

THE OKLAHOMA BAR JOURNAL

Volume 81 ♦ No. 20 ♦ August 7, 2010

OKLAHOMA Legal History



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September 3 • 9 a.m. • 6 hours MCLE/0 ethics



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deadline
August 11

Oklahoma Criminal Defense Lawyer's Association Presents **ADVANCED FIELD SOBRIETY AND DRE SEMINAR**

When: **August 27th, 2010 8:30 am to 5:00 pm**

Where: **Rose State College Technical Training Center**

Cost: **\$295.00**

This seminar is designed to be in depth, so the CLASS SIZE WILL BE LIMITED TO 35 PEOPLE on a first come basis.

This course is designed to provide an advanced understanding of SFSTs and DRE. You will learn the actual training of the course the officers go through including what they are supposed to consider BEFORE giving a SFST. You will understand how to interpret a DRE Face Sheet, DRE Narrative Report, and DRE Matrix, and how a 12-Step DRE evaluation is actually given. At the close of the course, you will be able to effectively cross examine a DRE or SFST officer when they testify that your client had all the clues. Every faculty member is a NHTSA certified SFST Instructor with previous SFST teaching experience and is formally trained as a Drug Recognition Expert.

As part of the course, you will receive the DRE Manual and the SFST manual on CD.

Faculty:

Anthony Palacios, of Impaired Driving Specialists, LLC, is the former SFST State Coordinator for the State of Georgia and was one of three full time Impaired Driving Instructors for the Georgia Police Academy. He is a former IACP certified Drug Recognition Expert Instructor as well as a NHTSA DUI/SFST Instructor. Mr. Palacios has trained over 3,000 Georgia, South Carolina and Tennessee law enforcement officers and prosecutors, as well as hundreds of criminal attorneys from all over the nation in the NHTSA/IACP Impaired Driving curriculum. Additionally, Mr. Palacios has lectured at the national and state level on the topics of SFSTs and DRE.

John Hunsucker, Hunsucker DUI Defense Firm, is the co-author of Oklahoma DUI Defense, The Law and Practice (Lawyers & Judges Publishing), The Oklahoma DUI Survival Guide, 1st and 2nd Ed, as well as Survival Guides for Georgia, Minnesota, and Florida (Whitehall Publishing). Mr. Hunsucker is a NHTSA certified SFST Instructor and is formally trained as a Drug Recognition Expert.

Bruce Edge, Edge Law Firm is the co-author of Oklahoma DUI Defense, The Law and Practice (Lawyers & Judges Publishing), The Oklahoma DUI Survival Guide, 1st and 2nd Ed, as well as Survival Guides for Georgia, Minnesota, and Florida (Whitehall Publishing). Mr. Edge is a NHTSA certified SFST Instructor and is formally trained as a Drug Recognition Expert.

Josh D. Lee, Ward & Lee Law Firm, is a NHTSA certified SFST Instructor and is formally trained as a Drug Recognition Expert

Agenda:	8:30-8:45	Welcoming Remarks and Introduction
	8:45-10:45	The Proper Administration, Interpretation, and Scoring of the SFSTs- Palacios, Hunsucker, Edge
	10:45-12:00	Common Mistakes Made by Officer's during the SFSTs- Palacios, Hunsucker, Edge
	12:00-1:00	Lunch on your own
	1:00-2:30	The 12-Step DRE Evaluation-Palacios, Hunsucker, Edge
	2:30-4:00	Understanding the DRE Face Sheet, DRE Narrative, and DRE Matrix- Palacios, Hunsucker, Edge
	4:10-5:00	Applying Case law to SFST and DRE-Lee

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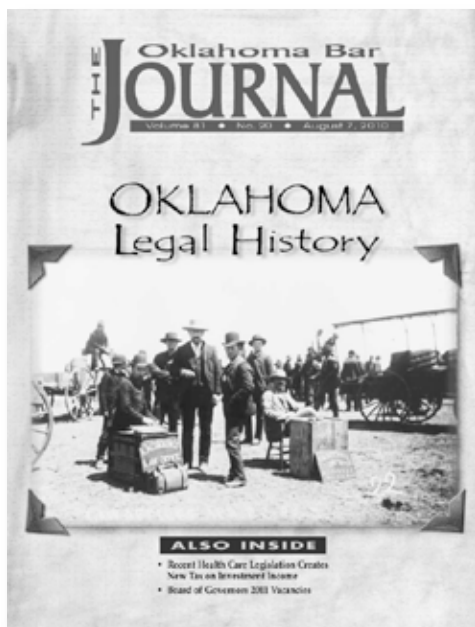
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THEME:
OKLAHOMA LEGAL HISTORY
EDITOR: MELISSA DeLACERDA

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UNDERSTANDING THE NEW
INVESTMENT INCOME TAX

Oklahoma Legal History

By Allen Smallwood

Writing history is a daunting task. Any history beyond pure narrative necessarily involves interpretation. As Shakespeare said, that's the "rub." I recall several decades ago a comment made by China's Premier Zhou Enlai when asked about the significance of the French Revolution in 1789. He paused and with a quizzical expression stated, "I'm not sure, it's too early to tell." This is not only a comment about the long arch of history, but also tells us a bit about the difference between the Western and Eastern world view.

All objective historical narrative seeks to approach the truth as objectively as can be done from a subjective point of view. When I contemplate the notion of "historical truth" I always remember the French philosopher Voltaire's definition of history as "a pack of tricks the living play on the dead."

I was a history and political science major in college, and I will never forget my college professor's first lecture in a 19th century European history course. He began the two-semester course in the fall with his opening remarks quoting various commentators about current problems. Included in these problems were the

disintegration of the social fabric, the fear of the spread of Communism, the dehumanization of interpersonal relations as a result of increased technology and the fear of national central governments overriding individual rights, the concern for irresponsible governments who could not control their spending and society's fear of terrorism.

After reading all the quotations from the leading figures on those problems, he asked what all of those quotations had in common. None of us answered because we didn't know. He said the one thing that all those individuals and quotations had in common was that the quotations were made by people who all lived in the 19th century. The conclusion, of course, is that historical problems rarely change much, and our study of history will invariably inform us about current problems.

This month's journal contains not only narrative but interpretation and contemplation on where we have been in an effort to perhaps give some guidance as to where we may be going. Hopefully, this will inspire us to make our contribution to this wonderful legacy.



Allen M. Smallwood

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the living play
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EVENTS CALENDAR

AUGUST 2010

- 10 **OBA Technology Task Force Subcommittee Meeting**; 11 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Deborah Reheard (918) 689-9281
- 11 **OBA Government and Administrative Law Practice Section Meeting**; 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jami Fenner (405) 844-9900
- 13 **OBA Family Law Section Meeting**; 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Kimberly K. Hays (918) 592-2800
- 17 **OBA Civil Procedure Committee Meeting**; 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229
- 18 **Oklahoma Council of Administrative Hearing Officials**; 12 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Carolyn Guthrie (405) 271-1269 Ext. 56212
- 19 **OBA Access to Justice Committee Meeting**; 10 a.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Kade A. McClure (580) 248-4675
- 20 **OBA Technology Task Force Meeting**; 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Deborah Reheard (918) 689-9281
Association of Black Lawyers Meeting; 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donna Bacy (405) 424-5510
- 21 **OBA Title Examination Standards Committee Meeting**; 9:30 a.m.; Stroud Conference Center, Stroud; Contact: Kraettli Epperson (405) 848-9100
OBA Law-related Education We the People Citizen and Constitution Teacher Training; 8 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jane McConnell (405) 416-7024
- 25 **OBA Professionalism Committee Meeting**; 4 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Shariisse O'Carroll (918) 584-4192
- 26 **OBA Strategic Planning Subcommittee Meeting**; 2 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Deborah Reheard (918) 689-9281

For more events go to www.okbar.org/calendar

The Oklahoma Bar Association's official website: **www.okbar.org**

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The view down Tulsa's Main Street in 1898. (Courtesy Special Collections, McFarlin Library – University of Tulsa)

A Sampling of Lawyer History —Tulsa Style

By Martha Rupp Carter

EARLY DAYS: PIONEER LAWYERS

In 1836, the Creek Indians transported to Indian Territory scattered ashes from their ancestral campfires beneath the Council Oak, now at 17th and Cheyenne in Tulsa. Creek traditions and laws prevailed for over half a century. Non-Indian matters were governed by the Territory of Arkansas in the Fort Smith court where Judge Isaac C. Charles Parker, the famous “hanging judge,” presided. Beginning in 1889, a series of acts of Congress established the federal court system in Indian Territory. A federal court was established in Muskogee where the U.S. Indian Agent for the Five Civilized Tribes resided; at its first court session on April 1, 1889, 24 lawyers were admitted to practice. It was none too soon as Indian Territory had become a hiding place and a haven for those avoiding legal obligations and law enforcement. The court’s first cases included a number of debt collection cases. Congress officially extended Arkansas law to Indian Territory and added McAlester and Ardmore as “court towns” in 1890.

Tulsa did not become an official “court town” until 1906 when Indian Territory and Oklahoma Territory were combined into the state of Oklahoma by the Oklahoma Enabling Act of 1906; that act divided the state into two federal judicial districts. The 40 counties of Indian Territory became the Eastern District of Oklahoma with designated court towns of Muskogee, Vinita, Tulsa, South McAlester, Chickasha and Ardmore. Oklahoma Territory became the Western District. It was in the 1920s when the

third federal judicial district, the Northern District, was created.

The laws were complicated with those in Indian Territory governed with the laws of Arkansas and those in Oklahoma Territory under a conglomeration of laws taken from five states: civil laws from Kansas; criminal laws from the Dakota Territory; probate laws from California; and some laws from Ohio and Indiana.

The judicial article of the Oklahoma Constitution, adopted in 1907 with statehood, established a state court system with 18 different types of courts to which judges were elected on a partisan basis.

It was no simple matter to practice law for either those coming during territory days or early days of statehood. Nonetheless, the evolving federal and state court systems and laws and abounding opportunities attracted many new lawyers looking to establish a practice in the territory and in the new state of Oklahoma.



Harry Campbell expanded his law practice from Pawnee to Tulsa in 1895. (Courtesy Tulsa County Bar Association)

Attorney Harry Campbell came to the Oklahoma Territory to build a new life in 1893 following graduation from an Illinois law school. He initially settled in Pawnee and practiced law with

Lewis M. Poe under the name of Poe & Campbell. Campbell's connection with the United States Agency for the Pawnee Indians took him throughout the Cherokee Strip and across the Arkansas line. Enthralled, he observed the region and its people. Campbell reminisces as follows:

Shortly thereafter I came to the Oklahoma Territory, stopping at first at Pawnee Agency where I stayed some time with the Agent observing the habits and customs of the Indians and attending a Ghost Dance with the Agent, clandestinely under cover of night. To me it was a most thrilling experience.

Believing opportunities for professional progress would be greater in the little town of Tulsa; Campbell gathered belongings and drove his mule team into Tulsa on April 28, 1895. Tulsa's population was then 800 people.



Lewis M. Poe was instrumental in incorporating Tulsa as a town in 1898. (Courtesy Tulsa County Bar Association)

Campbell was armed with a law library of one book. The few attorneys in Tulsa already were Edward Calkins, the first attorney to arrive, Flowers Nelson, E.J. Daughters, R.E. L. McNair and a man named McGary. According to Campbell:

McNair and McGary soon passed out of the picture but Colonel Calkins remained here until his death, and Flowers Nelson remained until after Statehood, when he returned to his old home in Mississippi. Both Calkins and Nelson were high-class men. Nelson was Tulsa's delegate to the Constitutional Convention in 1907. The next attorney to come to Tulsa was Judge L. M. Poe, who came a few months after I did ... Shortly after 1900 numerous attorneys established themselves in Tulsa ...

This assessment was made of Tulsa in the 1897 "Indian Republic":

It behooves our people to prepare for self-government. Very probably ere many moons, municipal privileges will be given Tulsa. There will then be a glorious opportunity of making Tulsa one of the prettiest, most progressive and healthiest towns in the entire country.

Our business men and property owners should prepare for phenomenal growth of Tulsa the coming year. The ratification of the treaty will be a big advertisement for the Creek country and will attract large amounts of capital. In fact the year 1898 means quick growth in wealth and prosperity of the whole Creek country.

Perhaps heeding this advice, in January 1898, a committee composed of lawyers Harry Campbell, Col. Ed Calkins and Lewis M. Poe and other prominent citizens appeared before Judge William R. Springer at Muskogee for an order calling for an election to organize Tulsa



Col. Edward Calkins was the first attorney to arrive in Tulsa. On Oct. 3, 1903, he hosted a meeting of all known local lawyers for the purpose of forming the Tulsa Bar Association. He served as the first, third and fourth president of the Tulsa Bar Association. (Courtesy Tulsa County Bar Association)

under a charter of incorporation. Campbell was one of the drafters of the town's petition for incorporation, reportedly written by Campbell in longhand. He was also one of the 10 petitioners in the legal proceedings brought to incorporate the town of Tulsa in federal court in Muskogee.

The group chose to travel to Muskogee by buggy on deeply rutted roads requiring two days for a round trip rather than by train on the St. Louis & San Francisco line to northeastern Oklahoma and south to Muskogee.

The celebration resulting from Tulsa's incorporation in 1898 was said to equal the statehood celebration in 1907. The town's incorporation marked the beginning of a public school system, the election of city officials, the right to assess personal property to finance local government and the establishment of a police force. Tulsa was then the 19th-largest town in Indian Territory with a population of 1,390. Muskogee was second largest with a population of 4,254 and Ardmore the largest with 5,681.

It was reported in the *Indian Republican* on June 4, 1900, that attorney Harry Campbell appeared in court for his client Col. C.B. Lynch who was charged with violating Indian Territory statutes for letting his cows and hogs run loose on Main Street. Campbell maintained a successful defense on the theory that every citizen was allowed to have six cows and five hogs, and the Colonel had only two hogs and three cows. An advertisement in the same publication indicated that Harry Campbell, divorce lawyer, obtained divorces without publicity for incompatibility, desertion, etc.

During the times of Campbell's arrival there was little litigation concerning large amounts, and fees were \$5 and \$10 per case. When individuals in the area had need of an attorney to look over some lease papers in Kansas City, Campbell agreed to handle the work for \$10 and his railroad fare because he wanted to go to Kansas City anyway.

Campbell continued throughout his life an active member of the Tulsa community. He was described as an active and influential power in the northeastern part of the territory. He took an active interest in politics, serving as the chairman of the Democratic Party and the campaign manager in many of Oklahoma's first elections. He served as a director for the Oklahoma Historical Society for more than 25 years,

a reason for ample information about his sojourn as an early day Oklahoma lawyer.

Harry Campbell wrote a personal letter for a book about Tulsa's beginnings some 38 years after he first came to Tulsa. His letter follows:

January 19th, 1933

With a companion driving a mule team I arrived in Tulsa late in the day April 28, 1895. We stopped in the afternoon at the old Spring near what is now the town of Sand Springs to rest and water our mules. Some Indians had just cut a bee tree nearby and we had the rare delicacy of honey for lunch.

Tulsa at that time had a population of approximately eight hundred people. The only railroad was the Frisco. Almost all lines of business was represented, being a number of general stores carrying on an extensive business. I was hunting a location for the practice of law. A United States Commissioner's court had just been established at Tulsa. The commissioners had the jurisdiction of all civil cases in his district involving amounts up to three hundred dollars. He also had jurisdiction to try all misdemeanor cases and to hold preliminary examinations of all felony cases arising in his district.

The feature of those times that have left the deepest impression on my mind was the peaceful and law-abiding spirit of the early settlers. New countries are not settled and civilization established by murderers, bandits and crooks. But new countries are settled by the more intelligent and energetic young men and women of the older communities, who are seeking to establish homes; and to take advantage of the opportunities of a new country, and to build churches and schools. United States commissioner's district comprised all of what is now embraced in the counties of Washington, Tulsa, Creek and large portions of Wagoner and Okmulgee.

The only peace officer in this region was the constable, and an occasional deputy marshal from Muskogee or Fort Smith. There are probably more crimes committed in the city of Tulsa in one week at this time (1832-33) than in the whole of the above region in one year at that time. The people at that time took pride in their community

and were zealous in promoting its welfare. Their character and enterprise is evidenced by the foundation they laid for the wonderful city we have here now. I will always love the memory of the good people among whom I lived.

Harry Campbell

Campbell served a term as the Tulsa County Bar Association president in 1934. Before attorney Harry Campbell died in 1950, he was the last surviving of the 10 pioneer petitioners for Tulsa's incorporation.

AFRICAN AMERICAN LEGAL COMMUNITY

The 1920s in Tulsa saw one of the worst racial incidents in U.S. history. The heavy blow to the bustling and prosperous African American community in Tulsa's Greenwood district, known nationally as Black Wall Street, impacted the larger Tulsa community as well. Tulsa struggles to the present day to overcome this terrible event. The Tulsa Race Riot began on May 31, 1921, sparked by allegations of assault by a white female office worker by a black man in a building elevator. Several short days later, numerous lives were lost and the prosperous Greenwood district virtually destroyed. At the height of the riot on the evening of May 31, as the Greenwood area was blazing, angry and frightened Negroes gathered at the Booker T. Washington High School. Many wanted to get gasoline and invade the white area to set fires. African American attorney B.C. Franklin was a hero that evening, saving lives and further destruction. He shouted until he was hoarse, "Two wrongs don't make a right." Largely because of his oratory, the crowd simmered down. B.C. Franklin had arrived in Tulsa only a month before the riot. Everything he had accumulated was lost. His plans to move his family to Tulsa were delayed and the family did not reunite in Tulsa for several years.

Franklin's father was a successful business man and rancher even though he could barely write his name. B.C. Franklin's interest in law was first kindled when he sat in the Fort Smith, Ark., court of Judge Parker, the famous "hanging judge," and watched him mete out justice. It was renewed when Franklin was a student at Roger Williams College in Nashville and drove an attorney about in a surrey, waiting while his employer conducted legal business. Franklin also attended Atlanta Baptist College, now Morehouse College and studied law by corre-

spondence over a period of four years. In 1907, Franklin and a group of other aspiring lawyers took an oral examination at Purcell before federal Judge J.T. Dickerson; Franklin scored second highest in the group. Franklin practiced in Ardmore, then moved to McIntosh County where he farmed and practiced law in the all-black community of Rentiesville before moving to Tulsa in 1921.

After the race riot, Tulsa passed an ordinance that all new construction in the area of the riot must be fireproof. Franklin's view was that the ordinance was tantamount to confiscation of property as the majority of African American residents could not bear the increased cost of materials needed to comply with the law. Franklin advised his clients to defy the ordinance and then successfully defended them after they were arrested. Franklin successfully enjoined compliance with the ordinance in the case of *Lockett v. City of Tulsa*. This important case brought B.C. Franklin due respect and prominence. Franklin's grandson, attorney Waldo Jones II, has a photograph that shows B.C. Franklin, another attorney and their secretary working in a tent in the aftermath of the riot. It shows the three seated in chairs around a desk with books and papers; bricks placed closely together form the floor with the folds of the tent illuminated by the sunlight that shines through an opening and around the tent poles.



Attorney B.C. Franklin (right) works in his law office tent on June 6, 1921, following the Tulsa Race Riot that destroyed his office. He is pictured with attorney I.H. Spears and Effie Thompson, secretary. (Courtesy Tulsa County Bar Association)

Franklin had a successful legal practice with an extensive probate focus and also handled criminal cases. He seated the first black juror in

an Oklahoma criminal case in 1934 and was the first black in Oklahoma to sit on a district court bench when he was appointed a master in chancery to try a dispute between a black church and its pastor. He practiced law until he retired at the age of 79. He died in 1960 with four children surviving him including his youngest son, Dr. John Hope Franklin, a nationally esteemed professor and author. Dr. Franklin was called as a witness in the civil action for reparations filed by race riot survivors in the early 2000s, an action resolved favorably to the city of Tulsa.

Tulsa lawyer Amos T. Hall joined with NAACP lawyer Thurgood Marshall in suing the University of Oklahoma law school for refusing to admit Ada Lois Sipuel, a black woman who was qualified for admission except for her race. In 1947, it was “a crime for the authorities of any white school to admit a negro pupil” and a crime for a teacher to give instruction to a student of another race. The Oklahoma Supreme Court upheld the state’s policy of segregating black students, and held the state had no duty to admit a black student in a white school and did not have to create a separate law school for black students until



Thurgood Marshall, Amos T. Hall and Ada Lois Sipuel (Courtesy Tulsa County Bar Association)

sufficient demand for one was established. Hall and Marshall successfully appealed the decision. The U.S. Supreme Court held the equal protection clause of the 14th Amendment to the Constitution required Oklahoma to provide black law students with the same opportunity for legal education at the same time as it did for any other group. Lacking a “black” law school, the University of Oklahoma, as the only public law school, was required to admit Sipuel. Sipuel graduated from OU law school in 1951. In 1992, Sipuel was appointed to the OU Board of Regents.

