is probably the one for which I have not found much use.

Caleb Wright was beloved also because he loved people. His self-effacing and genuinely modest air enabled him to have very cordial relationships with people from all walks of life. He accorded new acquaintances a strong presumption that they were good people until they proved otherwise. He looked for the good things in people and not for their flaws, which, of course, can always be found. Unless a flaw affected his relationship with a person or caused that person to behave badly, he regarded a flaw, in the terms a lawyer would use, as harmless error.

The simple fact is that people found it a delight to be around Caleb Wright. His upbeat and sunny attitude, and his kindness toward others, inspired friendship in everyone. Even his facial expressions radiated a delight in association with other persons. There was a wide-eyed expression of surprise when encountering the unexpected. Or the occasional wide-eyed frown, indicating skepticism. But most often there was a wide-eyed expression of delight at some event or at the presence of a friend.

But what Caleb Wright loved most of all, of course, was his family: the beloved Katie and Tom and Bill and Scott and, as I knew her, little Vicki. They were always on his mind, and he talked of them incessantly, with open love and affection.

Of course, one of the nicest things about being a friend of Caleb Wright was getting to know Katie. I can speak for myself and my wife Kate, and for all the Judge's former clerks, in thanking you, Katie, for welcoming us into your family. You were wonderful at making us feel at home in what was for most of us a new city and a first real job, and we're all in your debt for the unlimited kindnesses you extended to us. It is a debt that we cannot repay, but it is a measure of the kind of person you are that you would not have it any other way. We all love you.

There is of course sorrow in Judge Wright's passing. But he led a long and productive life in which he honored the nation, Delaware, and the schools he attended by enhancing the quality of the administration of justice, overseeing the resuscitation of an important district court, and bringing joy to those like myself and my Kate, who had the great good luck to have known him. He was, as I said at the beginning, a very special and a very beautiful man. ♦

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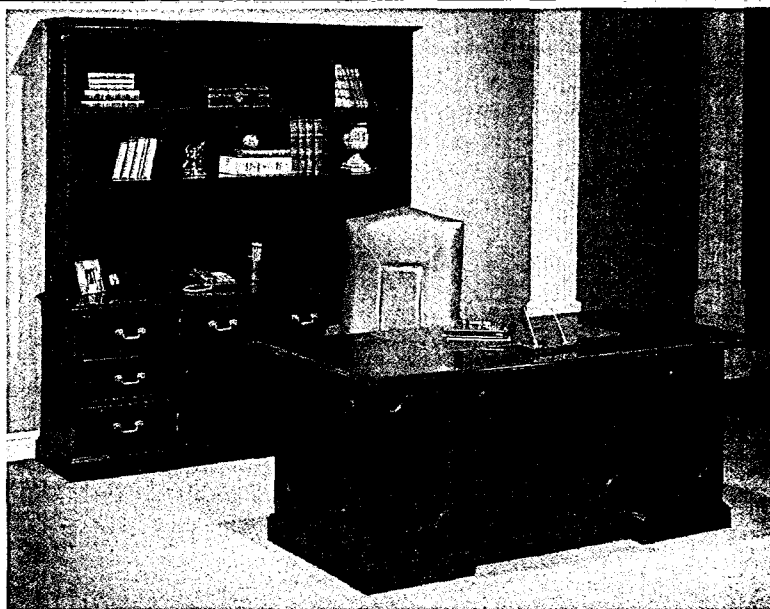
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PAT CIARROCCHI INTERVIEWS JUDGES JANE R. ROTH, HELEN S. BALICK AND ROXANA C. ARSHT

On August 28, 2001, Pat Ciarrocchi, of KYW Channel 3, interviewed three inspirational figures of the Delaware judiciary—Judges Jane R. Roth, Helen S. Balick and Roxana C. Arsht. A transcript of this lively discussion follows.

MS. CIARROCCHI: Judge Arsht, what is your reaction when young female lawyers say to you, "Thank you, you have blazed a trail for me and now I can practice the law"?

JUDGE ARSHT: I think I am embarrassed about it. It's been a long time since—if I was a trail-blazer, but we have come a long way, so ... Enough!

MS. CIARROCCHI: Tell me, what were the earlier days like for you?

JUDGE ARSHT: I don't know. All I remember is it was a challenge, it was something that I wanted. I was about ready to open a law office. Sam [Samuel Arsht, Judge Arsht's late husband] was going to pay a year's rent, the children were grown, and okay, now I talked to Paul Leahy on the federal bench with whom I had clerked in Ward and Gray. And he said, "There is room for a woman in the practice of law in domestic relations. The men don't like it." And the only women were Sybil Ward, and I don't remember who else.

JUDGE ROTH: Bret Sturtevant.

JUDGE ARSHT: Yes, but she moved away to Washington very soon thereafter. I am the only living senior member of the Delaware bar now. There were four or five before me. And when I didn't know what to do and I was going to have an office—Sam paid the rent. And when Judge Melson of the Juvenile Court called and said, "You went to school with my son, we need help down here. You don't need the money, why don't you come down and help us out?" And that's how it started. And it was fun.

MS. CIARROCCHI: Well, I am sure that it was—it had to be fun or else you wouldn't have kept going.

JUDGE ARSHT: Yes.

MS. CIARROCCHI: I think all of you, if you didn't find that

there was a magic in what it is that you did, that satisfied you intellectually, and, spiritually, I would think to a large degree, that you would just not have continued doing it. But what I find interesting, though, is that Judge Arsht has almost 25 years on both of you.

JUDGE ARSHT: Oh, absolutely, or more.