“Lacking a ‘black’ law school, the University of Oklahoma, as the only public law school, was required to admit Sipuel.”

Following the Sipuel decision, the Oklahoma Legislature amended the criminal statutes to permit admission of black students to universities and colleges attended by white students only when the institutions offered courses not available in black schools. The legislation also provided that instruction “shall be given at such colleges or institutions of higher education upon a segregated basis.” The University of Oklahoma followed the law and admitted black students but segregated them from white students at the school. Amos Hall was again before the U. S. Supreme Court in 1950 to challenge the state’s action in requiring his client, G. W. McLaurin, to sit apart from white students. The separate seats and rows in the classroom, library and cafeteria were marked “reserved for colored.” Hall convinced the court that state institutions of higher learning could not constitutionally deprive black students of the opportunities for interaction offered other races. This decision provided the basis for the Supreme Court decision *Brown v. Board of Education* that segregation of black children was detrimental to their education and psychological development and that the doctrine of “separate but equal” education had no place in public education. Civil rights champion Amos Hall was appointed a special judge of the Tulsa County District Court in 1969. He was elected associate district judge in 1970 and served in that capacity until his death in 1971. He was the first black to be elected a judge in Oklahoma.

WOMEN IN THE BAR

The first woman member of the Oklahoma Bar Association, Kittie C. Sturdevant of Shawnee, was a descendant of a family of lawyers; her admission to the association was voted in 1913 by a showing of hands. She was followed in 1914 by Ethel K. Childers of Tulsa as the second female member. Childers’s specialty was petroleum law. Her annual salary in 1921 was reportedly \$5,000, a substantial salary for any-



Grace Elmore Gibson, one of Tulsa's first women lawyers. (Courtesy Tulsa County Bar Association)

one in that time. Attorney Grace Elmore Gibson reportedly went to law school "so she could be a good listener when her husband (pioneer lawyer and Judge Nathan A. Gibson) talked." Gibson's law degree was put to other skills besides listening. She was selected to serve as a judge when she replaced a vacationing judge for several weeks. She ran unsuccessfully for Congress in 1932 and in 1936 was selected

by the governor to sit for a disqualified presiding judge of the Oklahoma Criminal Court of Appeals in a case on a county judge who was accused of embezzling public funds when he was a county treasurer. Gibson tried cases before Tulsa County juries before women were permitted to serve on juries. Gibson was appointed to the position of Tulsa city treasurer in 1944, then highest nonelective post held by a Tulsa woman.

Norma Frazier Wheaton earned her law degree from the University of Tulsa Law School in 1927, graduating with highest honors, while she worked as a secretary in the Hudson & Hudson law firm. She became an associate attorney with the same firm doing trial work, primarily in commercial law, domestic relations, insurance subrogation and life insurance areas, as well as contested wills and inheritance matters. Wheaton had choice comments for laws related to alienation of affection and breach of promise in 1935. The legal ability to obtain a financial balm for a wounded heart in the absence of real economic loss was not to her liking. She professed the belief that laws relating to alienation of affection and breach of promise were not suited to the conditions in 1935 as follows: "In view of their changing economic position, women are better able to look out for themselves than they were a decade ago. Their earnings are not yet up to those of men as a class but many have become independent through their own efforts."

In 1942, Wheaton was chairman of the Non-Partisan Constitutional Amendment Committee battling for passage of a constitutional amendment to allow women to file for the

eight major state offices — governor, lieutenant governor, attorney general, secretary of state, etc. — all open to only men due to a provision of the Oklahoma Constitution declaring no persons eligible except for male citizens. Oklahoma was then the only remaining state eliminating women's eligibility for such offices. She was joined in the effort by Tulsa attorneys Jew-



Lou Etta Bellamy was instrumental in expanding women's rights in Oklahoma. (Courtesy Tulsa County Bar Association)

ell Russell Mann, Lou Etta Bellamy, Mildred Brooks Fitch and Dorothy Young. Despite their and other's efforts, the measure failed, a "bitter blow." Wheaton stated that the organization "was still active and will keep fighting on this front." This same group of women attorneys successfully defended legislation in the 1950s that opened jury pools to citizens of both genders from the challenge brought by the state attorney general. They

convinced the Oklahoma Supreme Court that the provisions of the Oklahoma Constitution that juries "shall consist of twelve men," that "men" must be read to include women. The Oklahoma Supreme Court held that "(since) time out of mind writers, even those inspired persons writing under the influence of Deity, have used the word 'men' in its generic sense, referring to 'mankind,' 'all persons,' 'males and females.'"

Wheaton was estimated to have married on the average of twice a month during World War II. She served as a stand-in bride for 27 marriages for over two years during the war as a member of the Tulsa bar's committee assisting members of the armed forces. She accepted no fee for her services and stood in as bride for a couple who met in the underground in Germany.

Wheaton became the first woman president of the Tulsa County Bar Association in 1946 and the first woman elected to the Oklahoma Bar Association Board of Governors. In 1947, Wheaton became one of the first women to become partner in a law firm when she was named a member of the firm Hudson, Hudson and Wheaton. The American Judicature Society recognized Wheaton as one of the nation's outstanding lawyers; she was the only woman



Jewell Russell Mann and Norma Wheaton (Tulsa World photo, April 1950)

member of the national group's board of directors. Wheaton worked for adoption of the Equal Rights Amendment and served as a regional director of the National Association of Women Lawyers. Despite her many efforts for women's causes, Wheaton was neither impressed or nor sympathetic with the strident women's "movement" of the 1960s-'70s, viewing women's demands to be freed from existing customs and laws as "waging this campaign to be liberated, as they call it, so as to live their lives free of moral inhibitions and with little or no responsibility as citizens." Wheaton retired from the firm, then named Hudson, Wheaton and Brett, with future U.S. District Judge Thomas Brett as partner, in 1972. He describes her as an outstanding lawyer and a great lady. Wheaton died in 1973.

Her friend, law school classmate, fellow lawyer and activist, Jewell Russell Mann, graduated the same year as Wheaton and retired in 1986. Mann worked as a stenographer and clerk during the day and attended law school after three years of six-nights-a-week classes. She graduated from law school in 1927. She was one of eight women and 112 men admitted to practice law in the state in 1927, scoring the highest of anyone taking the bar examination. There were only three women practicing law at

this time in Tulsa. The only job available to her upon graduation was a job as secretary for Midstates Oil Corp. She was given legal work such as examining oil lease titles, leading to a probate, title and corporate law practice. In future years, Mann advised women lawyers to keep their typing ability a secret. Mann was credited with authoring the bill that eventually led to legislation allowing Oklahoma women to sit on jury panels. Mann served on the first Governor's Commission on the Status of Women, a group instrumental in securing passage of the Equal Pay and Minimum Wage Bill in 1965. Mann narrowly lost an election for Common Pleas Court judge by about 2,000 votes out of 100,000 cast. Mann and her law partner, William Harrington, co-founded the Tulsa Title and Probate Lawyers, now a section of the Tulsa County Bar Association.

TULSA LAWYERS IN WAR TIMES

The Tulsa Bar's Committee on War Work was formed in 1942. Committee members familiarized themselves with the Soldiers and Sailors Civil Relief Act and provided advice to men in or about to enter the armed services and their families on issues of protection from creditors, tax and insurance matters, obtaining family allowances and similar issues. By October 1942, the committee had been consulted on more than 3,000 cases and was fielding 500 calls a month. Its mission evolved and continued over the duration of World War II. By January 1944, bar leaders recognized and honored 161 Tulsa County lawyers who had entered military service as of that time. A plaque containing their names was hung in the county courthouse; only one gold star appeared on the plaque to recognize the only Tulsa County lawyer who as of then had been killed in action. Others were lost in the war as many Tulsa County lawyers served their country honorably. Fortunately many returned to Tulsa to serve the legal profession and their local community honorably as well. Darven Brown joined the Marines at age 17, served in the Pacific and earned the Silver Star. He became Tulsa's City Attorney and served the Tulsa Economic Development Authority until his death in 2009. Vernon A. Brown was based in southern Italy and flew 23 bombing missions as a flight engineer and top turret gunner in the European Theater. John Boyd Jr. flew bombing missions over Japan and once bailed out into the Pacific where he floated six hours before rescue came. Judge Paul Brightmire was induct-

ed into the Navy after he graduated high school. Joseph W. Morris served on the staff of Admiral Oscar C. Badger, Commander Service Force, Pacific Fleet. James R. Eagleton Sr. served overseas as a BAR sharpshooter with Edson's Raiders and was the recipient of numerous military medals including the Purple Heart.

Cesar Latimer participated in the Okinawa invasion after joining the Marines following high school graduation. Tomy Dee Frasier dropped out of high school at age 16 after the



Tomy Dee Frasier
(Courtesy Tulsa County Bar Association)

bombing of Pearl Harbor to enlist in the Marine Corps. He saw action in three Pacific campaigns and was wounded three times, the last time in a sniper shootout that left him paralyzed from the chest down. Frasier, discharged with three Purple Heart medals and a Silver Star, obtained his GED and college and law school degrees. He returned to practice in Tulsa because the Tulsa County Court-

house was one of the few with an elevator. Primus Wade served as a staff sergeant with an Army truck company. B. Hayden Crawford received a Purple Heart for injuries sustained in battling a Japanese anti-sub vessel. He continued to serve in the Submarine Service and Naval Reserve, in some cases as commanding officer, for 38 years. When he retired in 1978, he was chairman of the National Naval Reserve Policy Board and advisor to the Secretary of Navy on Reserve Affairs. Crawford's law partner, Harry Mason Crowe Jr., served as a navigator on an ammunition ship in the Pacific and in the Naval Reserve from 1948 to 1969. Crowe was Tulsa's City Attorney and after leaving that position served the Tulsa Metropolitan Utility Authority. Many, many other lawyers served too.

A famous son of Indian Territory and the Tulsa County Bar Association, Patrick Jay Hur-

ley rose to the rank of brigadier general in the Army during World War II. After he was wounded in efforts to organize a blockade running to Gen. Douglas MacArthur on Bataan, he was pulled from active duty and appointed U.S. Minister to New Zealand in 1942. Hurley was a war hero, an international diplomat and Tulsa bar president in 1910 and 1911. He was born in 1883 in Choctaw Indian Territory and worked in the territorial



Patrick J. Hurley
(Courtesy Tulsa County Bar Association)

coal mines as a youth. He earned an L.L.B. from National University Law School, Washington, D.C., in 1908 and opened a law office in Tulsa. He was an attorney to the Choctaw Nation. His military career began in 1900 when Hurley joined the Indian Territory Volunteer Cavalry. He became an officer in the cavalry and also a captain in the infantry of the Oklahoma National Guard. He entered the U.S. Army as a captain and declined a JAG position in Washington, D.C., instead landing in France with the first detachment of army artillery of the American Expeditionary Forces. He fought in numerous battles and earned citations from Gen. Pershing for gallantry in action and the Distinguished Service Medal for his first diplomatic venture, negotiations on behalf of the U. S. with the Grand Duchy of Luxembourg. Hurley returned to Tulsa as a colonel and reopened his law office and dabbled in other pursuits, especially commercial real estate and banking. He built the Tulsa Ambassador Hotel located at 13th and Main, which was restored in 1999 and is listed with the National Trust for Historic Preservation. During Tulsa's 1921 race riot, Hurley is credited with assembling veterans of the Spanish-American War and World War I to join with the Tulsa police and county sheriff's offices assigned to "restore order." He chaired the Republican State Convention in 1926 and declined to throw his hat in the ring for nomination for U.S. senator or Oklahoma governor. In 1929, President Herbert Hoover appointed Hurley as Secretary of War, a position Hurley held until 1933. In the final years of World War II, President Franklin Roosevelt sent Hurley to China as his "personal representative" and ambassador where he was assigned the task of stabilizing the Chinese theater divided between



Admiral B. Hayden Crawford
(Courtesy Tulsa County Bar Association)

Chiang Kai-shek, the pro-western Nationalist regime, and the fomenting Communist movement of Mao Tse Tung. He served in this capacity until 1945 when he resigned.

CONCLUSION

Tulsa lawyers were key in building the many communities that form Tulsa and Oklahoma. They were pioneers who established a new city, peacemakers who quelled violence, justice seekers who challenged and changed unfair laws, and dedicated citizens who served their country in times of war. Tulsa lawyers continue making history every day.

Author's Note: Material for this article was gathered from a series of articles the author wrote for the Tulsa Lawyer, a publication of the Tulsa County Bar Association and from Building Tulsa, Lawyers at Work, co-authored by Martha Rupp Carter, Barbara J. Eden, William C. Kellough and James Lynde Sneed.

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*Sen. Robert L. Owen posed for a formal portrait shortly after he arrived in Washington, D.C., in 1907.
(Courtesy Dorothea Owen Collection, Research Division, Oklahoma Historical Society)*

Father of the Federal Reserve

By Bob Burke

Little has been written about pioneer lawyer Robert L. Owen, one of Oklahoma's first two U.S. senators, yet his influence on America's monetary system is profound. As an attorney, banker and member of Congress, Owen's contributions are widely appreciated nearly a century after he proposed a bold and controversial plan to salvage the country's unstable economy. He is called the "Father of the Federal Reserve."

Owen was born in Lynchburg, Va., in 1856 into a distinguished family. His father, Col. Robert Latham Owen, was president of the Virginia and Tennessee Railroad, a historic Southern railway that played a strategic role in supplying the Confederacy during the Civil War. Owen's mother was Narcissa Chisholm Owen, an authentic Cherokee princess. Her grandfather, Oconostota, was principal chief of the Cherokees during the 17th century when Cherokees occupied a vast domain in the Carolinas, Virginia, Georgia, Alabama and Tennessee.¹

Owen grew up in a beautiful home called "Point of Honor," built from 1805 to 1815 on the crest of a hill overlooking the James River. The home was a large two-story mansion that has survived until the present day. It is listed on the National Register of Historic Places.²

Owen, whose Cherokee name was Oconostota, or "the groundhog," began his formal schooling in a private school in Lynchburg just after the beginning of the Civil War in which the Owen family worked diligently for the South. Col. Owen served in a Confederate unit from Lynchburg and was a successful planter and supplied food for Confederate soldiers. Narcissa joined a group of 500 Lynchburg women who

sewed uniforms for soldiers. It was not uncommon for the Owens to house wounded or sick Confederate soldiers at their home.³

After the war and during Reconstruction, Col. Owen lost his fortune and was deep in debt. In 1873, he died, leaving his family without any substantial means of support. Narcissa was forced to sell Point of Honor. She began teaching school and earned enough money to send her son to Washington and Lee University where he was trained in classical languages and mathematics and was valedictorian of his graduating class in 1877. Later a gifted orator in the U.S. Senate, he attributed his ability as a public speaker to debate experience at Washington and Lee.⁴

In 1879, Narcissa and her son moved to Indian Territory upon the suggestion of Col. William Penn Adair, a prominent Cherokee. Narcissa was entitled to a per capita share of Cherokee tribal property, a monetary incentive for her to return with her youngest son to the land of her birth.⁵ She built a home called Monticello near Salina and became an accomplished painter. Her portraits of several descendants of Thomas Jefferson were highly acclaimed at the St. Louis Exposition of 1904.⁶

After serving two years as principal of a Cherokee orphans' school at Salina, Owen studied law, passed the bar examination and moved to Muskogee. For a short time, he was editor of the *Vinita Indian Chieftain*, a newspaper at Vinita. As an outspoken proponent of quality education, he served as Secretary of the Cherokee National Board of Education from 1881 to 1884.⁷ In early 1884, Owen hired a young teacher and Presbyterian minister, Arthur Grant Evans, for a position at the Cherokee Male Seminary near Tahlequah. Evans later became the second president of the University of Oklahoma.⁸

Owen was aggressive as a businessman and understood the great potential of economic opportunity in Indian Country. His blood relationship with the Cherokees gave him access to the political and economic leaders of the Cherokee Nation. Professor Wyatt Belcher explained Owen's advantages, "He was a Southerner by birth, the son of a Confederate colonel, a sincere believer in Jeffersonian democracy, and a loyal Democrat." That was important because Indian Territory was controlled by the Democratic Party.⁹

As a young lawyer and businessman in his late 20s, Owen looked the part of a leader. He was tall and striking with black hair, dark eyes and swarthy complexion, no doubt reflecting his Indian heritage. His aggressive personality was "tempered with a pleasant manner." He was always composed and was at home with everyone. His voice, "liquid, soft and resonant," was one of his greatest political assets.¹⁰

Owen believed the politics of the Cherokee Nation was subject to graft and corruption and, as a lawyer at Muskogee, began to win battles in the interest of good government. He was a good mixer, an excellent speaker and used "discrimination" in selecting his associates while building influential friendships.¹¹

In 1885, President Grover Cleveland appointed Owen as Indian Agent to the Five Civilized Tribes. In resolving disputes among members of the Five Tribes and white settlers, he became known as a fair and honest leader.¹²

By compulsory arbitration, Owen and his staff settled thousands of civil cases in Indian Territory. The arbitration system was necessary because of the absence of a workable court system to resolve disputes. In 1889, he aided the establishment of the first U.S. Court in Indian



Photographers Harris and Ewing in Washington, D.C., made this formal portrait of Sen. Owen in the early 1920s. (Courtesy Dorothea Owen Collection, Research Division, Oklahoma Historical Society)

Territory and was secretary of the first bar association of the territory.¹³

In his final year as Indian Agent, Owen oversaw payment of federal monies to members of the Choctaw Nation to settle claims of tribal members. He was bonded for a million dollars and was authorized to draw funds from the U.S. Treasury to make payments to Choctaws. At the end of the disbursement, Owen had paid more than \$1.4 million in claims, ending the most famous case in the history of the Choctaw Nation.¹⁴

After the Republican presidential victory of Benjamin Harrison in 1888, Owen's political appointment as Indian Agent was in jeopardy. Although it took the new administration nearly a year to replace him, Owen looked for employment elsewhere.

In 1890, after the National Banking Act was extended to include Indian Territory, Owen organized the First National Bank of Muskogee, the first bank of its kind in the territory. For 10 years he was president of the bank and expanded his business interests into real estate, farming and cattle-raising. His daily contact with business leaders, farmers and ranchers established him as a leader in Indian Territory.¹⁵



Sen. Owen's portrait by famous artist Boris B. Gordon was unveiled in Washington, D.C., on May 9, 1942. Left to right, Gordon, Sen. Owen, and Owen's daughter, Dortha Owen Hamilton. (Courtesy Paul Walker Collection, Research Division, Oklahoma Historical Society)

Owen was hired by the Choctaw Nation in 1890 to prosecute land claims against the federal government. The following year, he was successful in recovering nearly \$3 million for the Choctaws and Chickasaws. He was attorney for the Cherokees in litigation against the United States. As the former Indian Agent, he knew the "ins and outs" of dealing with the Commissioner of Indian Affairs and the Department of the Interior. He ultimately recovered more than \$800,000 on behalf of the Western Cherokees and \$5 million for the Eastern Cherokees, although the latter case was not resolved until a decision was rendered in 1906 by the Supreme Court of the United States.¹⁶

Owen was heavily involved in the debate over whether Indian Territory and Oklahoma Territory should be admitted to the Union as one or two states. He first favored a separate state of

Sequoyah for Indian Territory, but recognized the national political landscape would only allow a state that combined the two territories.

Owen was a delegate to the Oklahoma Constitutional Convention in Guthrie. As it appeared a constitution would be completed and submitted to a vote of the people in 1907, Democrats and Republicans scheduled primaries to select candidates for state offices and congressional posts. Owen was one of the first Democrats to announce his candidacy for the U.S. Senate. His long years of service in Indian affairs and Democratic politics in Indian Territory made him a formidable candidate. His campaign announcement proclaimed he was a statesman of "fearless independence, a lawyer of national prominence, a businessman and an Indian."¹⁷

In his first political speech as a candidate, Owen said he believed in the great Democratic principle, "Equal rights to all, special privileges to none." He supported the right of initiative and referendum, suggested direct election of U.S. senators, opposed high tariffs that restricted trade, and called for the removal of restrictions on the sale and lease of Indian lands. Owen also assailed the power of business trusts.¹⁸

In a stirring address to hundreds of voters at the corner of Second and Main streets in downtown Tulsa in April, 1907, Owen said his long experience in Indian Territory allowed him to explain to the public the true condition among the Indians and what the government ought to do to settle its affairs with the Five Tribes. In calling for Indians to be able to freely sell their land, Owen said Indians, as citizens of the United States, should have the same rights to sell property as whites.¹⁹

Leading Democratic newspapers in both Indian and Oklahoma territories endorsed Owen. *The Shawnee Herald* said he was "best fitted" because of his experience in handling Indian affairs.²⁰

Owen liberally spent his own money on the campaign, buying advertisements in Democratic newspapers and paying poll workers and organizers in every county. *The Daily Oklahoman* observed, "He was constantly on the stump. His meetings were all brass band affairs... He went

“Owen wrote a bill for Senate consideration that gave controlling interest in the banking system to a public entity, the Federal Reserve Board.”

about it as one schooled in politics... the best schooled politician in the race.”²¹

With joint statehood assured, political leaders of Oklahoma and Indian territories reached a gentleman’s agreement that each of the territories be represented by a senator chosen from its own area. In a statewide primary on June 6, 1907, Owen received the largest number of votes, 48,885, in the field of seven candidates. Thomas P. Gore was the victor in the western half of the state with 38,288 votes, although the gentleman’s agreement assured his nomination even though he trailed Henry Furman of Ada, a candidate from Indian Territory. When the results of the election were certified, the Democratic Convention ratified the nomination of Owen and Gore.²²

Because existing law required the state Legislature to name members of the U.S. Senate, Owen and Gore were assured of election because of the huge majority Democrats held in the Oklahoma Legislature.

Owen was a recognized leader in the U.S. Senate from the time he arrived in the nation’s capital. He authored the first federal law passed by Congress to allow the federal government to control abuses of child labor. With amazing foresight, he introduced a bill to create a federal health service each session of Congress until his retirement. Ultimately, a cabinet-level federal agency was created and, a century later, the Department of Health and Human Services (HHS) is responsible for one-fourth of the expenditures of the annual budget of the United States.²³

However, Owen saved his greatest legislative effort to fix the American economy. His friend, Woodrow Wilson, was elected president of the United States in 1912. Owen turned down a cabinet position to push Wilson’s plans to reform the country’s banking system.

The new Democratic Senate established the Committee on Banking and Currency (Senate Banking Committee) to oversee the nation’s monetary policy. Owen was named the first chairman of the committee, a post he retained until Republicans gained control of the Senate in 1919, after which he remained a member of the committee until his retirement from the Senate in 1925.

One of Owen’s first duties as chairman of the Senate Banking Committee was to appoint a subcommittee to work with a similar committee in the House of Representatives to study the money question. For three quarters of a century after the charter of the Second Bank of the United States was allowed to expire, the nation did not have a central bank. After a string of financial panics, particularly a severe economic downturn in 1907, many Americans, including Owen, called for reform of the banking and currency system.

Owen’s fears of the American banking system revolved around what he called the “money trust,” a group of powerful financial managers and bankers in New York City. *The Wall Street Journal* said the term “money trust” was simply a reference to John Piermont “J.P.” Morgan, who dominated the banking and industrial merger business of his time. He arranged mergers between companies that resulted in huge corporations such as General Electric and U.S. Steel. Although Morgan had died in March 1913, his companies and banks controlled much of the credit in the nation.

President Wilson wanted government to control the monetary system, not private bankers. Working with Owen and Representative Carter Glass, Democrat of Virginia, the chairman of the House Banking and Currency Committee, Wilson advocated sweeping reform. Both Glass and Owen had visited with Wilson about the need for reform during the campaign and both had submitted drafts of proposed legislation.

Owen wrote a bill for Senate consideration that gave controlling interest in the banking system to a public entity, the Federal Reserve Board. Another major change from past policy was that currency would be an obligation of the U.S. Treasury, rather than private banking institutions. In addition, Owen’s bill mandated that all national banks be a member of the Federal Reserve System. In the House, Representative Glass authored similar legislation. As soon as the House passed the Glass Bill, Owen set

special hearings in efforts to blend the two bills into one piece of legislation commonly called the Owen-Glass Bill.²⁴

Several large banks publicly opposed the Owen-Glass Bill. A. Barton Hepburn, chairman of the Chase National Bank of New York, said the bill was "born in a caucus and cradled in politics."²⁵ When *The New York Times* accused Owen of not giving bankers an opportunity to be heard, Owen produced copies of letters to leading bankers inviting them to appear before his Senate committee and the transmittal of a preliminary draft of the proposal to the American Bankers Association. In a stinging letter to Marshall Field and Company, Owen suggested that *The Times* accusation was planted by the National City Bank of New York to discredit the administration. Owen said he was not surprised that a few men having enormous control of credit in the country should oppose surrendering to the United States the vast power they held to enrich or impoverish other men.²⁶

During months of hearings, debates, votes and amendments, Owen maintained an aggressive publicity campaign to explain to the nation the benefits of a Federal Reserve System. He had thousands of copies of the Owen-Glass Bill printed for public distribution, held meetings with reporters to field questions about the complicated legislation and visited often with Secretary of the Treasury William G. McAdoo and President Wilson.

Owen sought every possible public forum to explain the purposes of the banking and currency reform. In *The North American Review* magazine, Owen wrote a long article, "The Origin, Plan, and Purpose of the Currency Bill." He said the purposes were:

To make stable the commerce, industries, and finances of the United States; afford a uniform low rate of interest for legitimate commercial purposes; prevent the possibility of panic; stimulate the activities of the people in manufacture, commerce, agriculture, and various industrial pursuits by removing, absolutely, the hazard of panics, and giving a national guarantee of stable conditions, so that men might calculate with



The USS Oklahoma was christened in New York City in 1914. Front row, left to right, unidentified, Mrs. Josephus Daniels, Mrs. Robert L. Owen, Sen. Robert L. Owen, Sen. Thomas P. Gore. Back row, unidentified, unidentified, Secretary of the Navy Josephus Daniels, and Assistant Secretary of the Navy Franklin D. Roosevelt, later president of the United States. (Courtesy Research Division, Oklahoma Historical Society)

precision on the future; to withdraw the excessive and dangerous use of the reserves of the nation from the speculative market in bonds, stocks, or other products; and to enable the United States to protect foreign commerce.²⁷

On Nov. 22, 1913, Owen submitted a formal report to the president and Congress on the final form of the Owen-Glass Bill. He also had arguments for and against the bill printed for wide distribution. On the Senate floor, Owen bitterly fought against any amendments, maneuvers he saw as delays.

The final legislation contained 30 sections and was known as the Federal Reserve Act. The House agreed to Senate changes and approved the act on Dec. 22, by a vote of 298 to 60. The following day, the Senate approved the measure 43-25. Only two Democrats in the House and none in the Senate opposed the administration-backed bill. President Wilson signed the bill and the Federal Reserve System was created.²⁸

Owen told a newspaper reporter:

The great value of the new banking bill passed by Congress as a Christmas gift to the nation, consists in giving stability to the industries, the commerce, and the finances of the United States... It will open the gate

of opportunity and control monopoly. It will curb the effect of panics, and business may be undertaken without the restriction of credit that has at times paralyzed the business life of the nation.²⁹

Passage of the Federal Reserve Act was historic. President Wilson laid to rest decades of monetary debate. Nearly a century after its passage, a major financial journal wrote in 2004:

Wilson's signature catapulted the Federal Reserve System into an monetary adventure that would evolve from a passive institution designed to prevent banking panics into what came to be known as a central bank, with an independent mandate from the body politic as an active promoter of monetary stability... and supremely powerful financial arbitrager over the economy of the nation and the world... an institution owned not by the people and controlled not by democratically elected officials, but by political appointees acceptable to private bankers.³⁰

On the day President Wilson signed the Federal Reserve Act, he wrote a short note to Owen:

My dear Senator:

Now that the fight has come to a successful issue, may I now extend to you my most sincere and heartfelt congratulations and also tell you how sincerely I admire the way in which you have conducted a very difficult and trying piece of business? The whole country owes you a debt of gratitude and admiration. It has been a pleasure to be associated with you in so great a piece of constructive legislation.

Woodrow Wilson³¹

After his retirement from the Senate in 1925, Owen practiced law in Washington, D.C., and represented Indian tribes in dealings with the federal government. For the final decade of his life, he was the nation's oldest living former U.S. senator. Finally, old age overtook Sen. Owen. He died on July 19, 1947, at Emergency Hospital in Washington, D.C., at the age of 91. Simple funeral services were held in Washington, D.C., with internment in the city of his birth, Lynchburg, Va.³²

In 1948, the Oklahoma Society planted a memorial tree in honor of Owen near the Hotel

2400 where Owen lived during the final years of his life. In 1971, Oklahoma and Virginia officials gathered at his gravesite in Lynchburg to dedicate a seven-foot Cherokee granite headstone that contained a bronze plaque provided by the Oklahoma Historical Society.³³

The same year, Sen. Owen became the first member of the Cherokee Hall of Fame. The Federal Reserve Bank of Kansas City sponsored a Cherokee marble monument placed in the Cherokee capital of Tahlequah, inscribed with the seals of the Cherokees and the Federal Reserve Bank.³⁴

For many years, Owen lamented the fact that he was seldom mentioned as the father of the Federal Reserve System. That incorrect note on history was corrected when the park outside the Federal Reserve System's headquarters in Washington, D.C., was named the "Robert Latham Owen Park."³⁵

A day after Sen. Owen died in 1947, *The Daily Oklahoman* called him "Oklahoma's Best Asset." In an editorial, the newspaper said:

During the 18 years that Robert L. Owen was in the Senate the entire country knew that Oklahoma was capably and even brilliantly represented. No man in the Senate was more highly respected. And the Senator was respected no more for his fault-less manner than he was for his pronounced ability. He was pre-eminent, both as a man and as a statesman. He was a major contribution to the official life of the nation, and he deserved abundantly the unfaltering trust that the people of Oklahoma reposed in him. A really great man has vanished.³⁶

1. *The Chronicles of Oklahoma*, Oklahoma Historical Society, Vol. 32, p. 266.

2. www.the-lynchburg-va-insider.com.

3. *The Chronicles of Oklahoma*, Vol. 32, p. 2.

4. *Ibid.*, Vol. 25, p. 178.

5. *Ibid.*, Vol. 31, p. 362.

6. *Ibid.*, Vol. 32, p. 267.

7. Edward Elmer Keso, *The Senatorial Career of Robert Latham Owen* (Gardenvale, Canada: Garden City Press, 1938), p. 13, hereafter referred to as Keso.

8. *Encyclopedia of Oklahoma History and Culture*, Oklahoma Historical Society, "Arthur Grant Evans."

9. *The Chronicles of Oklahoma*, Vol. 31, p. 362.

10. *Ibid.*, Vol. 31, p. 362.

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13. *The Chronicles of Oklahoma*, Vol. 25, pp. 178-179.

14. *Ibid.*

15. *The Daily Oklahoman*, March 14, 1907.

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18. *The Daily Oklahoman*, March 15, 1907.

19. *Ibid.*, April 9, 1907.

20. *The Shawnee Herald*, May 10, 1907.

21. *The Daily Oklahoman*, March 15, 1925.
22. *Ibid.*
23. www.hhs.gov, the official website of the U.S. Department of Health and Human Services.
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25. *The Daily Oklahoman*, Oct. 15, 1913.
26. Letter from Robert L. Owen to Marshall Field and Company, Sept. 1, 1913, Robert L. Owen Collection, Library of Congress.
27. *The North American Review*, October 1913, pp. 556-560.
28. *The Daily Oklahoman*, Dec. 24, 1913.
29. *Ibid.*
30. www.atimes.com, the official website of *Asia Times*, "Global Economy."
31. Letter from Woodrow Wilson to Robert L. Owen, Dec. 23, 1913, Oklahoma Historical Society.
32. *The Daily Oklahoman*, July 20, 1947.
33. *Ibid.*, Sept. 26, 1971.
34. *Ibid.*, Feb. 4, 1971.
35. www.federalreserve.gov, official website of the United States Federal Reserve System.
36. *The Daily Oklahoman*, July 20, 1947.

ABOUT THE AUTHOR



Bob Burke, an Oklahoma City workers' compensation lawyer, has written more historical non-fiction books than anyone else in history. His 100 books chronicle Oklahoma's bold and exciting past. He and Judge Robert Henry, now the president of Oklahoma City University, have completed the first draft of a biography of Thomas P. Gore and Robert L. Owen to be published in 2011 by the Oklahoma Heritage Association.

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*Charles West, Oklahoma attorney general from statehood until 1915.
(Courtesy Research Division, Oklahoma Historical Society)*

Textbooks, Trolleys and Tribunals Separation of Church and State in Early Oklahoma

By John Little

Charles West, Oklahoma's attorney general from statehood until 1915,¹ may have the distinction of being the nation's only public attorney to ever represent a Catholic school as an official act of his office.² By doing so, he likely also participated in the first case involving separation issues in the transportation of children to a sectarian school decided by a high court in any state of the nation. How this came about is also the story of a legendary Oklahoma family, the prejudices of a particular era and was a prophetic example of the nation's future in the area of "separation" issues.

CASE BACKGROUND

In 1911, Oklahoma City was a young, growing community. Before statehood, the city — as a part of its planning for the future — entered into a contract with the Metropolitan Railway Co. of Oklahoma to create a trolley system for safe, convenient transportation. As a part of this contract, the city provided easements for the company. In exchange for the easements and franchise, the firm agreed to a number of terms including a provision to permit school age children to purchase ticket books for half of the normal price. The tickets would be honored by the company during school hours which meant the time just preceding, during and succeeding the normal school session time. By 1911, the successor in interest to this contract was the Oklahoma Railway Co. In 1907, several years after becoming the successor to the contract, it had objected to this special rate for

school children. The company lost to a contentious Oklahoma City. The opinion in that case included this statement:

The reduced transportation for the children... does not come from the respondent railway company, but from the city. It is the result of the city's act just as much so as if it had by bonded undertaking raised the money and paid a moneyed (sic) consideration to the respondent corporation, as a result of which said corporation had undertaken and bound itself to carry the school children under the terms named in that franchise....³

No mention was made in the franchise agreement as to how this would apply to any students other than those in the "public school;" as a result, the children attending the Catholic school, St. Joseph's, had paid the full fare since the inception of the contract.

Local Roman Catholic laymen J. A. Braniff, J. Frank Laux and John Von Elm asked the company to give Catholic school students the same benefit the public school children received. The trolley company executives said they would very much like to do so, but that it was out of their hands. They explained that they were bound by the rules of the Corporation Commission to perform the contract with the city in exactly the way it was written.⁴ The company officials did not realize the tenacious nature of the men who had approached them. The persistent parochial parents proceeded to the Corporation Commission.

The leader of this small but determined group, J. A. Braniff, was originally from Pennsylvania. Ambitious to provide a better life for his family and himself, he worked in a railroad office for two years to finance his law school attendance. He was admitted to the bar in Altoona, Penn., then moved to Kansas. Though trained as a lawyer, by attitude and personality, Braniff was a salesman: jovial, aggressive, pleasingly natured. By 1901, he had moved his entire family to Oklahoma City. (His entrepreneurial ability was passed on to his children. Thomas, his second son, built an insurance and real estate empire that produced one of Oklahoma City's first "skyscrapers." Through his financial connections, Thomas teamed up with his brother, Paul, to build Braniff International Airways.)⁵

Braniff knew that persistence paid off. He discussed the issue of the variance in the rates with Commissioner Henshaw before he filed a formal complaint on behalf of the school, his associates and himself. He was told they would not need additional counsel but could pursue the matter representing themselves. The Corporation Commission convened a formal hearing, with Commission Chairman J. E. Love and Commissioner George A. Henshaw as the hearing officers. The trolley company's attorneys, the firm of Asp, Snyder, Owen and Lybrand, was led by Henry Asp. A prominent attorney and political activist, Asp had been a Republican delegate to the state's Constitutional Convention. He was the primary legal representative for the Santa Fe Railway in Oklahoma, and had represented Sam Houston's son, Temple, in a murder trial in Woodward.⁶ The commission heard

the testimony and then ordered the trolley company to offer the Catholic children the same option provided to students in publicly supported schools.⁷

SEPARATION OF CHURCH AND STATE — THE UNDERLYING CASE

In light of the attention "separation" issues now command, it is interesting that neither side to this dispute raised the issue of government support of religion. The plaintiffs were concerned about fairness; the defendants argued impairment of contract. The complaint brought by St. Joseph's before the commission stated:

That said defendant discriminates against the complainant by charging the pupils attending St. Joseph's School twice the amount of street car fare that it charges the pupils attending the various public schools of Oklahoma City; That complainants has [sic] on various occasions called this matter to the attention of the officials of th [sic] Oklahoma Railway Company and have always been refused the benefit asked: That complainant believes that the action of the defendant is class discrimination and that complainant is entitled to the same consideration that is extended by the defendant to the pupils of the public schools.⁸

The root of the railway company's defense was its contract with Oklahoma City, which originated in 1902. Oklahoma City had passed an ordinance (No. 281) to authorize the construction and maintenance of an electric railway system in its streets and alleys. The Metropolitan Railway Co. of Oklahoma was granted the



Oklahoma Railway Co.'s old street car barn, NE 13th and Santa Fe, Oklahoma City. (Courtesy Research Division, Oklahoma Historical Society)

charter. The Oklahoma Railway Co. became the approved successor to that contract in July 1904. The trolley company stipulated that providing the reduced-rate transportation to students in publicly supported schools was part of the cost for owning the franchise. Asp's presentation before the Corporation Commission emphasized the religious nature of St. Joseph's Parochial School, but only to show that St. Joseph's was not a public school and therefore not contemplated by the trolley company's contract with the city. The trolley company contended that an order to force it to extend the public school rate to a private academy also would devalue its contract. The commission, in its fact finding function, determined there were no publicly supported schools in Oklahoma City when the contract was made in 1902. Therefore the term "public schools," as used in this contract, meant schools available to the public whether supported by public funds or private benevolence.⁹

The railway company disagreed with the commission's order because it thought the Corporation Commission was without jurisdiction. The company also thought that the order violated the provisions of the state and federal constitutions (impairment of the obligation of contracts), and the order was contrary to law and based on false assumptions. The appellant claimed that the order was based on statutes which did not apply to cities as large as Oklahoma City at the time the contract was made. Finally, the company argued that the order was not supported by sufficient evidence and was contrary to law.¹⁰ (No mention was made within the trolley company's appeal to the Supreme Court of possible bias by the chairman of the Corporation Commission, J. E. Love. Commissioner Love was up for re-election in 1912. Railroads were not popular with the general public, and Love was thought to have a "personal feud" with the railroads.¹¹)

SEPARATION OF CHURCH AND STATE — SUA SPONTE ISSUE

Just as the Asp firm had represented the railway company before the Corporation Commission they also represented it before the Oklahoma Supreme Court. Since the trolley company's appeal was raised against an order of a state agency, the parish school and its laymen advocates were in the interesting position of

having the state's attorney general represent the Catholic school's case before the Oklahoma Supreme Court.

Justice Robert L. Williams wrote the opinion for the court in this case. By way of background, Williams, a former Methodist minister, came to Oklahoma and settled in Durant and became active in Democratic Party politics. In 1904 he became Oklahoma's national committeeman. He shared a leadership role in the Oklahoma Constitutional Convention in 1906. In 1907, he opted to be the first chief justice of the Oklahoma Supreme Court even though at the time he was considered a strong candidate for governor. After serving seven years on the high court,



St. Joseph's Catholic Church, Oklahoma City (Courtesy Research Division, Oklahoma Historical Society)

he would be elected governor of the state in 1914. The possibility exists that in 1912, like Commissioner Love, Williams also looked forward to an election. As certainly as early Oklahoma settlers (mostly Protestants) held deep prejudices against the Catholic church, they may have held even deeper prejudices against the powerful railroad companies. Defending helpless Catholic children from discrimination by the "evil" railroads might still help a political career.¹²

“Speaking for the Oklahoma court, Justice Williams wrote that any other result would discriminate between parents of all children attending privately funded schools and those attending publicly funded ones.”

Neither the trolley company nor the attorney general addressed the “separation” issue in their briefs to the court. It would be 35 years before the word “separation” would become a term of disgust among Oklahomans and cause a national debate as a result of the *Everson* opinion.¹³ Williams, a thorough jurist, raised it as an issue on his own:

To say that the state is hostile to all schools except the public schools of the state or those carried on in state institutions is not borne [sic] out by the record. True... the (Oklahoma) Constitution prohibits money or property... for the use... of any sect... (but) the makers of the Constitution recognized that parents might prefer their children to attend... private schools rather than the public schools... and such is permitted.... The object in view was to facilitate the education of the children of the city. Is it to be assumed that the mayor and council of said city would enter into a contract... by which children of a certain age should be transported to the public schools maintained by public taxation at half price when other children, going to schools that were maintained by private agencies by private benevolence for the benefit of the public should pay full fare? Such discrimination in making the contract is not to be presumed.¹⁴

Speaking for the Oklahoma court, Justice Williams wrote that any other result would discriminate between parents of all children attending privately funded schools and those attending publicly funded ones. This Oklahoma case set the standards for Oklahoma, in this area of the law, from 1912 until 1941 when it was effectively overturned.¹⁵ Later, in 1947,

Everson began the extension of the judicial doctrine of “incorporation” of the national judicial standards concerning “separation of church and state” into virtually any state practice which allowed the intermingling of religion with the public school systems of the several states. As a result, the drama mostly moved from the state court systems into the federal systems.

There are several differences and similarities in this case to the above mentioned *Everson*. Two are most important. First in *Everson* the issue was that there were actual cash reimbursements made for the costs of transportation whereas in *St. Joseph’s* the relief sought was equitable treatment in transportation costs for students in sectarian institutions compared to the public school children. The second was that the Oklahoma Corporation Commission ruling was directed at transportation for *all* school children, whereas the Ewing School Board, in *Everson*, directed benefits toward *only* the Roman Catholic and public school children, ignoring other possible groups.¹⁶ While the basis for each of these decisions by the two courts was different, the results were the same: attending a Catholic school did not strip the children of the protections due them from the state.