JUDGE BALICK: I think there were about five of us who were more or less in existence in the late '60s, and we were all more or less of an age or a time.

JUDGE ROTH: I joined the Delaware bar in December of 1965. And Vince Theisen was president of the Bar Association then and Sybil Ward was doing real estate work and Bret Sturtevant was doing patent work for the DuPont Company. At that time, basically they were the only other women in the practice, and I was the only woman who ever went to the Delaware Bar Association meetings. And Vince Theisen would start the meetings: "Gentlemen and Mrs. Roth."

MS. CIARROCCHI: How did that make you feel when he would do that?

JUDGE ROTH: It didn't bother me. I thought it was great.

JUDGE BALICK: I was admitted in Pennsylvania first in '67 and then I took the '68 bar and passed, and got admitted in March of '69, because I had some extra work I had to do before they would admit me.

MS. CIARROCCHI: Explain that. I thought that was very interesting that you had some groundwork. Also, in terms of your educational background, you came into this without a college degree.

JUDGE BALICK: That's right. I had a J.D., though. When I was a senior in high school I had enough credits to graduate very early in that year. And I was asked if I would like to work instead of go to school, and absolutely, I did. So I was sent to a law office. And I worked in the law office instead of going to school. And when I graduated, I started full time in the law office. And then eventually I found my way to taking the Pennsylvania—well, Graduate Record Examination administered by ETS at the bar, Pennsylvania State Bar office in Philadelphia. Advanced Government, History and the area test in Humanities, Social Studies and Natural Studies. Two days of exams.

And then I was told that I had satisfied the requirements, and I



should apply for law school. So I did.

JUDGE ARSHT: Was that before you met—

JUDGE BALICK: That's where I met Bernie [former Vice Chancellor and Superior Court Judge Bernard Balick]. But the thing was I was a member of the Pennsylvania bar. I could not be registered as a law student in Delaware because I didn't have an undergraduate degree. So I had to take five exams, plus the English History exam under the auspices of professors at the University of Delaware before I could be admitted. So I had passed the Delaware bar by special dispensation on petition to the Supreme Court, and took it in '68. And then I still had hadn't completed the second year of a modern language. So I revved it up, passed that in February, and got admitted in March, all by myself.

MS. CIARROCCHI: Did you feel that you were climbing a mountain in the process of doing all of this work to get to where you wanted to be?

JUDGE BALICK: Well, I don't know as that was how I looked upon it, but it was a lot of work.

MS. CIARROCCHI: But you were undeterred?

JUDGE BALICK: I did it. That's all I can say. It was something that had to be done. I graduated from law school. I certainly was going to put that to good use.

MS. CIARROCCHI: Judge Roth, you were in a very rare group at Harvard with

25 women out of a class of more than 500 men.

JUDGE ROTH: Yes. Elizabeth Dole was a classmate. Stephanie Seymour, who was just chief judge of the Tenth Circuit, was a classmate.

The women in the class have done pretty well out of the 25. Twenty-three of the 25 graduated, and that is a lot better percentage because the overall graduation figures were about 400, a little over 400 out of a little over 500. So that the women having gotten there were pretty determined that they were going to get through.

MS. CIARROCCHI: Did you know Judge Roth wanted to be a fighter pilot as an eight-year-old girl? Give me a comparison about your ascension, if you will, in the study of law and your desire to be a fighter pilot.

JUDGE ROTH: Well, I think in wanting to be a fighter pilot, if I had been a little girl today I would have wanted to be an astronaut. I wanted to do what was exciting and adventuresome and would cause every one to oooh and ahhh, and I didn't want to just sit in a house and clean the house and take care of children. And when I was eight years old, being a fighter pilot, I think, was the most romantic thing you could do. And I was rather taken aback when I found out that these boys I played with could be a fighter pilot, but I couldn't be a fighter pilot. My mother was very good about

encouraging me to think independent thoughts. And I think when the time came and I finished college, and in college I was a History of Art major, I very much wanted to do something. I had spent my junior year in France and I wanted to see the world. And I joined the State Department as a clerk typist. And it was very exciting, but it wasn't the most challenging job.

And I began to think, well, it was like being a fighter pilot, but I was not going to end up being ambassador. And that was—being ambitious I didn't want to put myself in a situation where my career was limited. So I decided I would have to go back and go to graduate school. And in the Richards family going to law school seemed to be the logical choice.

JUDGE BALICK: Were you encouraged?

MS. CIARROCCHI: You do have a long line.

JUDGE ROTH: Yes. And I was encouraged in that my father paid for my tuition, and there is no better encouragement than that.

When I was a teenager he came home one night and said, "You will never believe what happened today. A young woman came to Richards, Layton & Finger and applied for a job as an attorney. We will never hire a woman lawyer."

And the fact that I remember that story well, I think may demonstrate that it was

an impetus, perhaps, in my decision of where to seek employment once I got my law degree.

MS. CIARROCCHI: Because you just—you just had blinders on about it, didn't you? You just proceeded.

JUDGE ROTH: Yes.

MS. CIARROCCHI: You knew you were good enough, that you would study hard enough and get your degree and you wanted to be accepted in the family fold.

JUDGE ROTH: Yes. And being a lawyer was like being a fighter pilot. It was something that really challenged me. It was something that interested me. It was something where I was competing with other very able people head-on.

MS. CIARROCCHI: I would love for you to share this story about the dinner that was hosted by one of the law professors at Harvard.

JUDGE ROTH: By the dean.

MS. CIARROCCHI: By the dean of the law school.