SEPARATION OF CHURCH AND STATE — TODAY’S OUTLOOK

Oklahoma has a rich and interesting history concerning “separation” issues ranging from whether a public college girl should be forced to pay fees to a local YMCA¹⁷ to whether religious symbols can be worn over one’s gown at a graduation ceremony or even whether a valedictorian can make a religious reference in her speech.¹⁸ Perhaps the capstone of Oklahoma’s experience was the debate over before-school Bible clubs which resulted in a full-blown federal trial.¹⁹

At the time of the *St. Joseph’s* case in Oklahoma’s public schools, it was common for each day to be begun with prayer and a Bible reading. At least two education majors at the University of Oklahoma wrote a master’s thesis on the proper way to conduct these programs.²⁰ A survey conducted for a dissertation in 1968 found that prayer and Bible reading, while no longer “common,” were still frequent.²¹ A survey conducted by this author in late 1996 found such practices to only barely exist.²² For all practical purposes, no religious practices exist in Oklahoma’s schools. Alexis de Tocqueville

wrote in *Democracy in America* that a distinguishing characteristic of America was that we were a nation of laws; commenting on this idea, Mary Ann Glendon wrote in *Rights Talk* that in America our culture may be shaped more by our laws than our religions. Oklahoma's experience may well prove her point.

1. 2001-2002 *Oklahoma Almanac*. (The Oklahoma Department of Libraries, 2001), 734.
2. *Oklahoma Ry. Co. v. St. Joseph's Parochial School, et al.*, 33 Okl. 755 (1912).
3. *Oklahoma City v. Oklahoma Ry. Co.*, 20 Oklahoma Decisions 10, (1907).
4. *Corporation Commission Cause No. 1452*, Transcript of Hearing, 6.
5. Harlow, Rex, *Oklahoma Leaders*. (Oklahoma City: Harlow Publishing Company, 1928), 314-316; Brown, Thomas Elton, "Bible-Belt Catholicism: A History of the Roman Catholic Church in Oklahoma, 1905-1945" (Ph.D. diss., Oklahoma State University, 1974); Interview with John Paul Braniff, grandson of J. A. Braniff, Nov. 19, 1996; Little, John, "Separation of Church and Slate: A History of Religion in Oklahoma's Public Schools" (M.A. thesis, University of Central Oklahoma, 1997).
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7. *Corporation Commission Order No. 538*.
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10. *Brief of Plaintiff in Error*, Supreme Court No. 3921, 35-36.
11. Hurst, 63-66.
12. Harlow, 89-99.
13. *Everson v. Board of Education*, 330 US 1 (1947).
14. *St. Joseph's*, 758.
15. *Gurney et al. v. Ferguson et al.*, 190 Okl. 254 (1941).

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17. *Connell, et al. v. Gray*, 33 Oklahoma Reports 591 (1912).
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ABOUT THE AUTHOR

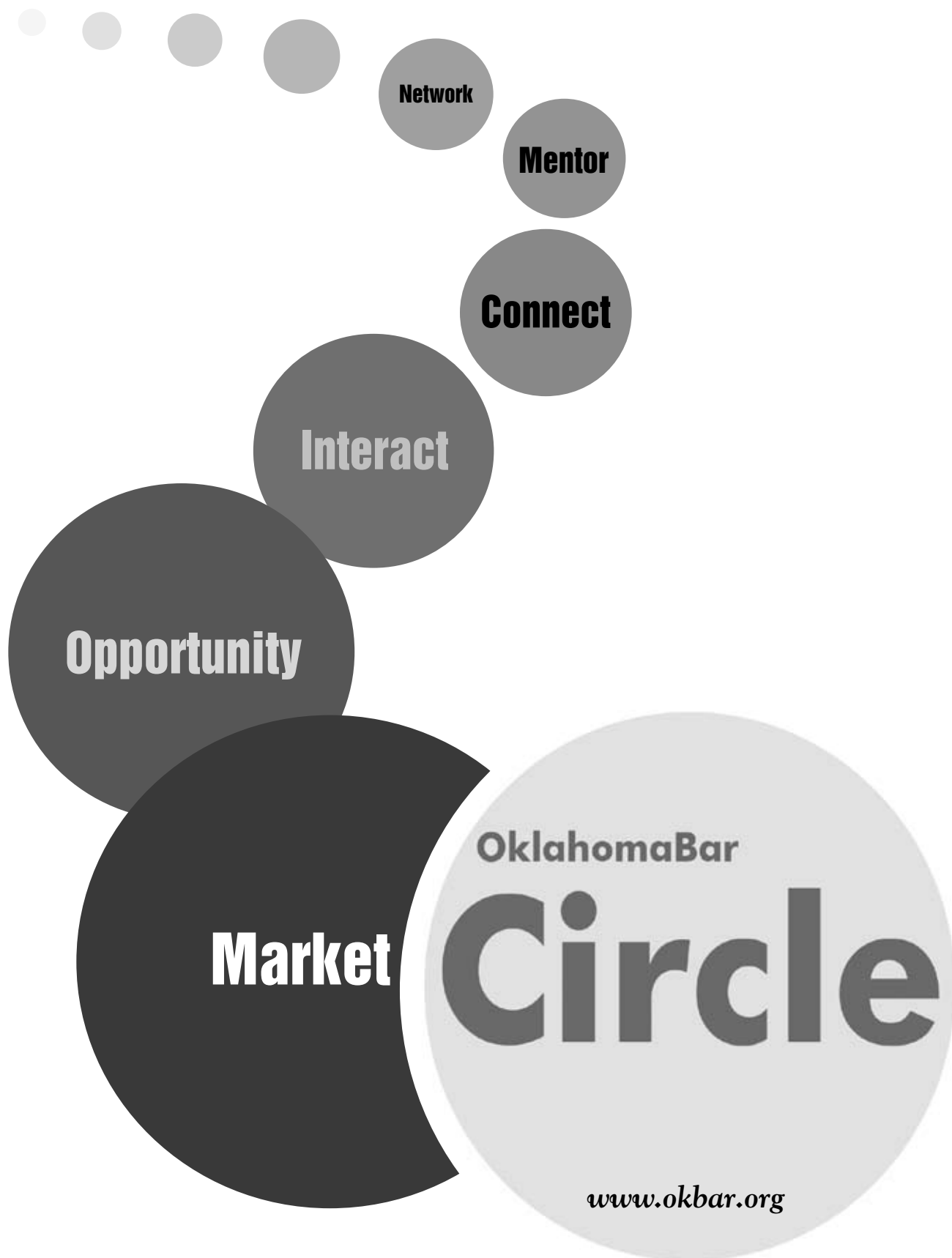


John Little is the director of planned giving at Oklahoma Baptist University. He received his bachelor of science in accounting from the University of Central Oklahoma in 1969, J.D. from OCU in 1973 and a master of arts in history from the University of Central Oklahoma in 1997. The material for this article was drawn from his thesis, which won the Oklahoma Historical Society's award for best master's thesis on Oklahoma history for 1997.

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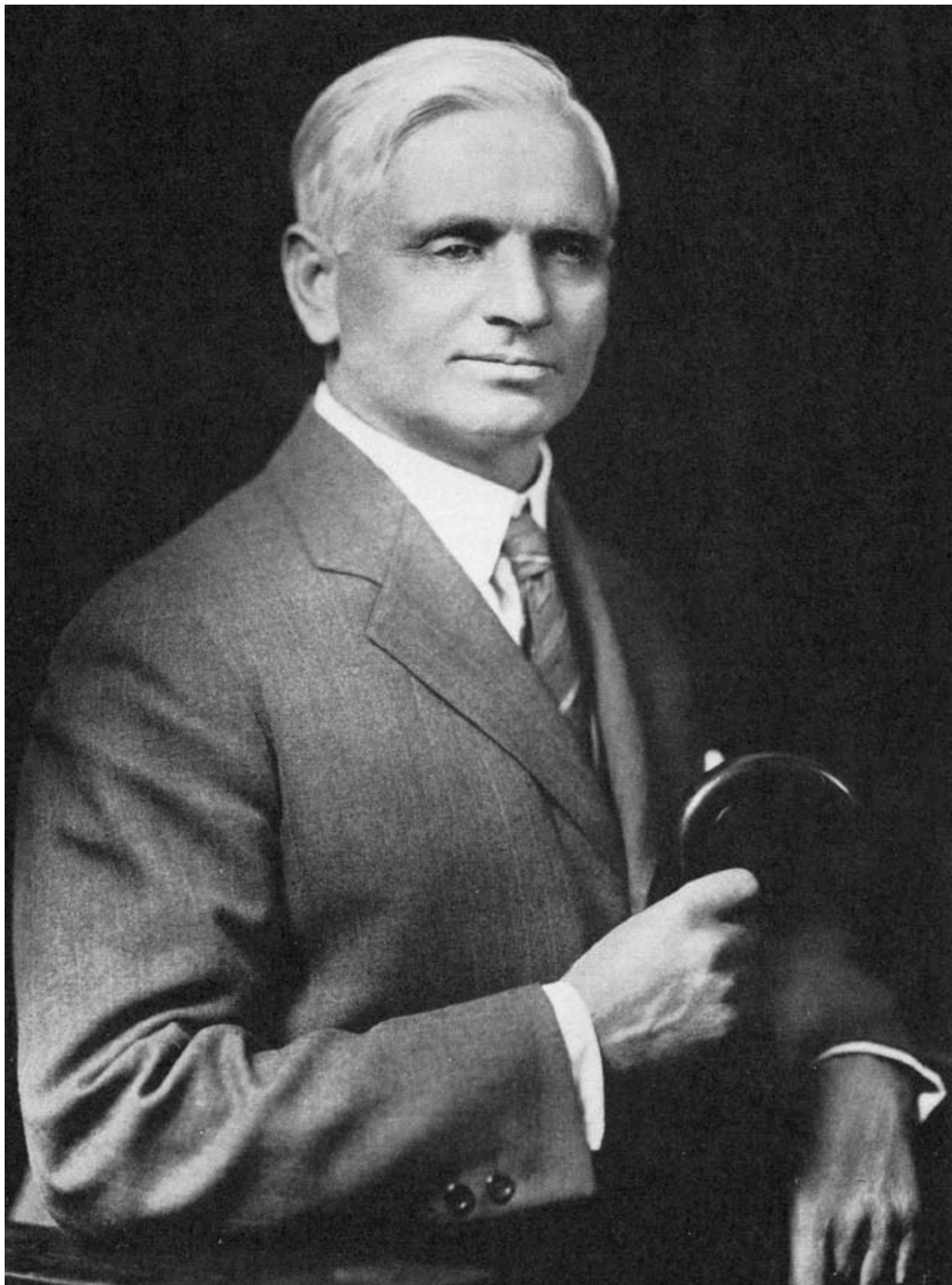
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Sen. Thomas P. Gore became a well-respected lawyer in Washington, D.C. after serving as Oklahoma's first U.S. Senator. (Courtesy Carl Albert Center Congressional Archives, University of Oklahoma)

Blind Man's Trap

By Bob Burke

Moman Pruiett was Oklahoma's most colorful criminal lawyer in the early years of statehood. However, defending the honor of a blind U.S. senator from Oklahoma accused of sexual assault earned Pruiett his most prominent national attention in 1914.

Pruett established a law practice at Pauls Valley in Indian Territory in 1896 after a troubled past in Arkansas and Texas. He served prison terms in both states and changed his name from his birth name of Moorman, to Moman, because his mother suggested he had shamed her family name. He studied law after his mother begged a pardon for him in Texas.¹

A fiery orator, heavy drinker and flamboyant courtroom lawyer, Pruiett boasted of winning acquittals in 303 of 343 murder cases. In the only case in which Pruiett's client was sentenced to death, President William McKinley commuted the death sentence to life in prison.²

Pruett, as a special delegate to the Oklahoma constitutional convention, almost was able to get a county named for him. But after a dispute with future Oklahoma Gov. Charles Haskell over procedural matters, Moman County was renamed Creek County. Pruiett's temper and legal antics caused Walter Harrison, the veteran editor of *The Daily Oklahoman*, to remark, "Pruett is the greatest master of backwoods psychology, actor, hypocrite, fakir, lawyer, showman, and publicity expert the courts of Oklahoma ever will look upon."³

It was to Pruiett that Thomas P. Gore turned in 1914 when his career and good reputation was severely threatened. Gore was chosen by the state Legislature as one of Oklahoma's first two U.S. senators in 1907 while practicing law in

Lawton. He had lost sight in both eyes as a result of two childhood accidents. Gore was a gifted orator who had won great respect from colleagues in the U.S. Senate and among his constituents in Oklahoma.⁴ Judge Robert Henry, a longtime student of Gore's life and political career, said:

A master of the somewhat florid Elizabethan style of oratory that was popular in the early 1900s, Gore could demolish opponents with an arsenal of facts, figures and techniques which often included in the words of historian James Ralph Scales, "a sardonic quip or dubious Biblical quotation."⁵

The Oklahoma senatorial campaign of 1914 showed the promise to be one of the dirtiest elections in American history. Oklahoma was young, a mere seven years old, so its campaign traditions were not yet fully formed. But perhaps this campaign would set the melodramatic stage of future Oklahoma politics. When Gore's opponents could not find major fault with his politics, they planned a trap to discredit him in the eyes of voters in Oklahoma.

The principal villain in the scheme was Oklahoma businessman J. F. McMurray, a man who according to one of his adversaries could "carry a bundle of eels upstairs and never drop a one." Unsatisfied with a lucrative \$750,000 fee for riding Choctaw and Chickasaw tribal rolls of interlopers, attorney McMurray had secured

contracts with the tribes granting him a 10 percent fee on a proposed sale of Indian coal and asphalt lands valued at \$30 million. Various factors delayed the necessary presidential approval of the contract, and Gore, upon learning of McMurray's actions in 1910, set about to destroy the agreements, which he did.⁶

A co-conspirator with McMurray was Col. Robert A. Rogers of Oklahoma City. He was wealthy and looking for fame. He was a classmate of President Woodrow Wilson at Princeton University, a large landowner, a prosperous, prominent Westerner, and he badly wanted a Cabinet secretary position. Rogers' reputation had been blemished two years before in a sensational divorce trial in which he was defended by Moman Pruiett.⁷



Sen. Gore, his wife, Nina Kay, and children, Thomas P. Gore Jr. and Nina. (Courtesy Carl Albert Center Congressional Archives, University of Oklahoma)

With his reputation at least refurbished, Rogers actively sought the federal post. One thing was required, however. Senatorial courtesy still reigned supreme on Capitol Hill and Gore would not budge. It is not completely known what caused Gore to so adamantly oppose Rogers for a Cabinet position, but he totally refused to support him.

It is also not clear how McMurray and Rogers got together, but they teamed with a group of

lobbyists and developed a treacherous plan to trap Sen. Gore. They picked as the bait for the trap Minnie Bond, the wife of a man who also had been unsuccessful in winning Gore's support for a government job.⁸

The plot was simple. Mrs. Bond would approach Gore about the denied appointment for her husband. She would thereby become personally acquainted with the senator and, using her status as a woman temporarily alone in a strange city, she could later ask Gore to come to her Washington, D.C., hotel to discuss the matter again. Hotels had semi-private parlors where such discussions were often held; it would be quite proper for a gentleman to travel to such a hotel rather than to make an unaccompanied lady travel again to the Senate. In those days, it was a common part of a senator's job to devote a considerable portion of his time to helping constituents obtain jobs.⁹

After luring Gore to the trap site, Mrs. Bond would simply need to figure out a way to get him in private room and then scream, which would bring the well-known waiting "witnesses" to verify her story. Testimony later revealed that Mrs. Bond took Gore to a friend's room in order that she might check on the availability of the parlor. She returned and, taking advantage of Gore's blindness, stated that the parlor was full of school children and that they would have to talk in the room, thus giving her a place and sufficient time to claim the attacks occurred.¹⁰

Instead Mrs. Bond took him to the bedroom of the hotel suite and tried to pull him down on the bed. When she yelled for help, another of Gore's enemies, Thaddeus Robertson, just happened to be looking through the keyhole from an adjoining room in the Winston Hotel.

The perpetrators first tried to use the incident to blackmail Gore, whose response could be characterized as blunt, "I will see them in Hell first." Turned down by Gore, the conspirators took their case to the prosecuting attorney of the District of Columbia. He refused to prosecute, calling the conspirators "snakes" who ought to be prosecuted themselves. The matter was called to the attention of the Senate that voted a resolution of confidence in Gore.¹¹

Their ship rapidly sinking, the plotters had to make a desperate attempt not only to maintain their effort to destroy Gore, but to try to mend what little credibility they maintained. Their new approach was the filing of a \$50,000 civil suit in Oklahoma, a place where newspaper

coverage surely would generate damning publicity for Gore.

To fight the lawsuit, Gore hired Pruiett who began an aggressive defense of the lawsuit. He traveled to southeast Oklahoma from whence Mrs. Bond had come to "expose a few of Minnie's apparent many indiscretions." Pruiett's investigator discovered that the woman had lived in Caddo, Okla., as the wife of a local dentist, and her reputation was less than stellar.¹²

The Gore-Bond trial attracted more attention to Oklahoma than any other political event since statehood, from *The New York Times* to the smallest Oklahoma weekly. Newspapers from distant cities sent reporters to observe the trial. It was better than any future movie of courtroom drama as the gifted lawyer, Pruiett, cross-examined Mrs. Bond and her trio of witnesses for hours, picking apart their contrived stories.



Sen. Gore, right, and his wife, Nina, greet friends by telephone on a visit to Oklahoma City in 1940. (Courtesy Oklahoma Publishing Company)

Sen. Gore asked to testify in his own behalf. He categorically denied any improper action toward Mrs. Bond and told jurors he believed the suit was in direct retribution for him not supporting Rogers and others for government positions and to damage his chance of being re-elected.¹³

The *St. Louis Globe Democrat* reporter wrote in a front-page story, "Speaking in a loud, clear voice, Sen. Gore denied every essential part of the testimony of Mrs. Bond... and the other members of the alleged conspiracy against him." *The Kansas City Star* reported, "The Gore case has exposed once more the methods used by

unscrupulous politicians to discredit men who are in their way."¹⁴

When testimony ended, it was time for closing arguments. The gallery was filled with interested onlookers and scores of newspaper and magazine reporters. Pruiett stood tall and began to address the jury:

A U.S. Senator is on trial here today because on the floor of Congress he has stood between the helpless Indians of this state and the political crooks and thieves who wanted to rob them. He is on trial because he has incurred the enmity of political vandals by refusing to appoint them to office.

In the jury box where you sit, you have an unusual advantage over my friend and client, the defendant. You can see him but he cannot see you. He is in the dark. He cannot look into your face and judge from your countenances what manner of men you are...¹⁵

Pruett quoted the Bible and great legal scholars as he explained the conspiracy that led to the "sad and sorrowful spectacle of a blind man high in the councils of the Government, who has hitherto led a life of honor, merit, and truth, forced to meet the unmerited indignity of a political persecution."¹⁶

Pruett demonstrated no sympathy as he called Mrs. Bond names normally reserved for the most despicable characters in town. He said:

They'd have you believe that she is as pure as a rose opening for the first time to the rising sun; that no rough hands have ever soiled her; that she has always trod the lily path of virtue... No honest man has raised his voice to defend her here; no woman has sat near her throughout the long days of this trial. Her own sex has avoided her. She is a thing apart because of this shameful thing she has done. Even a scarlet woman would not touch the hem of her skirt, this woman whose proposed victim was a blind man.

Can you doubt the utter depravity of this woman whose life since childhood has been one continuous night of lewdness and shame; who has trod the path of unfaithfulness... Can you say that this woman, whose soul is steeped in the very fumes of hell, is

the coy and bashful matron, the modest violet, the unsoiled flower, the eloquent gentlemen have pictured her to be? Can you, with any degree of sincerity, give serious consideration to the testimony of this creature who upon the witness stand showed not the least look of pity, the least sign of regret, the least feeling of sorrow as she sought to mulct from this defendant damages as a reward for her own criminal practices.