THE WITNESS: Erwin Griswold. And this is something he did every year, because I know Ruth Bader Ginsburg has described the same experience she had as a first-year student at Harvard, that Dean Erwin Griswold would invite all the first-year women—in the first week of law school, he would invite the women students to his house for dinner and the 25 of us in our class came, and we sat around the living room. And he said, "Well, here you are, I would like you each please to introduce yourself and tell us why you are at the Harvard Law School," and we went around the room and each one of the 25 did that. And then he looked at us and said, "I hope that you realize that each one of you has taken the place of a young man who would have a future in law."

MS. CIARROCCHI: But what I found interesting was that the women didn't really respond to him. Or did they feel like they could not respond?

JUDGE ROTH: In the fall of 1962, you did not, you just smiled and you didn't argue with him. No one said anything. Some of the women in the class don't even particularly remember that remark. I remember it very well.

MS. CIARROCCHI: Indelibly.

JUDGE ROTH: Yes.

JUDGE ARSHT: Was that '62?

JUDGE ROTH: That was '62, yes.

JUDGE ARSHT: Because that's when I started as a Master. I did it for nine years, until '71. And then I was appointed for 12 years to '83 as a

judge in the Family Court

JUDGE ROTH: Yes.

JUDGE ARSHT: When Melson called me and asked Sam to donate me because they needed help, that's how. But when you are telling me about '62 was when you started law school.

JUDGE ROTH: Yes.

JUDGE ARSHT: And you say there were 25 at Harvard. At Penn, I think we started with five and we graduated either two or three out of a smaller class, much smaller. So ...

MS. CIARROCCHI: If somebody would have said that to you, Judge Arsht, "You are taking the place of a man who would be a good lawyer."

JUDGE ARSHT: I think that was the atmosphere.

MS. CIARROCCHI: That was kind of accepted in '62? Didn't you find that insulting?

JUDGE ARSHT: Wasn't there kind of a war brewing, or something?

MS. CIARROCCHI: Yes.

JUDGE BALICK: Vietnam.

JUDGE ARSHT: And maybe they didn't have enough men to fill the class.

JUDGE ROTH: Oh no, there were plenty of men. They used to say that Dean Griswold was the only man who was so intelligent that he didn't need a personality.

JUDGE BALICK: That's great.

MS. CIARROCCHI: Judge Arsht, when you received the Medal of Distinction from the University of Delaware, the Supreme Court Justice Daniel Herrmann described you as "having proved your qualifications for the bench over and over and over again." And he said this, "As an excellent lawyer, as an industrious, fair-minded, compassionate and conscientious judicial officer." Do you think that is what makes a good judge?

JUDGE ARSHT: You don't want to challenge Dan Herrmann?

MS. CIARROCCHI: What makes you a good judge?

JUDGE BALICK: You have to have a sense of humor.

JUDGE ROTH: Amen.

JUDGE BALICK: You absolutely have to have a sense of humor. You have got to be patient. You have to be, when you are in the courtroom, you have to be in control, but be kind about being in control. Courteous, always. You have to recognize the people. I think knowing lawyers' names and calling them by name, being personal in that respect, is better than just saying you are next, you

are next, to just say Mr. or Ms. or whoever is there.

MS. CIARROCCHI: Didn't you have to have a great sense of humor at one point when you argued a case successfully and the gentleman wanted to know when the lawyer was going to come in?

JUDGE BALICK: Oh, that wasn't an argument. I was working in Legal Aid then. And we worked at nights, and we did a lot of landlord/tenant work and everything. And this man came in and he had a landlord/tenant problem. And in any event, I resolved that problem, and he thanked me profusely. And then he said, "But, Miss, when do I get to see the lawyer?"

MS. CIARROCCHI: The other story that you tell, which I think is really wonderful as well, is one where you were on the bench ...

JUDGE BALICK: I know this one.

MS. CIARROCCHI: Tell that story.

JUDGE BALICK: I was on the bench and the father of a lawyer was filling in for his son in a particular case because his son wasn't available. And this man knew me; he knew my husband's family. And he says, "Well, hon," and he went on with his argument. I just let it go.

MS. CIARROCCHI: I am laughing.

JUDGE BALICK: It was just an abbreviation, that's all it was.

MS. CIARROCCHI: Exactly. An abbreviation for Your Honor. I laughed out loud as I read that. That was great. Judge Roth, you are well known to have a tremendous sense of humor and that you really love using puns. Is that the case?

JUDGE ROTH: I would say that was true, yes.

MS. CIARROCCHI: How does humor play a role in your life?

JUDGE ROTH: Well, I think you have to be very careful about using humor in the courtroom because what is going on there is too important to too many people, and you don't want them to think that you are laughing at them. But certainly, when you are out of the courtroom, humor is a wonderful release of frustration. And I think it's very therapeutic to be able to relax and laugh about some of the things that happen to you instead of sitting there and seething and boiling about them.

MS. CIARROCCHI: Judge Arsht?

JUDGE ARSHT: One time I remember being so upset by the behavior of the lawyer that I recessed the court. It

just was impossible. But when some man came in and said he wanted this guy to be picked up because he committed sanitary rape on his daughter. I didn't quite know what sanitary rape was. But you don't laugh. You just can't laugh.

JUDGE BALICK: No.

JUDGE ARSHT: Early on, family court was not really a legally focused, limited, restricted, demanding-type thing, but it evolved into that over the years. And part of the reason I am glad I am not in the court anymore is because it's all about property and money.

MS. CIARROCCHI: You also, though, dealt in a lot of cases involving families.