I say that her testimony deserves no serious consideration at your hands. I say to give her one penny in damages would be turning this court into an instrument for the purpose of levying blackmail, and remove the legal shackles from the foul hand of extortion. It would paint the blackest page in the judicial history of this state and become an everlasting disgrace to this temple of justice.¹⁷

After his detailed analysis of the testimony in the case, Pruiett chided Gore's accusers:

The plaintiff and her witnesses are all of the same litter, all spawn of the same kennel, and, now, at the close of the trial, they will all go hence branded, so that all men may hereafter know them for just what they are — cowardly brigands who have tried to rob a blind man on the highway, of his good name and of his great and honorable reputation.¹⁸

The jury completely agreed with Pruiett's assessment of the evidence and acquitted Gore of any wrongdoing in less than three minutes of deliberation on Feb. 18, 1914. Sen. Gore told a large crowd of reporters outside the courtroom, "The verdict confirms my faith that truth will triumph. I never for a moment doubted the outcome at the hands of the jury."¹⁹

After the spectacular trial and Gore's complete exoneration in quick order by the jury, the nation's press was prompt in its praise of the verdict and of Pruiett's skill as a lawyer. The Associated Press called the trial the most spectacular civil suit case in the history of the nation. *The Baltimore Sun* editorialized, "We congratulate Senator Gore on the verdict which has so emphatically given the lie to the trumped-up charges against him. He has performed a fine public service in refusing to make terms with the blackmailers, and fighting them in the open."²⁰

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Gore used a campaign brochure in the 1930 race for the U.S. Senate which outlined his record of 14 years in the Senate and his displeasure with big business. (Courtesy Gore Collection, Carl Albert Center, University of Oklahoma)

The Washington Post said, "All the men in public life will feel reassured by the outcome of the sensational trial in Oklahoma, in which Senator Gore was properly exonerated." *The Press* in Philadelphia, Pa., noted the verdict, "It looked

like an attempt at blackmail from the beginning. Senator Gore bore himself with great dignity and good sense through his unpleasant ordeal."²¹

President Wilson and several members of the Cabinet enthusiastically congratulated Gore who immediately began his campaign for re-election in earnest. The Bond-Gore case may have been intended to derail Gore's effort to stay in the Senate, but the plan backfired. Not only did Gore have the solid backing of Oklahoma newspapers, he had the sympathy and support of most of the voters. People were convinced that the cheapest of political tricks had been employed to get rid of Gore.

"Basking in the sunlight of the dismissed damage suit," Gore won every county in the state in the Democratic primary with a three-to-one victory over challenger Samuel W. Hayes. Hayes never really had any issues, spending much of his campaign speeches attacking Gore for not doing enough for Oklahoma's farmers. Gore prevailed even though he spent little time in the state campaigning, having been detained in the nation's capital because of congressional duties.²²

Gore was endorsed by President Wilson and Secretary of State William Jennings Bryan. When his opponent suggested Gore was not following the lead of Wilson, the president wrote, "Senator Gore has at all times been in hearty accord with the policies and with all the work of the present administration. I am surprised that any impression of a contrary sort should have gained currency. No one who has looked into the facts could have given it any credit."²³

Secretary Bryan promised his complete support for Gore's re-election, even over another Democrat. Bryan wrote, "You can rely upon my rendering you any assistance I can during the fall campaign. I have no disposition to interfere in local affairs, but the people of Oklahoma will find in my solicitude for their welfare, my motive."²⁴

In the general election, Gore faced Republican John H. Burford. President Wilson again publicly supported Gore. The president sent a telegram of "confident hope" that Democrats would make a "splendid showing at the polls,"²⁵ Gore

carried all but three counties in the state in an impressive win over Burford.

To his deathbed, Gore carried great admiration for Moman Pruiett's splendid defense of charges made in the Minnie Bond civil case. Gore recognized that had Pruiett not outmaneuvered Bond's lawyers in 1914, the distinguished career of Sen. Gore, the grandfather of author Gore Vidal, would have been eternally blemished.

1. *The Encyclopedia of Oklahoma History and Culture* (Oklahoma City: Oklahoma Historical Society, 2009), p. 1236.

2. Ibid.

3. Ibid.

4. First draft of manuscript of a biography of Thomas P. Gore by Robert Henry and Bob Burke to be published by the Oklahoma Heritage Association in 2011, hereafter referred to as Gore manuscript.

5. Ibid.

6. Monroe Billington, *The Chronicles of Oklahoma*, Vol. 39, p. 117.

7. Gore manuscript.

8. Ibid.

9. Ibid.

10. Moman Pruiett, *Moman Pruiett: Criminal Lawyer* (Oklahoma City: Harlow Publishing Corporation, 1944), hereafter referred to as Moman Pruiett, p. 310. In the 1950s, the Oklahoma Supreme Court declared that Howard K. Berry actually wrote Pruiett's biography which Pruiett published as an autobiography when Berry was stationed overseas during World War II.

11. Gore manuscript.

12. Ibid.

13. Ibid.

14. Moman Pruiett, p. 320-321.

15. Ibid., p. 323.

16. Ibid.

17. Ibid., pp. 327-328.

18. Ibid., p. 331.

19. *State Sentinel* (Stigler, Okla.), Feb. 19, 1914.

20. Moman Pruiett, p. 334.

21. Ibid.

22. Gore manuscript.

23. Letter from Woodrow Wilson to Eugene Kerr, April 24, 1914, Thomas P. Gore Collection, Carl Albert Congressional Archives, University of Oklahoma.

24. Letter from William Jennings Bryan to Thomas P. Gore, June 19, 1914, Gore Collection.

25. Telegram from Woodrow Wilson to Thomas P. Gore, Nov. 1, 1914, Gore Collection.

ABOUT THE AUTHOR



Bob Burke, an Oklahoma City workers' compensation lawyer, has written more historical non-fiction books than anyone else in history. His 100 books chronicle Oklahoma's bold and exciting past. He and Judge Robert Henry, now the president of Oklahoma City University, have completed the first draft of a biography of

Thomas P. Gore and Robert L. Owen to be published in 2011 by the Oklahoma Heritage Association.



Aerial view of downtown Bartlesville, looking west from the roof of the old Washington County Courthouse. The Osage Mound is barely visible in the background. (Photo courtesy of the Bartlesville Area History Museum)

Trends in Our Fundamental Law

By Joe Rolston Jr.

FOREWORD

Last year while cleaning out a drawer at my home, I discovered the following address given by my father, Judge Joe Rolston Jr., to the Washington County Bar Association in Bartlesville, Okla., where our family was living in May 1944.

After reading the address, I was somewhat amazed not only had it been written 65 years ago, but by a gentleman who I knew during his lifetime was a lifelong “Blue Dog” Democrat.

It appears to me that the question my Dad propounded in the last paragraph of the address in 1944 may be even more applicable today. Enjoy the read.

Joe S. Rolston III

It shall be my purpose to present for your consideration some observations based upon history as I understand it and upon my experience as an officer in government and the practice of law. What I say will perhaps largely be that which you already know, and while apparently simple and elementary is in my opinion the backbone of the nation itself. Law in its broadest sense signifies a rule laid down or established. It may be divided into:

- 1) The laws of physical science; and
- 2) The laws of human action.

By reason of the fact that we as lawyers deal in the practice of our profession largely with human beings, we are vitally concerned with the laws of human action. The laws of human action may be divided into:

- 1) The divine law or the law of religion and faith;
- 2) The moral law; and
- 3) The positive law.

The distinctions between these three divisions of the law and which go to make up a proper understanding of the rules of human action are:

The divine law is the highest form of law and accepted as such throughout the civilized world.

The moral law is that system of rules of human action which has its origin in a general sense, on the part of the members of a civilized community, of what is right and what is wrong. Depending, however as it does, upon the general sentiment of the members of a community, the moral law fluctuates as public opinion

changes and that is, of course, true of the positive law. There are no tribunals in which it is administered, yet it has sanctions enforced in the court of public opinion.

The positive law is that system of rules of human action established by the governmental power in a state of nation and it may be either written or unwritten. It is defined by Blackstone as: "A rule of civil conduct prescribed by the supreme power in a state commanding what is right and forbidding what is wrong."

The divine law and moral law without doubt exert a powerful influence in shaping the positive law which regulates the affairs of human beings in everyday life. The positive law is the law with which the lawyer has to deal and it has a direct effect upon every human being residing within its jurisdiction. It differs from the moral law in that it is laid down by determinate sanctions. It is akin to the divine law in the general manner of its establishment, but is distinguished from it by the fact that it is of human origin and human enforcement. We call it the positive law because it is imposed by an authority having undisputed power to insist upon its observance.

Blackstone in speaking of the divine law and its accomplishments says: "For He has so intimately connected, so inseparably interwoven the laws of eternal justice with the happiness of each individual that the latter cannot be attained but by observing the former; and if the former be punctually obeyed it cannot but induce the latter."

Thus we see that the function of the law of human action is eternal justice and that it is so interwoven with the life of each individual that happiness can never be attained in a land where law is not based upon the principles of justice; that if justice is the basis of the law it cannot but induce happiness, peace, prosperity and the progress of the human race.

In America, this government of ours was born out of the agonies of oppression and injustice. One has but to read the Declaration of Independence to clearly see that our system of government was established only after our forefathers had suffered a long train of abuses and usurpations at the hands of a despot – a one-man government if you please. Our forefathers fought a bloody war to give us this system of government; they won that war and have left us a legacy in government that is now and has been ever since its inception rec-

ognized as the greatest system ever conceived by the mind of man, for a free and liberty loving people. We should always remember that from the outset this form of government was the greatest experiment that the world has ever known.

Europe predicted freely that it would prove to be the greatest failure, but step by step through better than a century and a half, its record has been one of surpassing accomplishments, yes this melting pot of the human race has proven by its record that our forefathers established wiser than they knew. Will prosperity say this generation has kept the faith?

There are several things reflected in its history record and disclosed by the constitution itself, that impress me as of the utmost importance to the future welfare of the nation; which in my opinion form the foundation of the government itself and, if preserved, will ensure its continued existence. They are:

- 1) The sovereign power was retained by the people;
- 2) Delegated powers only were granted the central government;
- 3) Separation of powers among executive, legislative and judicial departments.

At the outset, attention was directed to Blackstone's definition of law as a rule of civil conduct prescribed by the supreme power in a state commanding what is right and forbidding what is wrong. Our forefathers were very conscious of those words "supreme power." They had fresh in their minds the result of one-man rule so they saw to it that the sovereign power to govern in this country remained in the people themselves. It is a fundamental theory in the United States that all governmental powers reside primarily in the whole body of United States that all governmental powers reside primarily in the whole body of United States citizens. It is impossible, however, for the people to exercise this power other than through agents, representatives and officers chosen by them. Sovereignty is not delegated to them — it always remains with the people. That which is delegated is the immediate power of exercising certain specific governmental functions in accordance with the constitution and laws of Congress made in pursuance thereof. These agents and public officials do not become sovereign themselves.

The powers delegated to the federal government are those set forth in the constitution

itself. All other powers are reserved to the state governments or the people, except as limited by the federal and state constitutions. It is generally agreed that construction of such delegated powers should be liberal; that the federal government should be allowed to exercise not only the powers expressly delegated to it, but also those incidental powers necessary to carry the express powers into execution, but the rule stops there and does not authorize any department of the government — be it executive, legislative or judicial — to read language into the constitution that was not written therein by the people themselves.

Now let's see where we are here in 1944. A moment ago I made the statement that the sovereign power was in the people. That which is delegated to our federal representatives, whether they be executive, legislative or judicial, is the immediate power of exercising certain governmental functions in accordance, first with the constitution, and second according to the laws made in pursuance thereof. To illustrate, the constitution in these words grants authority to the federal government, "to regulate commerce among the several states." We lawyers know from reading the statutes and cases that the Congress first and the Supreme Court second have so expanded the words of the constitution itself — by interpolation if you please — that now by judicial approval from our highest court, the federal government can regulate any business or other line of endeavor that in any degree affects interstate commerce. I respectfully submit to you that neither the Congress nor the Supreme Court, whose duty it is to guard the constitution, has any authority to expand the commerce clause of the constitution to the point where there is no longer any line of demarcation between federal and state authority. Carried to its logical conclusion there is nothing left for the states to regulate. Our forefathers were afraid of this very thing and an examination of the Articles of Confederation should be sufficient to prove that they were so fearful they might grant too much authority that they grant sufficient power for the federal government to properly operate in these modern times — then the proposition should be sold to the American people and the constitution should be amended as provided by the docu-

ment itself, not by judicial, legislative or executive action.

As it appears to me, the court has been guilty of judicially legislating matters into the constitution that are not written therein. It has usurped the sovereign power of the people since only they can amend the constitution.

Under our constitution we have a separation of powers among the executive, legislative and



In the early 1930s this building served Washington County as the Federal building and the post office. The building, located at the northeast corner of Fifth and Johnstone Ave., housed the post office on first floor, Federal offices on the second floor and Federal District Court on the third floor. Currently the building is the home of the Washington County Courthouse, County Sheriff Department and a host of county offices. (Photo courtesy of the Bartlesville Area History Museum)

judicial departments. We, who practice law, know what our founding fathers had in mind but what do we have today? We have agencies of the executive department investigating, prosecuting, sitting in judgment and assessing punishment. We have the courts judicially legislating to such an extent that if the statute does not read the way they want it to they simply rewrite it under the guise of interpretation and construction. We have Congress delegating to others the authority to make countless regulations having the force of law which the people cannot understand nor lawyers comprehend. Whenever a separation of the departments is not maintained, nothing can result but absolute chaos and confusion. There are no checks or balances. The executive department has created a multitude of boards, bureaus and commissions with judicial powers because the business of government, they say, must be

expedited and the courts are too slow to handle the matters.

Let me read to you from the Declaration of Independence and see how it sounds in this year of 1944.

"He has erected a multitude of New Offices, and sent Hitler swarms of officers to harass our people and eat out their substance.

"He has made judges dependent upon his will alone, for the tenure of their offices and the amount and payment of their salaries.

"He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; giving his assent to their acts of pretended legislation.

"For taking away our Charters, abolishing our most valuable laws, and altering fundamentally the forms of our government.

"For suspending our own legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever."

More could be said, but the foregoing should be sufficient for any thinking American.

Some time ago I listened with a great deal of interest to the talk by Judge R.H. Hudson, of this bar, on a world organization to police the world and maintain the peace after the war. He made it very plain to me that he did not believe we should surrender any power to this world organization — that he was in favor of such an organization provided we did not surrender any power to it.

Well, suppose we did join a world organization and suppose we took the language of our commerce clause bodily out of our constitution and placed it in the world organization grant of powers. It would read: "To regulate commerce among several nations." If that grant of power should be interpreted as our own Supreme Court has interpreted the commerce clause, what would happen to this government of ours? I certainly don't blame the judge for not wanting to surrender any of our sovereign power to a world government — do you?

What does all this add up to? Lawyers by the very nature of their business are perhaps more familiar with morals, economics, science, sociology, psychology, politics and human emotions, than are the members of any other business or profession. They say a good lawyer should know the rule, the reasons and history behind

“Lawyers by the very nature of their business are perhaps more familiar with morals, economics, science, sociology, psychology, politics and human emotions, than are the members of any other business or profession.”

the rule. Further, a lawyer should also know what the rule will be. He knows the rules of law upon which our government is predicated and we know the history and reasons back of the rules [sic]. Is it not our duty now to the people of our country, our most important clients, to project the law into the future and show them where we are going to land unless we adhere to the fundamental ideals and traditions upon which our government was founded?

We know that the primary object of government under our system is the protection of the rights of life, liberty and property and to provide for the general welfare of the people. We know that the basic essentials of life are food, clothing and shelter. We know that the average human wants only the opportunity to work so he may secure these essentials of life. It is the duty of the government to provide the opportunity but it is not the duty of the government to support the people because the government is the people, and the people will support themselves when given the opportunity to do so free from governmental restrictions and interference. Fair-minded people all concede some worthwhile progress in the law has been accomplished since 1932. However, people should be given an opportunity to absorb these changes. Progress is the law of growth but too much of anything at one time leads but to confusion. We should keep our feet on the ground and be ever mindful of the fact that things which are a part of our fundamental structure should not and cannot be changed without destroying the government itself.

We should show the people that this is a government by public opinion and upon the qual-

ity of that opinion depends the success or failure of our system of government.

We should show them that the best of all governments is that which teaches us to govern ourselves and governs least – the less government we have the better – the fewer laws and the less power. The antidote to this abuse of formal government is common honesty on the part of those in authority and education for the individual citizen so he can understand our system of government, and be able to take an intelligent and active interest in its affairs.

We should show them that the great difference between the real statesman and the pretender is, that the one sees into the future, while the other regards only the present; the one lives by the day, and acts on expediency; the other acts on enduring principals.

We must show them that a statesman should guide public opinion – as a coachman guides his horses, having a firm hold on the reins; showing them that the purpose of a real statesman is to attain security to possessors, facility to acquirers and hope to the people.

We should clearly explain that the federal government by granting aid to the states and municipalities is doing indirectly that which our forefathers and the people forbade them to do directly. The central government offers as bait, to aid us in the construction of our public works on condition that its appointees are allowed to supervise and dictate the manner and method of construction and who shall operate them. Our system is primarily based in local government and any man who thinks he knows that the boy whose father does everything for him weakens his initiative and destroys forever his ability to stand on his own feet and fight the battles of life

In this connection we quote Mr. Summers, of the House Judiciary Committee:

“As we increase state and local governmental dependence upon the Federal Treasury, dispensing money which has come from the people of the states, Federal bureaucracy tightens its grip on the purse strings and increases its governmental control.



Work began on the Washington County Courthouse, located at the corner of Delaware and 3rd St., in 1913 and the building was completed in 1914 with a cost of \$125,000. The building was dedicated May 2, 1914. Besides being one of the most popular places for photo opportunities, the courthouse steps were the meeting place for gatherings like the WWI military calls-ups, G.A.R. Conventions, Armistice Day celebrations, etc. (Photo courtesy of the Bartlesville Area History Museum)

“We have turned back on the course of democratic progress. Progress is not fast. Progress is uphill. We are going very fast. We are going downhill.

“Deliberate persons of sound judgment are deeply concerned for the future of this country. Only a people humbled by a sense of great responsibility, earnestly desiring to know the truth, candid enough to face it, whatever it may be, and courageous enough to do what duty requires, whatever the sacrifice, can make a certain the future of this democracy.”

We should show them that law, rule or regulation is best which is stated in ordinary and concise language, which the ordinary human can understand. Let’s tell them we can’t use the following kind of language without having a mental disturbance which must of necessity confuse the individual attempting to understand its meaning, as written by a comma-mad, semicolon-infatuated, exception-upon-exception contortionist, namely:

If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contri-

butions or compensation shall not be deductible under subsection (a) but shall be deductible, if deductible under subsection (a) without regard to this subsection, under this subsection but only to the following extent...

They tell me all it means is that an employer may deduct from his income tax reasonable payments made under a pension plan, but to me it simply means that I am unable to understand such double-talk and I am sure many others feel the same way as I do.

We should show the people that the man who will live above his present circumstances is in great danger of soon living much beneath them and that this rule applies equally to government.

Let us disclose to them that to be perfectly just is an attribute of the divine nature but to be so to the utmost of our abilities is the glory of man. That justice in these United States simply means the constant desire and effort to render every person his due under the constitution and laws made pursuant thereto — that end which ought to be reached by the regular administration of the principles of law involved as applied to the facts. It is not an abstract thing as conceived by one man or even a limited number of men but justice as phrased in the constitution conformably to the laws made pursuant thereto — a government of law not of men.

The citizens of our nation have a duty to perform. They must assume the responsibilities of government as well as enjoying its rights and privileges. We of the legal profession with our background and experience should lead the way back to the fundamental structure, the basic principles from which we have departed to the end that the greatest system of government ever conceived by the mind of man shall

not perish from this earth. Justice discards party, friendship and kindred and is therefore considered blind. We know that progress in government often swings like a pendulum back and forth. We are now at the end of the swing. Let us hope the swing back will not be to the other extreme but to the center where there exists a happy medium for the common good.

Shall we of the legal profession, kept and unkept alike, Republicans, Democrats, and men of all races and creeds, accept the challenge and fight to preserve the ideals and traditions of America herself — or shall we sit idly by and lose our liberties to the self-assumed remakers of the world who know not what they do nor where they go who produce confusion that is fast destroying the backbone of the nation? That is the question propounded to each of you. Answer it as you will but my thought is we should, as a united body of Americans, rebuild and restore the old foundations of the best system of government ever conceived by the mind of man.

ABOUT THE AUTHOR



Joe S. Rolston Jr. practiced in the small Kansas community of Burlington. He served as district judge in Emporia for seven years before becoming house counsel with Cities Service in Bartlesville. When Cities Service split into separate oil and gas companies, he moved to Oklahoma City. He retired from Cities Service Gas Co. and moved to Wichita, Kan., where he was in private practice for several years before finally retiring. He passed away in 1970. His son, Joe S. Rolston III, is an attorney who practices in Oklahoma City.



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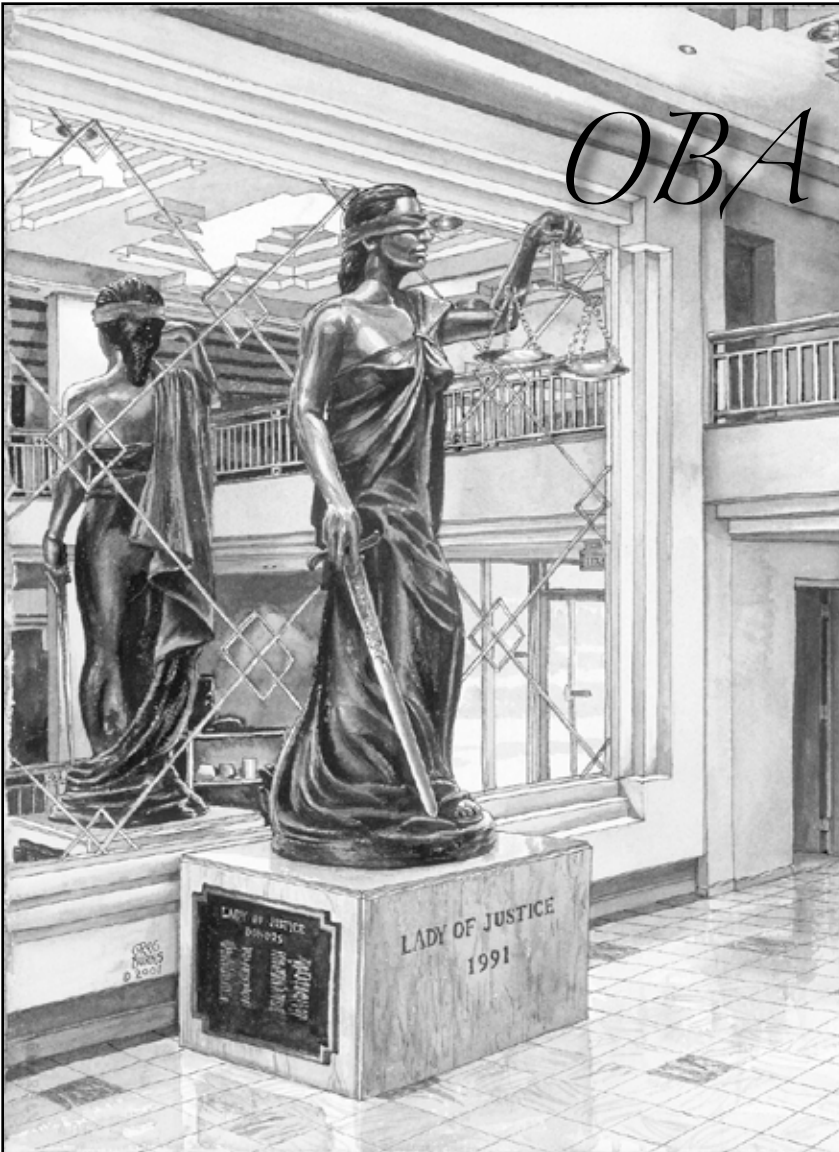
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Living History: Oklahoma Judges and Attorneys Talk about Their Experiences

By Karen E. Kalnins

The Oklahoma legal profession is filled with fascinating cases and people. How much do you know about your co-counsel or that distinguished judge you see at the courthouse? For instance, one Oklahoma attorney has served in war zones and assisted in military tribunals. Another has dedicated much of his legal career to acting as criminal defense counsel to those facing the death penalty. Oklahoma legal history includes not just cases and courthouses but also the attorneys and judges who practice within them.

To highlight some of those people and record their professional achievements, the Oklahoma City University Law Library sponsored an oral history interviewing project to document the personal and professional lives of Oklahoma attorneys and judges.¹ Funding for the project came from a grant awarded by the American Association of Law Libraries (AALL).² You can listen to the interviews and read transcripts at tinyurl.com/2df76ng.

The interviewees ranged from a former federal judge to small town practitioners and included both men and women. Among the memorable moments was one judge's account of his time as an Oklahoma legislator. Another attorney spoke about his role in a noteworthy case that changed the landscape of nuclear energy. These examples represent a fraction of the insights gathered in this oral history collection.

PROJECT GOALS

Overall the project intended to find information not found in history books but in living human beings.³ Examples of this may be first-person accounts of significant events or reflections about a particular time period. Similar oral history projects have been conducted in Oklahoma by the Oklahoma State University oral history research program.⁴

The main goal of the project was to interview 35 Oklahoma attorneys and judges. Although this number did not seem high, convincing busy legal professionals to make time for an interview posed challenges. Fortunately, Oklahoma attorneys stepped up to the challenge and many of those asked to participate in the project agreed.

“You can listen to the interviews and read transcripts at tinyurl.com/2df76ng.”

INTERVIEWS

The interviews were conducted at the interviewee's offices or another mutually agreeable location. Interview questions were primarily open-ended but designed to find out what motivated attorneys to choose the law, how they chose their particular specialty and what types of cases they handled. Each interview varied depending on time, interviewee, life experiences and practice area. While the interviewer tried to maintain uniformity between interviews, her questions were based on the interviewee and their particular background.

PROJECT OUTCOMES

The oral history project's outcomes included the expected and unexpected. First, the interviews created a new collection for the OCU Law Library. This collection contains a variety of interviews with attorneys from across Oklahoma and its value lies in each person's narratives and responses.

While funding of the initial phase of the project has been completed and additional interviews are not being actively pursued, if you would be interested in contributing either monetarily or by agreeing to participate in an interview, please contact Darla Jackson at the OCU Law Library at (405) 208-5271 or by e-mail at djackson@okcu.edu. If you live and work outside Oklahoma City, on a limited basis, travel to your location for the interview may be possible.

Another result was first-hand accounts of significant events in Oklahoma legal history. These details and insights are invaluable in understanding key events in our state and national history. The interviews contributed to Oklahoma legal history by documenting topics such as law school, experiences in the Oklahoma courts, advice about law practice management, reflections about changes in the legal profession, recollections about specific cases and information about practice specialties.

CONCLUSION

History lives not only in books, photographs and case law, but in human beings. The OCU Law Library oral history project took a first step in unlocking some of that intimate knowledge for the benefit of all.

Author's Note: The author gratefully acknowledges the feedback from The Oklahoma Bar Journal Board of Editors and Darla Jackson. Additionally, the author thanks Lorraine Morrison and Kathy Broad for their vital assistance in completing this project.

1. Oklahoma City University Law Library Oral History Project, <http://law.okcu.edu/index.php/library/databases/ocu-law-library-oral-history-project/>.
2. American Association of Law Libraries Research Grants, www.aallnet.org/about/research_fund.asp.
3. Louis Starr, *Oral History*, in "Oral History: An Interdisciplinary Anthology" (David K. Dunaway & Willa K. Baum eds., 2nd ed. 1996)
4. Oklahoma State University Oral Research Program, www.library.okstate.edu/oralhistory/survey.htm.

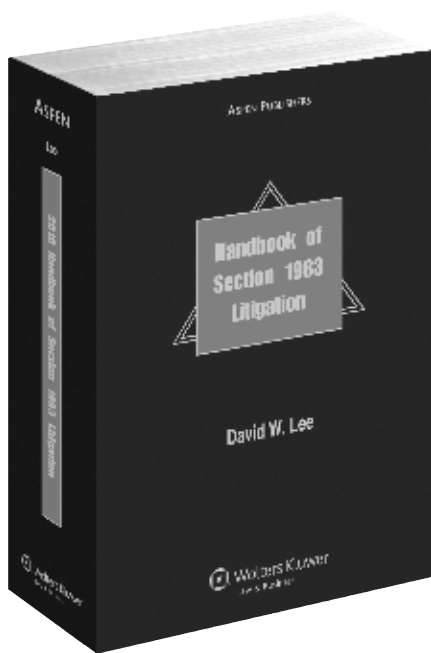
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Karen E. Kalnins worked at the Oklahoma City University Law Library as a reference librarian until June 2010. She now works for the federal courts in Memphis, Tenn.

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Taxation Law Section

Diagnosis and Treatment: Understanding and Preparing for the New Investment Income Tax

Recent health care legislation creates a new tax on investment income

By Keith E. Peters

When President Obama signed the Health Care and Education Reconciliation Act¹ on March 30, 2010, substantial changes to the nation's health care policy became reality. To help fund these changes, the legislation calls for several tax increases in the coming years. Some of the more notable increases are an excise tax on so-called Cadillac health insurance plans, an increase in the Medicare wage tax paid by some workers and new restrictions on flexible spending accounts. In addition, the legislation adds a new tax on many types of investment income. When combined with rate increases already scheduled to occur, this new tax will result in a drastically higher tax burden on the investment income of many Americans. It is therefore important to understand the application of the new tax as well as planning opportunities that may be available to minimize the tax's impact.

MECHANICS OF THE NEW TAX

The investment income tax is found in new Section 1411 of the Internal Revenue Code (the Code).² The tax becomes effective in 2013³ and applies to the "net investment income" of individuals with modified adjusted gross income (MAGI)⁴ in excess of certain thresholds.⁵ The threshold is \$250,000 for married taxpayers filing jointly, \$200,000 for single taxpayers and \$125,000 for married taxpayers filing separately.⁶ Because these thresholds are not indexed

for inflation, the new tax will impact more taxpayers with each passing year. The tax is levied at the rate of 3.8 percent in addition to the income tax otherwise due under other provisions of the Code.⁷

The investment income tax does not apply to C corporations. Entities taxed as partnerships or S corporations are not directly impacted; however, the income passed through these entities to individual partners or shareholders may be subject to the tax. Additionally, the tax applies to certain trusts, as described more fully below.

The "net investment income" that is subject to the new tax includes:

- 1) interest;⁸
- 2) dividends;⁹
- 3) rents;¹⁰
- 4) royalties;¹¹
- 5) annuity payments;¹²
- 6) capital gains;¹³
- 7) income from passive activities;¹⁴
- 8) income from businesses trading in financial instruments or commodities;¹⁵ and
- 9) income or gain on the investment of working capital.¹⁶

"Net investment income" is reduced by allowable deductions that are properly allocated to the income.¹⁷ Additionally, there are

several important exceptions from the broad definition of "net investment income":

- 1) income from an active business other than a financial instruments or commodities trading business;¹⁸
- 2) gain on the disposition of property used in an active business other than a financial instruments or commodities trading business;¹⁹
- 3) gain or loss on the disposition of an active interest in a partnership or S corporation other than a financial instruments or commodities trading business;²⁰
- 4) distributions from retirement plans such as 401(k)s, 403(b)s, Section 457 plans, traditional IRAs and Roth IRAs;²¹ and
- 5) income subject to self-employment tax.²²

The tax does not apply to income not otherwise taken into account in computing taxable income, such as excludable gain on the sale of a principal residence,²³ gain deferred in a Section 1031 exchange,²⁴ and gain deferred in a corporate reorganization.²⁵ Also, the investment income tax should not impact an Oklahoma taxpayer's eligibility for nontaxable treatment of gain on the sale of certain Oklahoma property for state income tax purposes.²⁶

The tax applies to the *undistributed* "net investment income" of trusts with adjusted gross income (AGI) above the amount marking the beginning of the highest rate applicable to trusts.²⁷ This amount, which is indexed for inflation, stands at \$11,200 in 2010.²⁸ Because grantor trusts are not recognized as entities apart from their owners for income tax purposes and because simple trusts distribute all income annually, only complex trusts — those that are separately regarded and accumulate income — are potentially subject to the investment income tax. Additionally, the tax does not apply to tax-exempt charities organized as trusts or to charitable remainder trusts.²⁹

Taxpayers, whether individuals or trusts, must take the new tax into account in calculating any required estimated payments.³⁰

PUTTING THE INVESTMENT INCOME TAX IN PERSPECTIVE

Setting aside the new tax for the moment, tax rates are already scheduled to increase in 2011. At that point, current law calls for the top ordinary income rate to rise to 39.6 percent,³¹ and the long-term capital gains rate to rise to 20 percent.³² In addition, the preferential treatment of qualified dividend income, currently

taxed at the capital gains rate, is set to expire in 2011.³³ Although President Obama has proposed limiting the rate on qualified dividends to 20 percent beginning in 2011,³⁴ it is unclear whether Congress is inclined to pass the legislation necessary to implement this proposal.

When the investment income tax becomes effective in 2013, the federal rate paid by taxpayers in the top marginal bracket on items such as interest, rents, royalties, and possibly dividends is scheduled to total 43.4 percent, a 24 percent increase over the 35 percent rate applicable in 2010. At that point, as the law stands today, many long-term capital gains will be subject to federal tax at a rate of 23.8 percent, representing a 59 percent increase over the current 15 percent rate.

PLANNING OPPORTUNITIES

Several strategies for avoiding or minimizing the impact of the new investment income tax are readily apparent. These options include allocating investment funds to tax-exempt municipal bonds and increasing contributions to income tax-favored retirement plans. An additional strategy that may be appropriate for some taxpayers is accelerating the sale of low-basis capital assets — such as real estate or concentrated ownership of a business — to 2010, when neither the general rate increases nor the investment income tax is effective. Similarly, a taxpayer holding an installment note along with influence over the acceleration of the gain being deferred should consider the possibility of recognizing the gain in 2010.³⁵

Finally, taxpayers should take another look at the attractiveness of converting a traditional IRA to a Roth IRA. The income limits on Roth conversions have been removed, and the taxable income resulting from a 2010 conversion may be recognized equally in 2011 and 2012.³⁶ Numerous factors are relevant to the decision whether to convert, including the age of the taxpayer, the taxpayer's likely future income level, and the ability to pay the tax with assets outside the IRA. To these factors, we can now add another important consideration — the investment income tax. Neither distributions from traditional nor Roth IRAs are considered net investment income for purposes of the new tax.³⁷ However, traditional IRA distributions increase MAGI.³⁸ As a result, these distributions could trigger the imposition of the investment income tax on other investment income that otherwise would have escaped the tax

because of the taxpayer's MAGI in relation to the relevant threshold amount.³⁹

As the 2013 effective date nears, new strategies for lessening the impact of the investment income tax are likely to evolve. For the time being, it is important to understand the new tax, anticipate the potential of a significantly higher tax burden on investment income and begin planning for ways to ease this burden.

1. Pub. L. No. 111-152.
2. Each reference to a "Section" refers to the relevant provision of the Code, unless the context indicates otherwise.
3. Pub. L. No. 111-152(a)(4), (b)(3).
4. For purposes of Section 1411, MAGI is defined as adjusted gross income with further adjustments required for taxpayers claiming the foreign income exclusion. §1411(d).
5. To be precise, the tax applies to the lesser of (i) net investment income, or (ii) the excess of MAGI over the applicable threshold amount. §1411(a)(1).
6. §1411(b).
7. §1411(a)(1).
8. §1411(c)(1)(A)(i).
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. §1411(c)(1)(A)(iii).
14. §1411(c)(1)(A)(ii), (c)(2)(A). The characterization of income as active or passive is determined by the passive activity rules under Section 469.
15. §1411(c)(1)(A)(ii), (c)(2)(B). In this context, a "commodity" is generally defined to include any commodity that is actively traded as well as derivatives and hedges with respect to the commodity. §475(e)(2).
16. §1411(c)(3).
17. §1411(c)(1)(B).
18. §1411(c)(1)(A)(ii), (c)(2).
19. §1411(c)(1)(A)(iii), (c)(2).
20. §1411(c)(4). Where this exception applies, the tax is still imposed on the seller's share of any net investment income that would be recognized on a hypothetical sale of all assets of the partnership or S corporation immediately before the transfer of the interest in the entity. *Id.*
21. §1411(c)(5).
22. §1411(c)(6).
23. §121.
24. §1031.
25. §368.
26. 68 O.S. §2358(F).
27. More precisely, the tax applies to the lesser of (i) a trust's or estate's undistributed net investment income, or (ii) the excess of the trust's AGI over the highest rate applicable to trusts and estates. §1411(a)(2).
28. §1(e); Rev. Proc. 2009-50, 2009-45 I.R.B. 617.
29. §1411(e).
30. §6654(f)(3) (as effective beginning Jan. 1, 2013).
31. Pub. L. No. 109-222; Pub. L. No. 108-27.
32. *Id.*
33. *Id.*
34. *Budget of the U.S. Government, Fiscal Year 2011*, available at www.whitehouse.gov/omb/budget/fy2011/assets/budget.pdf.
35. This situation may exist in the case of an installment note received in an intra-family sale of interests in a family limited partnership or an operating business to an intentionally defective grantor trust.
36. §408A(d)(3)(A)(iii). Because ordinary income rates at the top of the rate schedule are set to increase in 2011, this two-year deferral would be detrimental to some taxpayers and should be studied carefully.
37. §1411(c)(5).
38. §§1411(d), 62(a), 408(d).
39. Consider a married couple filing jointly. In 2013, the couple has pension income of \$150,000, net investment income of \$100,000, and \$125,000 in required minimum distributions from traditional IRAs. The couple's MAGI is \$375,000, and they must pay an investment income tax of \$3,800 (3.8 percent of \$100,000) in addition to other

income tax due. Since the traditional IRA distributions increase MAGI over the applicable \$250,000 threshold in an amount greater than the couple's net investment income, the effect is that all of the couple's net investment income becomes subject to the investment income tax. If the traditional IRAs had previously been converted to Roth IRAs, then no required minimum distributions would be required, the couple could take distributions of any amount, and no investment income tax would be due because the couple's MAGI would stand at the \$250,000 threshold amount.

A version of this article appears in the May/June 2010 edition of CPAFOCUS, a publication of the Oklahoma Society of Certified Public Accountants.

ABOUT THE AUTHOR



Keith Peters is a tax attorney with the Oklahoma City law firm of McAfee & Taft. He represents clients in business transactions, estate planning and federal and state tax disputes. He is a graduate of the University of Oklahoma, Harvard Law School and New York University School of Law.

STATE OF OKLAHOMA, DEPARTMENT OF HUMAN SERVICES CHILD SUPPORT SERVICES ANNOUNCEMENT # 10-C062BU

Oklahoma Child Support Services has an opening for a full-time attorney, preferably with experience in child support enforcement. This position will be located at the OKDHS-OCSS Tahlequah Office serving Cherokee and Wagoner counties.

The position involves preparation and trial of cases in child support related hearings in district and administrative courts. Duties will also include consultation and negotiation with other attorneys and customers of the Division. The position will assist office staff with preparation of legal documents and ensure their compliance with ethical considerations.

Active membership in the Oklahoma Bar Association is required. This position is a Child Support Enforcement Attorney IV (beginning salary \$4669.79 monthly) and may be under-filled as a Child Support Enforcement Attorney III (beginning salary \$4067.52 monthly), a Child Support Enforcement Attorney II (beginning salary \$3711.05 monthly) or as a Child Support Enforcement Attorney I (beginning salary \$3354.59 monthly). Interested individuals must send a cover letter noting announcement number 10-C062BU, resume, and a copy of current OBA card to: Department of Human Services, Attn.: Human Resource Management Division, P.O. Box 25352, Oklahoma City, OK 73125. Application must be received no earlier than 8:00 AM Friday, August 6th, 2010 and no later than 5:00 p.m. on Friday, August 13, 2010. For additional information, please contact Faye Scott at faye.scott@okdhs.org.

**THE STATE OF OKLAHOMA IS AN
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2011 OBA Board of Governors Vacancies

Nominating Petition Deadline: 5 p.m. Friday, Sept. 17, 2010

OFFICERS

President-Elect

Current: Deborah Reheard, Eufaula
 Ms. Reheard automatically becomes OBA president Jan. 1, 2011
 (One-year term: 2011)

Nominee: Cathy Christensen, Oklahoma City

Vice President

Current: Mack K. Martin, Oklahoma City
 (One-year term: 2011)

Nominee: Reta M. Strubhar, Piedmont

BOARD OF GOVERNORS

Supreme Court Judicial District Two

Current: Jerry L. McCombs, Idabel
 Atoka, Bryan, Choctaw, Haskell, Johnston, Latimer, LeFlore, McCurtain, McIntosh, Marshall, Pittsburg, Pushmataha and Sequoyah Counties
 (Three-year term: 2011-2013)

Nominee: Gerald C. Dennis, Antlers

Supreme Court Judicial District Eight

Current: Jim T. Stuart, Shawnee
 Coal, Hughes, Lincoln, Logan, Noble, Okfuskee, Payne, Pontotoc, Pottawatomie and Seminole Counties
 (Three-year term: 2011-2013)

Nominee: Vacant

Supreme Court Judicial District Nine

Current: W. Mark Hixson, Yukon
 Caddo, Canadian, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa and Tillman Counties
 (Three-year term: 2011-2013)

Nominee: Vacant

Member-At-Large

Current: Jack L. Brown, Tulsa
 (Three-year term: 2011-2013)

Nominee: Renée DeMoss, Tulsa

Summary of Nominations Rules

Not less than 60 days prior to the Annual Meeting, 25 or more voting members of the OBA within the Supreme Court Judicial District from which the member of the Board of Governors is to be elected that year, shall file with the Executive Director, a signed petition (which may be in parts) nominating a candidate for the office of member of the Board of Governors for and from such Judicial District, or one or more County Bar Associations within the Judicial District may file a nominating resolution nominating such a candidate.

Not less than 60 days prior to the Annual Meeting, 50 or more voting members of the OBA from any or all Judicial Districts shall file with the Executive Director, a signed petition nominating a candidate to the office of Member-At-Large on the Board of Governors, or three or more County Bars may file appropriate resolutions nominating a candidate for this office.