JUDGE ARSHT: Yes.

MS. CIARROCCHI: And a lot of family issues. Did you find that particularly gut-wrenching when you saw parent against parent, parent against child? What was the most difficult in dealing with that?

JUDGE ARSHT: Custody. Custody and visitation. They were the toughest.

MS. CIARROCCHI: Did you find that there were times that you actually had to use the wisdom of Solomon to make the decisions that you had to make?

JUDGE ARSHT: They are impossible, some of them. And you don't sleep. I wrote a poem once, because you order a child to go every Friday, every other Friday to visit the other parent, and the other parent says, I don't want the child to go to the other parent because of this and that and the other. And how do I know? How do I know? Am I throwing these children — Friday afternoon was always a tough day for me, because I thought of all the children who were rotating their living and having to go up, take their little bag of clothes and go to the other person's house and play with a different bunch of children. It's no fun. It's not money.

MS. CIARROCCHI: What do you mean it's not money?

JUDGE ARSHT: It's blood, it's people.

JUDGE BALICK: It's emotions.

JUDGE ROTH: Emotions.

JUDGE ARSHT: It's not who is going to get the house. At one point I was going to order both parents to leave the house and take turns coming back, and let the children stay in the house so they wouldn't be uprooted. And let the mother every other week move in and the father every other week. You could do some crazy things if you wanted to.

MS. CIARROCCHI: What did you learn about families and about conflict in

the process?

JUDGE ARSHT: They don't change.

MS. CIARROCCHI: It doesn't?

How so?

JUDGE ARSHT: No. It's human beings, and they are not perfect and I am not. And you call the shots because somebody else can't decide. And that was basically my poem. They come to me, I am not God, I don't know. I mean, if I were slicing up the bank account, or who had the right to live in—it's different, you don't bleed quite the same way.

MS. CIARROCCHI: But you would really find that there might be times when you would lose sleep—

JUDGE ARSHT: Yes.

MS. CIARROCCHI: —wondering whether you had made the right decision?

JUDGE ARSHT: Yes.

MS. CIARROCCHI: And what impact it might have on that child?

JUDGE ARSHT: Yes. If the child is going to go visit the father and the mother claims that she shouldn't. And how do I know what is going on in that house? Yes.

MS. CIARROCCHI: Did you ever regret a decision that you made?

JUDGE ARSHT: Yeah. I still have a guy who writes threatening letters.

MS. CIARROCCHI: Still?

JUDGE ARSHT: Yes. Great big, fat ones. They cost him \$3.75 to mail, and they are all typed. At one point, I think Charlie Oberly was the attorney general, and this guy used to call me at midnight or threaten me. And he got the police.

You don't have that, quite, in the federal court.

JUDGE ROTH: In the Court of Appeals, you don't so much. The district judges and I think bankruptcy judge, I think that's one of the areas where you have some of the most violent, emotional human reaction of all.

JUDGE BALICK: And it's amazing because you are talking about money, property, jobs and—

JUDGE ROTH: The family home.

JUDGE BALICK: The family home.

JUDGE ARSHT: Who is going to move out.

MS. CIARROCCHI: Because you have dealt with all different types of bankruptcy issues?

JUDGE BALICK: Yes.

MS. CIARROCCHI: The thing I thought was very interesting was some of the cases that you have overseen in recent years have involved very large

companies. There were a number of cases where the assets of these companies were a billion dollars.

I was wondering, when you deal with all those zeros, isn't that intimidating?

JUDGE BALICK: Yes. There were so many filings in Delaware because so many of these big companies are Delaware corporations. And there was jurisdiction here. And since I was the only judge, until November of '93, I got them when they were filed.

MS. CIARROCCHI: And in the process of looking at those cases, what do you think of first? Do you think in terms of this large airline, how it impacts on the national economy, whether it lives or dies? Or do you think in terms of the guy who is the baggage handler who works for that company?

JUDGE BALICK: Oh, the baggage handler. You know, it's very important—you get these big cases and right away you probably get some petitions, motions, whatever. Keep the thing going. Keep it in operation.

That was one of the main purposes behind reorganization, just to rehabilitate and everything. But the poor employees, you have to keep them going. You had to make provisions or provide—I didn't have to do it because the lawyers would come up with their plans for reorganization.

MS. CIARROCCHI: With their options?

JUDGE BALICK: Yes. And see how you can get this done so that poor people can stay employed.

JUDGE ROTH: I think the greatest accolade to Helen's career is the fact that these cases came to Delaware. Because they could have gone elsewhere and they chose to come to Delaware because there was a hard-working judge who competently and ably and intelligently handled the cases.

JUDGE BALICK: Thank you, thank you.

MS. CIARROCCHI: Your office just must have been inundated with very complex cases.

JUDGE BALICK: I was. I had a very good staff, very good staff. And I had an excellent law clerk who stayed with me seven years, which is unheard of. And we devised certain methods so that I would know what was coming in each day. I was on the bench from 9:00 to 5:00 or 6:00 every day. So that didn't take care of arguments and briefs that were coming in on other things. So I would know what was up that I had to have



read myself, and then I would be briefed early in the mornings. And then I would go on the bench. And that's the way it worked.

MS. CIARROCCHI: Judge Roth, in terms of the Appellate Court, how is that different? How is your role different than what the other two judges have done in the context of their careers?