Not less than 60 days before the opening of the Annual Meeting, 50 or more voting members of the Association may file with the Executive Director a signed petition nominating a candidate for the office of President-Elect or Vice President or three or more County Bar Associations may file appropriate resolutions nominating a candidate for the office.

If no one has filed for one of the vacancies, nominations to any of the above offices shall be received from the House of Delegates on a petition signed by not less than 30 delegates certified to and in attendance at the session at which the election is held.

See Article II and Article III of OBA Bylaws for complete information regarding offices, positions, nominations and election procedure.

Vacant positions will be filled at the OBA Annual Meeting Nov. 17-19. Terms of the present OBA officers and governors listed will terminate Dec. 31, 2010. Nomination and resolution forms can be found at www.okbar.org.

OBA Nominating Petitions

(See Article II and Article III of the OBA Bylaws)

BOARD OF GOVERNORS

MEMBER-AT-LARGE

RENÉE DeMOSS, TULSA

Nominating Petitions have been filed nominating Renée DeMoss for election of Member-at-Large of the Oklahoma Bar Association Board of Governors for a three-year term beginning January 1, 2011.

A total of 123 signatures appear on the petitions.

- **SUPREME COURT JUDICIAL DISTRICT NO. 2**
- **GERALD C. DENNIS, ANTLERS**
- Nominating Petitions have been filed nominating
- Gerald C. Dennis for election of Supreme Court
- Judicial District No. 2 of the Oklahoma Bar Association Board of Governors for a three-year term
- beginning January 1, 2011.
- **A total of 33 signatures appear on the petitions.**
- Nominating Resolutions have been received from
- the following counties:
- Atoka, Bryan, Choctaw and McCurtain

A DAY WITH THE JUDICIARY

**August 13, 2010 – Oklahoma State University Oklahoma City
900 N. Portland Ave -Student Union Bldg.**

8:30 Registration & Continental Breakfast

9 a.m. Chief Judge Vicki Miles-LaGrange
Western District of Oklahoma
(ethics) 1 hr

9:50 a.m. — Break

10 a.m. Judge Tammy Bass LeSure
Oklahoma County District Court
Taking a Criminal Case Beginning to End

10:50 a.m. — Break

11 a.m. Judge David Lewis
Oklahoma Court of Criminal Appeals –
Updates in the Oklahoma Court of Criminal Appeals

11:50 a.m. — Lunch Break

CLE Credit (pending)

6 hours of MCLE Credit including 1 hour of ethics. (pending)

Tuition \$150 of ABL members- \$175 for non members with payment received at least four (4) full business days prior to the seminar, an additional \$25 for registrations at the door. Please make payment to the **ABL and send c/o Kysha M. Williams of the Williams Law Office P.C. at P.O. Box 66, OKC, OK 73101. Cancellation:** Cancellations will be accepted before the seminar date but a \$25 fee will be applied within four business days of the seminar. No refunds on or after the seminar date.

1:30 p.m. Judge Patricia Parrish
Oklahoma District Court

Observations from the Bench. What does and does not work in the Courtroom?

2:20 p.m. — Break

2:30 p.m. Judge Niles Jackson
Western District of Oklahoma Bankruptcy Court
How to Stay out of Trouble in the Bankruptcy Court

3:20 p.m. — Break

3:30 p.m. Judge Steven Hendrickson
Tuttle Municipal Court
City Violation and Defending our Client



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REVIEW OF OIL & GAS LAW XXV

Energy Law Section – Dallas Bar Association

August 26-27, 2010

Topics include: Legal Developments at the Railroad Commissions; Buying into a Shale Play; Case Law Update; Unitization Issues; What Lies Ahead for Employers in the Energy Sector?; Assignments and Conveyances; New Reporting Standards from the SEC.

Location: Belo Mansion
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214-758-1583 or
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Sovereignty Symposium 2010

Oklahoma City, June 2-3, 2010

Ms. Madeleine Pickens and the Kiowa Black Leggings



Congressman Tom Cole delivers the keynote address at the Sovereignty Symposium, as Justice Rudolph Hargrave, (left), and Chief Justice James Edmondson look on.



Justice Tom Colbert addresses a panel.

The members of the Panel on Tribal and State Judicial Collaboration, (left to right) Hon. Phillip Lujan, Presiding Judge, Citizen Potawatomi Nation Tribal Court, Shawnee, Okla.; Hon. Korey Wahwassuck, Associate Judge, Leech Lake Band of



Ojibwe, Case Lake, Minnesota; Hon. Darrell Dowty, Project Director, American Indian Resource Center, Institute for Native Justice, Bureau of Justice Assistance Tribal Court Grant-Traces, Judge, Judicial Appeals Tribunal, Cherokee Nation, Tribal Court Judge, Tahlequah, Okla.; Hon. Barry Denney, Associate District Judge, Delaware County, Jay, Okla.; Hon. John F. Reif, Justice, Supreme Court of Oklahoma, Skiatook, Okla. and Steve Hager, Esq., Oklahoma Indian Legal Services, Oklahoma City, Okla.



*Ms. Madeleine
Pickens, Vice-
Chief Justice
Steven Taylor
and Kelly Haney*



*Dan Allen, Associate District Judge, Noble
County; Mike Evans, Administrative Director of
the Courts and Mark Moore, Associate District
Judge, Blaine County*



*Dean Couch, General Counsel, Oklahoma Water
Resources Board; Susan Work, Esq., Senior Assistant
Attorney General, Cherokee Nation, Tahlequah, Okla.;
Hon. Drew Edmondson, Attorney General of Okla-
homa, Oklahoma City; Hon. Cheryl McClellan, Sec-
ond Chief, Sac and Fox Nation, Stroud, Okla. and
Stephen Greetham, Esq., Special Counsel, Water and
Natural Resources, Chickasaw Nation, Ada, Okla.*



*Rep. Anastasia Pittman
and Jay Scambler*

*Callen Clarke and
Kyle Dillingham*





Bobbie Burbridge Lane, president of the Burbridge Foundation and member of the Oklahoma Dispute Resolution Board, entertains at the reception.



Dr. Clyde Snow; Giovanna Gismondi, University of Oklahoma and Harvey Pratt, Interim Director, OSBI



Ellen Cole and D.G. Smalling view his artwork for Congressman Cole.



The Gaming Panel: Gary Pitchlynn, Esq. (Choctaw), Pitchlynn and Williams PLLC, Norman, Okla.; Elizabeth L. Homer, Esq. (Osage), Homer Law Firm, Washington, D.C.; Matthew Morgan, Esq., Chickasaw Nation Gaming Commissioner, Ada, Okla.; Jess Green, Esq., (Chickasaw), Ada, Okla.; Hon. Steffani Cochran, National Indian Gaming Commission, Washington, D.C. and D. Michael McBride III, Esq., Crowe and Dunlevy, Tulsa.

Deadline for Delegate Submission

SEPTEMBER 1, 2010

Dear County Bar Presidents:

Thank you to the County Bar Presidents of:

Alfalfa, Beckham, Bryan, Carter**, Cherokee, Choctaw, Cleveland**, Coal, Comanche, Cotton, Creek, Custer, Ellis, Garfield, Garvin, Grant, Greer, Harper, Jackson, Jefferson, Johnston, Kingfisher, Mayes, McClain, McCurtain, Muskogee, Oklahoma**, Ottawa**, Pittsburg, Pontotoc, Pushmataha, Roger Mills, Seminole, Tulsa, Washington, Washita and Woodward counties for submitting your Delegate and Alternate selections for the upcoming OBA Annual Meeting.

(Reported, awaiting election)**

Listed below are the counties that have not sent their Delegate and Alternate selections to the offices of the Oklahoma Bar Association. Please help us by sending the names of your Delegates and Alternates now. In order to have your Delegates/Alternates certified, mail or fax Delegate certifications to OBA Executive Director John Morris Williams, P.O. Box 53036, Oklahoma City, OK 73152-3036, or Fax: (405) 416-7001.

Adair	Grady	Love	Pawnee
Atoka	Harmon	Major	Payne
Beaver	Haskell	Marshall	Pottawatomie
Blaine	Hughes	McIntosh	Rogers
Caddo	Kay	Murray	Sequoyah
Canadian	Kiowa	Noble	Stephens
Cimarron	Latimer	Nowata	Texas
Craig	LeFlore	Okfuskee	Tillman
Delaware	Lincoln	Okmulgee	Wagoner
Dewey	Logan	Osage	Woods

In accordance with the Bylaws of the Oklahoma Bar Association (5 OS, Ch. 1, App. 2), "The House of Delegates shall be composed of one delegate or alternate from each County of the State, who shall be an active or senior member of the Bar of such County, as certified by the Executive Director at the opening of the annual meeting; providing that each County where the active or senior resident members of the Bar exceed fifty shall be entitled to one additional delegate or alternate for each additional fifty active or senior members or major fraction thereof. In the absence of the elected delegate(s), the alternate(s) shall be certified to vote in the stead of the delegate. In no event shall any County elect more than thirty (30) members to the House of Delegates."

"A member shall be deemed to be a resident, ... of the County in which is located his or her mailing address for the Journal of the Association."

A Different Way to Look at Things

By John Morris Williams

Bar associations everywhere are dealing with technology issues. Most lawyers are dealing with technology at some level. The majority of 6-year-olds are mastering technology at some level. It is the way of our world. One of my greatest fears in becoming executive director of the Oklahoma Bar Association was that I would become a dinosaur when it comes to technology. I knew then and I know now how much of the landscape it occupies.

Earlier I have written about how our staff and our elected leadership are looking at our technology and how we can enhance our members' professional lives with the use of technology. It is a big task with no foreseeable end. Software and hardware both are making big advances. Just when I think we are reaching a point where we can travel a familiar path, something else comes along.

Our Management Assistance Program Director Jim Calloway does a great job of detecting and predicting trends. As an organization, we are fortunate to have his expertise for us in developing member benefits and to give individual advice to members. It truly is a full-time job just to observe what is going on. To grasp the concepts and



“The e-publication format is necessary to facilitate the best view in one of the electronic reading devices.”

to advise and teach others requires real talent. So I am going to give my disclaimers before I go any further. I am no Jim Calloway.

During the course of my exploration for new and different use of technology, I was asked to look at the Apple iPad. I am not endorsing the product. However, it

is a good example of what is happening in the world of technology. The iPad is a very slim, easy-to-hold device that offers a great deal of information and user-friendly applications. In researching the iPad for potential uses, I came across a large amount of information on using it and similar devices as a “reader.” To put it simply, readers are devices that substitute for paper books. The whole world of electronic publications is fast changing and a vast amount of information is available in electronic book form. Not a new concept, but the rate of conversion to this medium is almost overwhelming. Taking into consideration the “green” movement and the cost of printing on paper, this is a logical direction.

During my recent course of discovery I looked at software that creates e-pub documents or converts documents in other formats to an e-publication format. The e-publication format is necessary to facilitate the best view in one of the electronic reading devices. One of the gems I discovered is *Stanza*, which is iPhone and iPad compatible software that almost magically converts PDF files to an e-pub format that works very well on my iPhone and on the iPad. I was

able to download the PDF version of *The Oklahoma Bar Journal* onto my phone and have a touch screen version that allows for flipping of pages and a search feature that is lightning fast.

Although the iPhone screen is a bit small for this type of reading, it does demonstrate the technology very nicely. I also downloaded the PDF version of some of our internal operating documents, and they too are now in a nice page-flippable e-book format on my phone. With a device that is better suited for view-

ing documents, this is really powerful stuff. There are many publications that are free, and there are thousands of books that can be purchased in this format.

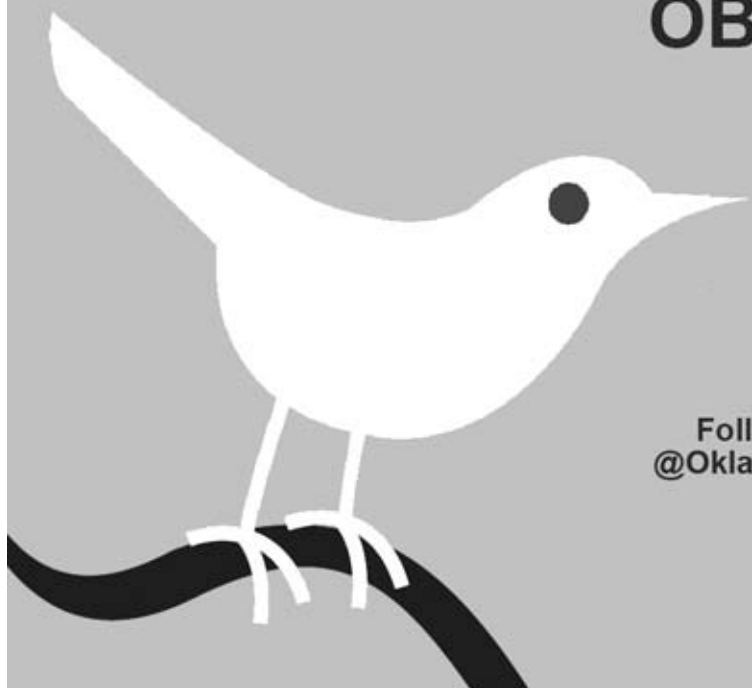
I am old fashioned when it comes to books. I like to own them, and I like to hold them. However, I must admit this new technology has me rethinking book ownership and reading. I now realize that I can "own" many more books, access them more quickly, carry them all with me in a single device and search them like never before.

I am convinced that I want an electronic reader. Even though it does not have all the "feelings" of a book, it offers so many other features and gives me so much more opportunity for looking at a whole lot more things in a different way.



To contact Executive Director Williams, e-mail him at johnw@okbar.org.

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Getting Noticed Online

By Jim Calloway, Director, OBA Management Assistance Program

Discussing the growth of the Internet and the explosion of social media is almost cliché at this point. However, there are many lawyers who are not using the Internet for practice development. Almost every law firm or solo lawyer needs a website. There may be a few exceptions, but my unscientific guess is that well over 90 percent of law firms can benefit from a website.

The Internet is where information flows today. When that former satisfied client gets a call from a friend needing a lawyer, you want them to be able to locate you right then and give their friend your name, your phone number and your web address. You want them to find you instantly. You do not want to hope they go to the trouble of locating that old dog-eared business card or they will pull out a directory



“The Internet
is where information
flows today.”

or Yellow Pages when they don't find you online. Of real concern is that they might do a few more searches and stumble across another lawyer's name to give their friend.

Many would disagree with me, but almost any website is better than none at all. “80 percent of success is just showing up” is a truism

attributed to Woody Allen (as I just learned from a quick Internet search). Every lawyer should be concerned about not “showing up” online when people are trying to locate you.

Just to be clear, I don't believe that a modest inexpensive basic website will garner your firm a lot of business without doing more. But we have reached the time when not having a website can cost your business. People today use the Internet to make all sorts of purchasing decisions. They also use it to verify decisions that they have already tentatively made. When potential clients are referred to you, many will look for you online before they give your office a call.

This article will focus on the very basics of developing a website and online presence for lawyers. Since most law firms already have websites, this article will be directed to

Does your law firm have a website?

	NUMBER OF LAWYERS AT ALL LOCATIONS					
	Total	Solo	2-9	10-49	50-99	100 or more
Yes	83.7%	52.1%	80.8%	96.5%	100.0%	99.0%
No	15.9%	47.9%	18.7%	2.8%		0.5%
Don't know	0.4%		0.5%	0.7%		0.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: 2010 American Bar Association Legal Technology Survey Report, American Legal Technology Resource Center: www.abanet.org/tech/ltrc/surostat.html

the solo lawyer or those firms with two or three lawyers. Solo lawyers without a website are not alone. According to the 2010 American Bar Association Legal Technology Survey Report, 52 percent of solo lawyers have a website, while 48 percent do not. But for law firms of two to five lawyers, the percentage who have a site jumps to over 80 percent.

Many lawyers are deterred from having a website because they do not understand the technology and there is a need to rely on consultants. Website design companies tend to bundle several different types of services together to provide a “turnkey” service.

To have a website, you need to first locate and reserve a domain name. Domains are registered through a registrar approved by the Internet Corporation for Assigned Names and Numbers, a non-governmental organization that manages domain names (www.icann.org). One can find a list of domain name registrars at www.internic.net/regist.html or by using a search engine.

If your name is Smith or Jones, you obviously may have a more difficult time formulating a unique web address than if you have a very unusual last name. Shorter domain names are thought to be better, but with so many domains already claimed, that may not always be an option. But don't forget that a very long domain name may not easily fit on your business card or letterhead. Personally I like a domain name that is easy to remember and tell someone verbally. Some domain names that are

derived from the initials of the law firm can be tongue-twisters, like DGBDLaw.com.

It is still thought that the .com domain names are best for law firms, even though many also reserve the same name with a .pro, .net or other additional extensions and use those addresses to forward people to the primary website. Many web design services offer free domain registration, but it is important to make sure that the law firm is listed as owner so that notices of renewal fees in future years come to you and not a now-defunct web design company.

After the law firm decides on and registers a domain name, the focus turns to content, web design and web hosting. Web hosting can be fairly inexpensive and so is often included in the quote from a web design company.

Fees charged by web design and hosting companies range from small fees to tens of thousands of dollars. Sadly, often one does not get what is paid for by using a higher-priced service. I've received more than one call from frustrated lawyers who paid a design firm \$10,000 and, months later, still had no website at all. You should check references and, just like dealing with any contractor, avoid paying too much in advance. The basic elements of this contract should be in writing like any other.

Most communities now have local designers. Many community colleges and tech training schools offer website design classes. Using an amateur can result in great savings. It can also result in a poor design that does not have the basic elements that get the site noticed by the

search engines or just looks very unprofessional.

Selecting your website designer is perhaps the most challenging part of this process. Your Internet home page is important, and you have to invest time and develop a level of trust with someone or some firm.

CONTENT IS STILL KING

Lawyers are wordsmiths and we can turn out lots of text. Great original content should be a cornerstone of your website. But, people tend to have a very short attention span online and a seven-page essay may not be read by as many as one or three paragraphs. It may be that you can have both, with a three-paragraph summary and a link to the longer treatment. But the time a visitor will spend on your website will likely be measured in seconds or at most a couple of minutes and you should plan accordingly.

The basics of a website should include information identifying you and your law practice. Your contact information, including your street address and phone number, should be prominently displayed.

The web is a visual medium. Therefore it is important for you to have graphics and other images on your site. Some will elect to purchase stock graphics for their website.

But in this age of digital cameras, it is fairly easy to either make some photographs yourself or have an acquaintance with more skill make some original photographs for you. This way you can be sure that the images on your website will not be duplicated in

many other law firm websites across the internet.

Every lawyer in the law firm should have a picture and a brief biographical sketch on the website. It is okay to include pictures of your staff, but as a lawyer, you will obviously want to have them sign a release before using any of their photographs on your commercial website. If you do not have a recent picture of yourself that you like, go make an appointment with a professional photographer and bring several sets of clothes to the session. Failing to have a personal photo on the website is a serious misstep. As noted, many people use the web to see the lawyer and get a feel for the things that they consider important before scheduling an appointment. The picture and some original heartfelt language are therefore critical.

Traditional images on law firm websites that are now felt to be trite and unimaginative include images of scales of justice or rows of law books. But it is better to have those than no graphics at all. A good original image might be the front of your office, especially if it might be hard to find. A map (or directions) to your office location is a good idea as well unless your office is on a primary street in your community. Many just link to the Google map of their address for their website.

Practice areas in which the firm is accepting new clients should also be identified on the website. Although one should be cautious and pay attention to ethical prohibitions against identifying yourself as a specialist in any particular area.

It is possible to do harm with a website as well. A requirement for any law firm website is flawlessly written content. There should be no misspellings or poor grammar on your website. If you are concerned about this or if you are concerned that you will create too much impenetrable legalese on your website, you should not be embarrassed to ask for help from someone.

Remember that the search engines will favor your website based on how often it is updated. Therefore it is important to update the website at least twice a year. A static unchanging website may get lower and lower rankings in Google and other search engines, making it harder for people to find you online.

Some of the best items of content to put on a website are original paragraphs by you on a substantive law area. If you have published an article in some professional magazine, like *The Oklahoma Bar Journal*, reprinting this content on the website is a great idea because it shows you have expertise that is recognized by other lawyers. If you have taught a continuing legal education class, this is also a good thing to include on your website, but it is important to include a few paragraphs about what you covered and not just mention that you taught a class to lawyers.

BLOWING YOUR OWN ONLINE HORN

Once you have a website created, you want to make others aware of it.

An initial step is to set up a Google profile with a link to your website because Google is obviously the most impor-

tant search engine at this point, and a Google profile is free. A Google profile can be very simple with just a few references as to your background and professional qualifications, a picture of you and a link to your website. You can set this up by registering at www.google.com/profiles. GMail users can use their same login credentials. The most important reason to have a Google profile is that when people search for your name in Google, the link to the Google profile should show up at the bottom of the first page of search results. Many companies will pay thousands of dollars to be listed on the first page of search results, so using a Google profile to make sure your link is there for your name is a simple and easy, but very important thing to do.