JUDGE ROTH: Basically, I am not looking at the live case, I am looking at the results of what has happened in the trial court, be it the Bankruptcy Court or the District Court or the Tax Court, or the Social Security Board or the Board of Immigration Appeals. And the loser in a proceeding is saying there was a mistake, whether it was a legal mistake, whether it was a factual mistake. We want a remedy. This case should have come out the other way.

And we look at the record of the case and we read the arguments of the parties in the briefs. And then we decide whether the decision was right or the decision wasn't right. And most of the time, we find that the decision was right.

MS. CIARROCCHI: Do you find that your process is a very solitary process?

JUDGE ROTH: Yes, yes. I sit in my office with three law clerks and two secretaries and most of the time I am sitting and reading and writing. And they are reading and writing. And no one comes in to see me. It's a pretty lonely existence.

I was on the District Court for five and a

half years, and there you have much more contact with the real world. You are in court with the lawyers and the litigants. You have lawyers coming in to meet with you all the time. The newspaper reporters are interested in what you are doing, and you have much more contact with the world, but it's a very cloistered life on the Court of Appeals.

MS. CIARROCCHI: Of course.

JUDGE BALICK: Which do you enjoy the most?

JUDGE ROTH: I am glad I moved to the Court of Appeals. I miss the District Court. I love the District Court, but there is an intellectual challenge and I think, to some degree, an ability to see how the legal system is moving forward in the 20th and 21st centuries to meet problems and to deal with problems. And I think you get a much better overall view of that process on the Court of Appeals. Some of the decisions are very challenging, very intellectually—a lot of work, a lot of thought, a lot of careful writing goes into it, and I like that.

MS. CIARROCCHI: I think in one of the things that I read, and it might have been an article that you had written, you talked about the moment when a decision crystallizes for you.

What is that like for you?

JUDGE ROTH: Well, it's not necessarily a moment. Some cases are very easy, some cases are very difficult, but it's simply getting familiar with the case. Understanding what the case is about.

Looking into the record of what is involved. Making sure that the lawyers know what they are doing. I was discussing a case I am working on right now with one of my clerks yesterday, and she was appalled that the lawyers kept missing things and not doing things. And sometimes you don't really see how the outcome should be for quite a while because you have to deal with the things that the lawyers didn't deal with.

MS. CIARROCCHI: When did you know, beyond a shadow of a doubt, that you wanted to be a lawyer?

JUDGE ROTH: Well, I think it was when I was in college and I spent my junior year in Paris. And I went to London for spring vacation. And I went to the law courts there, and by chance I walked in on a trial which involved a handyman who had been up cleaning an attic window. And he was holding onto the window and the window frame broke out. And he fell to the ground and broke his leg, and he couldn't be a handyman anymore. And if the failure of the window frame was due to World War II bomb damage, he would get a pension for life from the state. And if the failure of the frame was him negligently hanging on it, it was his own fault and he would get no recovery.

And suddenly, I understood what lawyers did, and why it was interesting. And that it was something that I would like to do to.

JUDGE ARSHT: It's sort of like a puzzle, going back to try to find out where something went off the track. It's not exactly a game, but it's like a maze, first of all, to find your way through. And some of the lawyers and some of the evidence is obfuscating.

JUDGE ROTH: Amen.

JUDGE BALICK: Absolutely.

JUDGE ARSHT: Where interviewing a child, for example, in a custody case—see, I deal more not with the paperwork, and a child in my chambers says, "Aren't you going to ask me who I want to live with? Aren't you going to ask me who I—Grandma says she will take me out when I leave here. Why don't you ask me?" The children, I would take them into the courtroom—see, this is more or less legal—except there are legal limits.

And in the property division, and that field is another story in figuring out who contributed more to the business—but yours [referring to Judge Roth] is much more intellectual legally,

and so is yours [referring to Judge Balick]. At least I don't feel, except in the property division, that you really get the legal issues.

MS. CIARROCCHI: When did you know, though, that you wanted to be a lawyer?

JUDGE ARSHT: When I couldn't get into medical school. That's the answer. I majored in chemistry and minored in math in college. And my brother and my uncle and my cousin and another cousin were all doctors, and I applied to Penn Med and couldn't get in.

MS. CIARROCCHI: Was it because the grades weren't good enough or they weren't accepting women?

JUDGE ARSHT: I don't suppose the grades were good enough or they didn't want another woman who was going to take the place of a man who would support a family. And I knew from my parents that, you know, well you've got to do something. So, all right. Go to law school. So I applied to law school, Penn, and got in.

MS. CIARROCCHI: But were you fascinated off the top? Were you so intellectually curious that the law satisfied that in you?

JUDGE ARSHT: I don't think so. I don't think so. I was very naive and young. I was 20 years old when I started law school. I think I started college at 16. Believe me, I would have been better off if I had been about three years older all the way along the line.

MS. CIARROCCHI: Well, how did that lack of maturity influence you?

JUDGE ARSHT: I don't think I focused as well as I could have if I had been a little older, a little more mature. And as I went to Gaucher College, it was all women, and I was 17—16, 17. I have my diary. God, it's awful. I am tempted to burn it.

MS. CIARROCCHI: How so? Do you have entries that you don't want to share?

JUDGE ARSHT: Oh, yes. It's so naive and so ...

MS. CIARROCCHI: Naive in what way, Judge Arsht?

JUDGE ARSHT: You know, it was only two lines each day, kind of thing. The essence of my life. Just dumb. It's just plain dumb.

MS. CIARROCCHI: But, if you were going to talk about the essence of your life today, are there two lines you could put together for that?

JUDGE ARSHT: Well, at that time I just didn't—I wasn't grown up. I had

no maturity at all. I didn't know what—at 17, 18, 19.

MS. CIARROCCHI: When did you find that you blossomed?

JUDGE ARSHT: I don't know whether I did. I am waiting for that to happen.

MS. CIARROCCHI: I think you are a whole garden; you are not one single flower.

JUDGE ARSHT: I guess after being married, having children, being a volunteer in all kinds of thing in the community and knowing that I—the world doesn't owe me a living. Never mind, I could have lived on fairly well on Morris, Nichols, Arsht & Tunnell's money, but I had to do something. And I had been on this board—you all did it—this board and that board, and I have got to do something. And when the younger child was either off at college or whatever it is and I got involved in this, this was perfect.

MS. CIARROCCHI: Perfect for you?

JUDGE ARSHT: Perfect for me.

MS. CIARROCCHI: Judge Balick, when was it that you decided that you

would take that step to go to law school? I know you were working in a law office. I think it was 1963.

JUDGE BALICK: First of all, I went right into a law office and I was in the kind of office where my boss said go do title searches, so I did title searches. And he said draft mortgages and bonds, and you did it. Then you did rough drafts of complaints and answers and settled estates. Of course, I was supervised, but that was the time before there were paralegals, but what I did was what a paralegal does now.

MS. CIARROCCHI: This is right out of high school?

JUDGE BALICK: Yes. So I met the man who was to be my first husband. And he said, "You are wasting your time. Do what you have to do to get into law school." So I just wanted to make him happy, so I did. So I filed my application with the State Board of Bar Examiners. And I had taken some courses in French at our local college, but that's all the extracurricular work I had done. But based on how I answered it and the fact that I was



working in a law office, I suppose, and what I had done, they said, take this Graduate Record Exam. So I marched off and took the exam.

And lo and behold, they said I qualified to apply to law school. So that was the next step. Then I got married. I got married in 1960. And I was accepted into Dickinson in '61, but I had been too newly married and I didn't want to go, and didn't. Then my husband had a heart attack in March, 1963. He was 37. And he says, "See what you need to do to get back into law school." I said, "They won't take me. I gave up my position."

So I wrote and then on July the 7th, 1963, or just before that, I was told that I was accepted again in the class beginning in September of '63. But he had another heart attack and died. So I decided it's time to do something different. So I went down to Dickinson and started to look for a place to live. Had no money at that point. So I moved into a room with a family, and went to law school.

So that's how I got to be a lawyer. No driving ambition, I was pleasing someone. But I did like the work.

MS. CIARROCCHI: You did?

JUDGE BALICK: I did.

MS. CIARROCCHI: And it connected with you.

JUDGE BALICK: Yes.

MS. CIARROCCHI: You got excited about it?

JUDGE BALICK: Yes.

MS. CIARROCCHI: Did you ever think in terms as you look at your careers, do you ever think in terms of life missions? There is something that you are meant to achieve in your life, there is something you are meant to do, somebody you are meant to touch. Judge Balick, did you ever think about that?

JUDGE BALICK: I was always taught that whatever you do, do as good a job as you can possibly do; so that's what I tried to do.

MS. CIARROCCHI: Judge Roth, what do you think?

JUDGE ROTH: Never quite that way. But as you both have said, I finished college, I went off and I worked and I liked working. I liked being busy. I liked doing things. I didn't want to sit at home. And so when I got married, I wanted to continue working, and that was not a problem with Bill [former United States Senator Bill Roth]. He was happy to have me working, if I was

doing what I wanted to do. And I just liked staying busy. I like doing something that challenges me. If it weren't the law, I think I would be doing something else. I think maybe I would start painting pictures or something like that.

MS. CIARROCCHI: Do you paint?

JUDGE ROTH: A little bit, yes. And I enjoy that very much. And I don't have time to do it. But I would write a book or I would paint a picture or I would—I just want to do things that interest me.

MS. CIARROCCHI: Yes. What about you, Judge Arsh?

JUDGE ARSH: Well, I think what we are all saying is that we are not traditional, just get married, have children and play bridge and ...

JUDGE BALICK: No.

JUDGE ARSH: And go to lunches.

JUDGE ROTH: I don't feel that I have a mission to save the world. I think I have got myself and I want to lead a satisfying life.

JUDGE ARSH: I will add this. My mother worked and had a business here in Wilmington. And she got up every morning and went to work at 8:00 or 8:30 in the morning. And it was just assumed that, as I said before, I think the world doesn't owe you a living. You have got to do something. You can't just sit home, and life is more than being a wife and mother.

MS. CIARROCCHI: Who influenced you the most?

JUDGE ARSH: I think my mother and father, both. My father came to this country in 1905. He graduated from the University of Delaware in about 1917, with a B.A. degree, and from the University of Pennsylvania with a master's degree; neither one of which had any practical use at all. But he and my mother, it was playing chess, talking about world problems, getting up in the morning and going to work. It was not a pampering household—it was both parents active, involved.

MS. CIARROCCHI: And you picked up that mantle in your style and in your life?

JUDGE ARSH: Yes. Well, my brother went to medical school, I went to law school. I mean, it just was the thing to do.

MS. CIARROCCHI: Judge Roth, did any one particular person or incident inspire you more or less in your life?

JUDGE ROTH: I think, again, both my parents. I think my father in appreciating what the law was about. Even before I wanted to be a lawyer, my

father would talk at the dinner table about the importance of the courts in Delaware and the importance of having good judges and of having good lawyers. And my mother taught me to be independent and to think for myself. I remember when I was seven and Taft and Eisenhower were competing for the Republican nomination. We were a very strong Republican family, and I was an Eisenhower supporter and my father was a Taft supporter. And I was very anxious that Eisenhower be the candidate. So I wrote a letter to Taft saying, "Please would you withdraw from the campaign? I think the Republican party would be better off with Eisenhower."

And I showed it to my parents and my father said, "Oh, I wouldn't send that, it won't make any difference." My mother said, "You are seven years old. You are an intelligent person. That's an intelligent point of view. And when you have something intelligent to say, say it." So I sent the letter. It didn't make any difference, except it made me appreciate my mother's support that I ought to be my own self and think for myself and follow up on what I thought was important. I think although it, in a way, seems like a silly little incident, it gave me a confidence to be myself that I have built on since then.

MS. CIARROCCHI: What about you, Judge Balick?

JUDGE BALICK: My parents were supportive. They encouraged me to go ahead and do whatever it was that I had to do. And they were—I had to close my apartment, and I just shipped my furniture to their house and they made room. And then I would go home every weekend and get good meals and other things, and support. And they were behind me whatever it was that I wanted to do.

MS. CIARROCCHI: What did you learn the most from your father?

JUDGE BALICK: A work ethic.

MS. CIARROCCHI: What about you, Judge Roth?

JUDGE ROTH: That you aren't as smart as you think you are but keep trying hard.

MS. CIARROCCHI: How about you, Judge Arsh?

JUDGE ARSH: All I could think of is discuss it intellectually, use your brain.

MS. CIARROCCHI: Because work ethic is what I learned from my father.

JUDGE ARSH: Well, I think it's both the work ethic and then, as they say, the intellectual challenge, that is,

keep your mind open.

My father used to say about some people, you start to talk to them, it's like opening the door of an attic that's been shut for ten years. Nothing comes out that is any use. Therefore, keep intellectually challenged.

MS. CIARROCCHI: On a personal level, how have you been able to juggle all the balls in your life?

JUDGE BALICK: I have a good husband.

MS. CIARROCCHI: Your supportive, loving husband helped balance out the days when you would be inundated with work?

JUDGE BALICK: Oh, he was as busy as I was. He was on the Superior Court for 21 years, criminal and civil work, and then he went over to the Court of Chancery for the last four years. And he retired after 25 years.

MS. CIARROCCHI: Would you bring your cases home to the dinner table?

JUDGE BALICK: No.

MS. CIARROCCHI: You would leave them in your chambers?

JUDGE BALICK: Yes. We would go home, and that was our home. We would get home—we would often go out for dinner or go home and we would talk about lawyers sometimes and the interesting aspects, but no. We would discuss different cases. I sometimes read his sentencing folders.

MS. CIARROCCHI: Would you give advice?

JUDGE BALICK: Yes.

MS. CIARROCCHI: Share?

JUDGE BALICK: Yes. We would share advice a little bit, but not a great deal.

MS. CIARROCCHI: So you say you tried to keep home sacred from work?

JUDGE BALICK: That's right.

MS. CIARROCCHI: Now, Judge Roth, you have had a very public life in terms of being the wife of a U.S. Senator.

JUDGE ARSHT: Both of them.

JUDGE ROTH: Why do you think I went on the bench? So I couldn't get involved in politics anymore.

MS. CIARROCCHI: Once you went on the bench, were you not able to raise money for your husband anymore?

JUDGE ROTH: Oh, not at all. No.

JUDGE ARSHT: No.

JUDGE BALICK: No.

JUDGE ROTH: That would be, in fact, a violation of law.

MS. CIARROCCHI: So you would say, "Honey, I'm sorry."

JUDGE ROTH: Right, right. He has had Henry Kissinger, for instance, come to Delaware, Dick Cheney ... George Bush. I can't go to the events because they are political fund-raisers, so I stay at home. And you make your choice what you want to do. I am delighted I made the choice I did.

MS. CIARROCCHI: But in all of the years, though, that you did campaign with the Senator and that you really worked in partnership with him. Did you find those years fulfilling?

JUDGE ROTH: Oh, yes, I loved it. I met Bill at a Republican convention in San Francisco in 1956. And if he hadn't run for office maybe I would have run for office, but I don't think you can have a husband and wife running both for elective office. So I made a lot of speeches for him. I went to a lot of events for him and I enjoyed that. I enjoyed the political life.

JUDGE ARSHT: And the dinners?

JUDGE ROTH: And the dinners. Some of the dinners are wonderful and some of the dinners are awful. I enjoyed it very much, but there are—some of the repetitious things that I don't have to do anymore that I must say I am not sorry that I can't do.

MS. CIARROCCHI: How is the Senator enjoying this time of his life?

JUDGE ROTH: I think he is very pleasantly surprised that he is enjoying working for a law firm as much as he does. He is not searching titles and drawing up contracts, he is talking to people about business developments and things like that. And I think—he is a graduate of the Harvard Business School as well as Harvard Law School, and I think he is interested in having these avenues of interest to develop. And since he went to work for the private sector I have bought a new car and I am getting a new kitchen.

MS. CIARROCCHI: And I want to know whether this is really true. Did you suggest to your son Bud that he name his son Ira?

JUDGE ROTH: Yes. Charlie Roth has just turned three. When Eunhee was pregnant with him, I said, "You have got to call this kid Ira."

MS. CIARROCCHI: As in Roth IRA.

JUDGE ROTH: Yes. I think they chose well in calling him Charles.

MS. CIARROCCHI: I am a TV journalist, as you know, and over the years I have heard people say to me, I am mad as hell and I am not going to take it anymore, which is that famous line from

"Broadcast News."

I was curious about your reaction about the long list of court shows that have become more and more popular, and now even with the development of Court TV, a whole cable channel devoted to the court. From Judge Wapner in the "People's Court" to Judge Judy. Have any of you ever thought about going into television?

JUDGE BALICK: No.

JUDGE ROTH: No.

JUDGE ARSHT: No. I have been approached by a couple of the Family Court judges. They wanted me to figure out a way to go on and compete with Judge Judy.

JUDGE ROTH: Judge Roxy? That would be great!

MS. CIARROCCHI: What do you think about this interest that people have in the judicial system and with Court TV, a whole cable channel devoted to the courts?

JUDGE BALICK: I am surprised that they would devote Court TV because so much of trial work, even in the exciting cases, would be dull to watch for hours on end, I would think.

But, of course, there are always the court watchers. My husband said that there was this man who would come every day to Superior Court. He would get dressed up, and he would be in the courtroom every day.

MS. CIARROCCHI: Just to sit.

JUDGE BALICK: Just to sit and watch whatever was going on. It's good entertainment, most of the time.

JUDGE BALICK: Especially in the criminal side.

JUDGE ROTH: If I am not mistaken, Court TV has dropped its appellate coverage.

JUDGE ARSHT: Too boring?

JUDGE ROTH: Too boring.

MS. CIARROCCHI: Because of the trial of O.J. Simpson, and here in Wilmington the trial of Tom Capano, do you think the American people have a better understanding about the judicial system?

JUDGE ROTH: No. Not with the O.J. Simpson trial.

JUDGE BALICK: No.

JUDGE ARSHT: No.

JUDGE ROTH: I think that was a misperception of what it's all about.

JUDGE BALICK: Absolutely.

JUDGE ROTH: I think you get a better understanding with Judge Wapner than you do with the coverage of a sensational trial, because Wapner clearly

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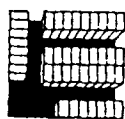
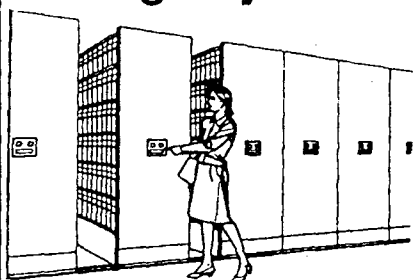
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shows you have two sides. They each have a version. They may both be right or at least partially right. You understand what they each have to say, and then an impartial person makes a decision.

And I think that is an important part of our judicial process. I think cameras in the courtroom are a problem, and TV in the courtroom is a problem, because in a long trial they will focus on the sensational, and they won't give an even-handed approach of everything that is going on. And I think the O.J. Simpson trial demonstrates that even the judge, I think in that trial, and the lawyers distorted how the case was tried in order to make it sensational and in order to bring out aspects that were not really relevant to the guilt or nonguilt of the defendant there.

And I have great concerns about TV in the courtroom because I think that you do have both a focus on the sensational and a tendency of those involved in the trial, including the judges, to sensationalize what's going on.

JUDGE ARSHT: I remember in the Family Court, which is much simpler in some ways, we had a secretary sit in and take down the whole action. That was new, just to have a record. Before that there was no record of what happened in the courtroom.

MS. CIARROCCHI: You didn't have a court reporter?

JUDGE ARSHT: No, no. Early on when the court reporter sat there or the secretary sat there, it was the—the first day was a little uncomfortable. After a while you paid no attention to it, similarly if it were automatic to tape all the hearings and nobody would know where the cameras are, for the record I would see no negative in it. But—

MS. CIARROCCHI: But for a broadcast it's a different story?

JUDGE ARSHT: Right. Not live.

MS. CIARROCCHI: I guess what I am thinking in terms of—I don't know exactly how to phrase this, the whole premise of me talking to the three of you is because you really have broken ground in a big way. You have been among, if not the first women to do certain things, among the very first, not just in this state but in the whole country.

Are we going to get to a point where there are women who are going to take your place who are going to be in positions in each one of the areas that you either serve now or have served, where we are going to see them not as



women in these positions but as good judicial minds in these positions?

JUDGE ROTH: Oh, I think you already are.

JUDGE ARSHT: I think you are there.

JUDGE BALICK: I think so.

JUDGE ROTH: We have five active women judges on the Third Circuit, out of 12, there are 14 seats, two vacancies. So that it's no longer, I think, this is the woman judge.

JUDGE ARSHT: No. It's gentleman.

JUDGE ROTH: And Mrs. Roth is long in the past.

MS. CIARROCCHI: Is there still, though, an "old boy's network" that operates?

JUDGE BALICK: Other than the men's room.

MS. CIARROCCHI: Outside of that?

JUDGE ROTH: There is a little bit of that. There is often a group of judges who are the decision makers. And those decision makers are no longer just men. There are many women very much involved in the policymaking of the federal courts. And it's not—people don't say that judge is there because she is a woman, it's because she is one of the ones recognized by her colleagues as able to do things.

MS. CIARROCCHI: Any final thoughts? Observations?

JUDGE BALICK: Well, along that line, the entering class at Dickinson this year has more women than they have males. There were three in my graduating class.

JUDGE ROTH: I am very glad I stuck it out and stayed with it because I think that a career in the law for someone that it suits is a wonderful career.

JUDGE BALICK: I agree. I am glad I did it.

JUDGE ARSHT: I am, too, and I think that we are more equal now than we used to be. We are not equal/equal, but we are close to being equal/equal. ♦

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