It is important to promote your website by having the web address on your business cards and stationery. Make sure that the website address is in your signature block in your e-mail account and that of everybody who works in your law firm. You will be surprised at the number of people who will click on the link to a website when they notice a new website in the signature block of someone they know. Some law firms even have a discreet sign in their reception area: "Visit us online at ____"

Oklahoma Bar Association members should be sure to list their practice areas with Oklahoma Find A Lawyer. This is done by logging into My Okbar from the OBA web page. While there is no ability to link to your web page from this service, it is free and will generate some leads for you.

There are other online directories of lawyers where you may wish to list yourself or your firm. At this point, I would advise against most paid directory listings. If one was going to invest in paying for Internet exposure, one could purchase Google AdWords for primary practice areas in the lawyer's city or state. One can limit the exposure of expense on Google AdWords by noting that you will only pay a limit of so much per week or month.

Do cultivate links to your website.

Be careful what you post on message boards or social networking sites. Participating in online communities of interest and public message boards

increases your online visibility. But disagreeable or controversial posting might also alienate potential clients so lawyers have to make the decision as to how much online free speech they want to exercise.

Blogs, online communities and other social media can all be used to drive traffic to your website and to promote your practice, but nurturing these tools takes a great deal of time. This topic will be discussed in more depth in a later edition of *The Oklahoma Bar Journal* this fall.

FINALLY, A WORD ABOUT SEO (SEARCH ENGINE OPTIMIZATION)

Many marketing firms claim great expertise in SEO. This is

the art or science (or voodoo) that is done behind the scenes to make your site appear higher in search results. Certainly there would be enormous value in guaranteeing that a lawyer's website would be the first result (or even in the top 10) when someone searches for "bankruptcy Oklahoma" or any other legal topic. Before you invest a lot of money chasing SEO, be sure to read "Making Your Website Visible: How to Find a Good SEO Company" by Sharon Nelson and John Simek in the May/June Issue of *Law Practice* magazine, online at tinyurl.com/2dcy88c.

www.okbar.org

Your source for OBA news.



At Home



At Work



And on the Go

A Short History of Legal Ethics

By Travis Pickens, OBA Ethics Counsel

The Oklahoma Rules of Professional Conduct, with some revisions, are based upon the ABA's Model Rules of Professional Conduct. The present ABA Model Rules of Professional Conduct, and therefore our own rules, have a history that goes back to 1836, when David Hoffman, an author and law professor at the University of Maryland, published for his students "Resolutions in Regard to Professional Deportment."¹ Professor Hoffman advised his students to let their conscience be their "sole guide" (Resolution 33) and further instructed them to "espouse no man's cause out of envy, hatred or malice, toward his antagonist" (Resolution 2).

Almost three decades later, professor and Judge George Sharswood published "A Compend of Lectures on the Aims and Duties of the Profession of Law." Sharswood's compendium was more specific than Hoffman's general reliance on a lawyer's conscience. Sharswood's practical approach was designed to provide concrete rules that were easier to teach (and enforce).

The first state bar to adopt a code of ethics was Alabama. It published its "Code of Ethics" in 1887. Legal historians have determined that the Alabama code was based upon Sharswood's "Essays

on Professional Ethics." A few other states followed Alabama's lead. There was no national model code until the ABA, a relatively new voluntary bar association founded in 1878, approved 32 Canons of Professional Ethics in 1908. The ABA canons mirrored the Alabama code. Now, a sort of stan-

Oklahoma adopted the Rules of Professional Conduct on March 10, 1988, to be effective July 1, 1988.

dardization of ethics rules had reached points on ends of the spectrum, one state and the most prominent nationwide legal association. It was only a matter of time before other states followed suit, and they eventually did.

Initially, the ABA implemented its code as private law, only applied to those attorneys who had joined the association. But that, of course, had limited impact as attorneys did not need membership in the ABA to practice law. Then, as now, mem-

bership was not mandatory. The most that would happen to a member attorney who violated the rules was banishment from the association.

Various states, however, began to adopt the ABA canons as positive law, which led to remedies with real power enforced by the supreme courts of the states. A lawyer could be suspended or disbarred. Another important development was the formation of the ABA's Ethics Committee to interpret its canons. These opinions were important guideposts not only for the ABA membership but for state courts enforcing its rules, usually based upon the ABA's canons.

Although more specific than Professor Hoffman's King Arthur-like conscience-driven goals, and despite periodic amendments, the ABA canons remained generalizations to some degree, lacking the particularity needed in an increasingly complex world and legal environment. It was not until 1969 that the ABA adopted a totally revised set of ethical rules, the Code of Professional Responsibility. Because of antitrust concerns brought about by the ABA's requirements that its member lawyers abide by certain rules that arguably restricted competition, *e.g.* strictures as to advertising and minimum

fees, the ABA acknowledged in 1978 that its rules were really only a *model* code. The code served the purpose of solidifying and elevating professional ethics but still suffered from lack of clarity.

The code was an overwritten set of canons, ethical considerations and disciplinary rules — the first two of which were simply aspirational and only the third mandatory. Somehow, they were all to be read together. It could be confusing to read, and to enforce.

The law of lawyering continued to evolve when the Kutak Commission (named after founding member, Robert J. Kutak, of the Kutak Rock law firm in Omaha) wrote several drafts of a new code between 1977 and 1983. The *Model Rules of Professional Conduct* were approved by the ABA in 1983. With several amendments, Oklahoma adopted the Rules of Professional Conduct on March 10, 1988, to be effective July 1, 1988. Prior to that time, Oklahoma had relied on disciplinary rules based upon the ABA code.

Ten years later, the ABA established what came to be

known as the Ethics 2000 Commission that was charged with evaluating the rules once again. Instead of wholesale replacement, the commission proposed a series of amendments that were adopted by the ABA in February 2002. The Oklahoma Supreme Court, again with several state-specific amendments, adopted the ABA's Model Rules, as those rules were then amended, effective Jan. 1, 2008. There has been one substantive amendment since then relating to how changes made by lawyers to IOLTA trust accounts must be reported.

Similar to the ABA's Ethics Committee, the Oklahoma Bar Association, itself or through the present Legal Ethics Advisory Panel, has provided opinions as to ethics questions brought to it by Oklahoma lawyers. The first ethics opinion written by the then "state bar" was in 1931 and concerned whether the entity, a real estate and property management business with a legal department, could include its legal services within an ad for the business's property-related services. The answer was "no" as advertising legal services was "derogatory to the dig-

nity and self respect of the profession." There have been more than 320 ethics opinions written since then, all or most of which are available on the OBA's website, www.okbar.org.

In August 2009, the ABA announced the formation of the Commission on Ethics 20/20. The commission will eventually draft and present recommendations for consideration by the ABA House of Delegates. See www.abanet.org/ethics2020.

How we practice law and how we meet those obligations have changed, but why we do so never has. Throughout the years, the traditional standards that have called lawyers to the bar have remained constant — duty, honor and integrity.

1. The information that follows relating to the evolution of the ABA's rules pertaining to professional conduct, including the quoted material, is taken from *Legal Ethics, The Lawyer's Deskbook on Professional Responsibility* by Ronald D. Rotunda and John S. Dzienkowski, 2010-2011, The Center for Professional Responsibility, The American Bar Association, West publishing, copyright 2010, pages 1-13.

Have an ethics question? It's a member benefit, and all inquiries are confidential. Contact Mr. Pickens at travis@okbar.org or (405) 416-7055; (800) 522-8065.

July Meeting Summary

The Oklahoma Bar Association Board of Governors met at the Oklahoma Bar Center in Oklahoma City on Friday, July 23, 2010.

REPORT OF THE PRESIDENT

President Smallwood reported that he and Vice President Martin delivered a CLE paper at the Solo and Small Firm Conference, and he continues to make preparations for the OBA Annual Meeting and the ABA meeting in San Francisco.

REPORT OF THE VICE PRESIDENT

Vice President Martin reported he attended the June board meeting and the Solo and Small Firm Conference.

REPORT OF THE PRESIDENT-ELECT

President-Elect Reheard reported she attended several planning meetings for president-elect initiatives, initial meeting of the Unauthorized Practice of Law Special Committee, Solo and Small Firm Conference and State Bar of New Mexico annual meeting.

REPORT OF THE PAST PRESIDENT

Past President Parsley reported he attended the June board meeting and the Solo and Small Firm Conference.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported that he attended the Solo and Small Firm Conference and associated meetings, Unauthorized Practice of Law Special Committee meeting, Strategic Planning Subcommittee meeting, web team meeting, directors meeting, Legal Aid reception at the governor's mansion, Chinese delegation dinner and CABA round table on employee benefits. He also met with contractors regarding work on the bar center.

BOARD MEMBER REPORTS

Governor Brown reported he attended the OBA Solo and Small Firm Conference, board meeting, OBA Bench and Bar Committee meeting and the Tulsa County Bar Association Nominations and Awards Committee meeting. **Governor Chesnut** reported he attended the June board meeting, Solo and Small Firm Conference, Diversity Committee meeting and the Ottawa County Bar Association meeting. **Governor Devoll** reported he attended the Solo and Small Firm Conference, June board meeting and the Garfield County Bar Association

meeting. **Governor Dobbs** reported he attended the Solo and Small Firm Conference and associated meetings and the June board meeting. **Governor Hixson** reported he attended the June board meeting and the Solo and Small Firm Conference. **Governor McCombs** reported via e-mail that he attended the board meeting at the Solo and Small Firm Conference and the McCurtain County Bar Association meeting. **Governor Poarch** reported he attended the Solo and Small Firm Conference, Bench and Bar Committee meeting and the initial Unauthorized Practice of Law Special Committee meeting. **Governor Shields** reported she attended the Solo and Small Firm Conference and June board meeting. She participated in the Oklahoma County Bar Association telephone conference. **Governor Stuart** reported he attended the June board meeting, Solo and Small Firm Conference, Access to Justice Committee meeting and handled *Oklahoma Bar Journal* matters as a member of the Board of Editors.

LAW STUDENT DIVISION LIAISON REPORT

New Chair Jason Waddell reported he attended the

Oklahoma County Bar Association annual awards luncheon and participated in the OCBA annual golf tournament.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported the governor has appointed three new lay members to the Professional Responsibility Tribunal. The Office of the General Counsel has obtained its second temporary injunction in Tulsa County District Court against an individual for the unauthorized practice of law. A written status report of the Professional Responsibility Commission and OBA disciplinary matters for June 2010 was submitted for the board's review.

She also reported she gave an ethics CLE presentation at the Solo and Small Firm Conference, at a meeting of child support enforcement attorneys and a short presentation at the PRT Annual Meeting. She attended meetings of the Technology Task Force Subcommittee on Office of the General Counsel case management needs, Clients' Security Fund, Professional Responsibility Commission and UPL Special Committee.

AUDIT REPORT

Joe Brueggen, with the accounting firm of Smith, Carney & Co., reviewed the firm's audit finding that the 2009 financial statements presented fairly the financial position of the OBA. Smith Carney CPA Stacey Vascellaro reviewed the statements of financial position and cash flow. The OBA's lack of an integrated

accounting system was discussed, and the firm recommended a cost benefit analysis. OBA staff members were asked to leave the room for a short time while the board talked to the audit firm representatives.

GOVERNMENT AND ADMINISTRATIVE LAW SECTION BYLAWS AMENDMENTS

Section Chairperson Jami Fenner reviewed changes suggested for its bylaws allowing associate members and electronic voting. The board approved the amendments.

PRO BONO SUMMIT

President Smallwood reviewed the request by the Access to Justice Committee to hold a state Pro Bono Summit in conjunction with National Pro Bono Week, Oct. 24-30, 2010, and for funding of \$1,500 for expenses. The committee will seek additional financial support from other sources. Executive Director Williams discussed budget considerations. The board approved the request for the half-day event and funding up to \$1,500.

REVISED MODEL CODE OF JUDICIAL CONDUCT AND PROPOSED RULES FOR THE COMMITTEE ON JUDICIAL ELECTIONS

Governor Brown, Bench and Bar Committee co-chair, reviewed the committee's efforts on this immense project. The committee plans to present its proposed revisions of the Model Code of Judicial Conduct to the House of Delegates in resolution form. He said a draft was presented to judges at the 2009 judicial

conference, and sections that caused concern were reworked. It was noted the major change to the code is that provisions for dealing with judicial election complaints would be enforceable, whereas the current code is aspirational. Committee member David Swank said the code is not designed as a basis for civil or criminal liability. He reviewed the proposed procedure for dealing with complaints and a provision for expedited hearings. Committee Co-Chair Cathy Christensen helped answer questions. Committee member Richard Harris shared his viewpoint on rule 3.6 that he considers to be too vague and needs to follow the federal model. It was noted a limited amendment will be made to the application section. The board voted to table action until next month.

EXECUTIVE SESSION

The board voted to go into executive session, met and voted to come out of session.

OKLAHOMA LAW STUDENT DIVISION LIAISON

The board voted to eliminate the funded Law Student Division liaison position from the Board of Governors. It was noted the division may send a liaison to the Young Lawyers Division meetings, which are held on Saturday and would not conflict with classes.

NEXT MEETING

The Board of Governors will meet at 9 a.m. at the Oklahoma Bar Center in Oklahoma City on Friday, Aug. 27, 2010.

How are OBF Fellows Funds Used?

By Phil Frazier with Barbara Sears and Anne Sublett

Tulsa Lawyers for Children Inc. (TLC) is one of the beneficiaries of OBF funding since 2006. To give you a better idea of the services provided to children in “deprived” cases in Tulsa County, I visited with lawyers Barbara Sears, the executive director of TLC, and Anne Sublett, a TLC volunteer as well as president of the organization (Barbara, Anne and I are proud to say, “We are OBF Fellows.”) Here’s what I learned from our conversations.

TLC is a not-for-profit corporation formed in 2000 to recruit, train and provide ongoing assistance to lawyers who provide pro bono legal representation for children in “deprived” actions in the Tulsa County Juvenile Court. These children, all under the age of 18, are in the custody of the Oklahoma Department of Human Services because of alleged abuse, abandonment or neglect by their parents. TLC’s mission is to recruit, train and coordinate the activities of volunteer lawyers from all areas of practice to represent these children.

Oklahoma law [10A O.S. 1-4-306(A)(2)(a)] requires that children in “deprived” cases have independent legal representation before the courts. In Tulsa County, the public

defender’s office is generally initially appointed to represent children in “deprived cases,” — but when the public defender’s office is “conflicted out” of the representation often because it represents or has represented the child’s parents in a different matter, often criminal, or when a conflict arises among the interests of the individual children in a family — TLC is appointed to represent the child or children. TLC then identifies a volunteer attorney to assume representation of the child or children, prepares the case file, and adds the case to its tracking system so the volunteer will receive a reminder each time the case appears on the court docket. In some situations, juvenile court judges appoint TLC to represent children at the outset of the case, rather than the public defender’s office. Because of the large number of “deprived” cases filed annually, the need for additional volunteer attorneys greatly exceeds current resources. There is no other organization in this geographical area that provides the same or similar services to children as TLC.

A child’s lawyer in a “deprived” case is required by statute to represent the child’s expressed interests before the court, a sharp

Have you ever wondered how funds collected from the OBF Fellows are used? Well, I’m glad you asked, because I want to introduce you to Mary.

“Mary,” a six-year-old girl, was physically abused by her mother and her mother’s boyfriend. Criminal charges were filed against them and the public defender’s office was appointed to represent Mary’s mother in the criminal case. When a petition was filed by the Tulsa County D.A.’s Office alleging that Mary was “deprived,” i.e., abused, neglected or abandoned, a volunteer Tulsa Lawyers for Children (TLC) attorney was appointed to represent Mary.

The TLC volunteer attorney discovered that Mary’s natural father had legal custody of Mary and her siblings in another state. The TLC attorney shared the information with Mary’s DHS case worker, obtained documentation to confirm the custody, and managed to locate her natural father through his attorney. Mary’s mother had absconded with her as a baby; the father had no idea where they were and had been trying to locate them for six years. DHS made contact with Mary’s grateful father and he flew to Oklahoma.

Ultimately, Mary’s father regained custody — a happy ending that might never have been achieved but the commitment and diligence of Mary’s volunteer TLC lawyer.

contrast between the attorney's role and that of CASA volunteer or other guardian *ad litem* appointed to advocate for the child's best interest. The TLC volunteer does what lawyers do for any client: meet with the client to determine the child's "expressed interests" in the case; attend court hearings; participate in DHS meetings concerning the case, meet with the parents' attorneys and other involved parties; and, if the case reaches that point, represent the child in a jury or non-jury trial determining the parents' rights. At appellate stage, TLC volunteer attorneys continue to provide pro bono representation through the appeal.

TLC volunteer lawyers are asked to accept only one case at a time, but it is not unusual for a TLC attorney to accept multiple case appointments. Volunteer lawyers report they get "hooked" on the professional pride and satisfaction of representing children who have been failed by many of the adults in their lives. "Deprived" cases generally continue for a year or more and sometimes go on for several years.

Children — the most vulnerable of clients — need and deserve the same high quality of representation that adult clients receive. The Oklahoma Children's Code is an area of law in which few lawyers have training or experience; even experienced family law attorneys often find juvenile court and the Oklahoma Children's Code as foreign territory. TLC stresses training as the centerpiece of its program and provides comprehensive training — for free with CLE credit. More than 150 attor-

neys have completed the course since inception. Training encompasses applicable substantive law, special procedures which govern deprived cases, and techniques for communicating with child clients. Volunteer attorneys observe activities in the courtroom and receive an orientation to the Tulsa County Juvenile Bureau. The TLC training and ongoing mentoring and assistance enables volunteer lawyers to represent children with competence and professionalism, and most do not practice in the area of juvenile law.

“ I can't say often enough how much we appreciate the consistent support OBF has given TLC over the years. I'm not sure how TLC would have made it without you. ”

— TLC Volunteer
Anne Sublett,
Connor & Winters

TLC has developed two complementary projects to support and enhance the effectiveness of representation for these children. The first project is a joint venture with the University of Tulsa College of Law that involves training law student volun-

teers to perform legal assistant duties in a case. These duties generally consist primarily of meeting with clients to ascertain their well-being, current needs, and desires relative to reunification with the parents, visitation and other issues. Students may assist with legal research and other tasks, such as reviewing and summarizing service provider files related to the case. Students attend the same training provided to the volunteer lawyers and orientation with TLC's executive director prior to assignment to a volunteer attorney mentor. Seventy-five law students have completed the training since spring 2006.

The second project is TLC's Shelter Visitation & Show Cause Hearing Project and is similar to a program developed by Oklahoma Lawyers for Children Inc. (OLFC) in Oklahoma County. It provides trained attorney and non-attorney volunteers to meet with children brought into the DHS emergency children's shelter. A volunteer gathers information from the child about the family relationship, including relatives the child would feel safe with. The volunteer explains the next steps in the court process to the child in a developmentally appropriate way. Then, acting as guardian *ad litem* at this stage, the TLC volunteer presents information gathered at these meetings to the judge at the "show cause" or "shelter" hearing that generally follows within 48 hours of a child's removal from the home. Development and implementation of this TLC project was specifically requested by the Tulsa County chief juvenile judge and such services are not currently available to children

Oklahoma Lawyers for Children Inc. is another beneficiary of OBF funding, also providing children's legal services. *The Oklahoma DHS 2009 Annual Report* reports 2,333 confirmed cases of child abuse and neglect in Oklahoma — together, Tulsa and Oklahoma Counties have 42 percent of the total confirmed

cases of child abuse in the state. Since 1997, OLFC volunteer lawyers have represented over 21,000 children at emergency “show cause” hearings in Oklahoma County. These lawyer volunteers also provide more in-depth legal services to over 3,500 children — representing these children throughout their entire court proceedings, including their permanent placement. Oklahoma County juvenile judges recently gave OLFC endorsement by stating “The juvenile court judges in Oklahoma County are

extremely proud of and blessed by OLFC, and pray that their services will go on forever.”

As you consider whether or not to become an Oklahoma Bar Foundation Fellow, please think of Mary and the thousands of children like her who still need a volunteer attorney in the courtroom and in their lives. Become an OBF Fellow today!

Phil Frazier is president of the Oklahoma Bar Foundation. He can be reached at pfrazierlaw@swbell.net.



FELLOW ENROLLMENT FORM

☐ Attorney ☐ Non-Attorney

Name: _____
(name, as it should appear on your OBF Fellow Plaque) County

Firm or other affiliation: _____

Mailing & Delivery Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____ E-Mail Address: _____

I want to be an OBF Fellow **now** – Bill Me Later!

___ Total amount enclosed, \$1,000

___ \$100 enclosed & bill annually

____ *New Lawyer 1st Year*, \$25 enclosed & bill as stated

___ *New Lawyer within 3 Years, \$50 enclosed & bill as stated*

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Civil Gideon - The Basics

By Rick Goralewicz

It is uniquely appropriate for Oklahoma, among other states, to review its access-to-justice policies this year — the 40th anniversary of the U.S. Supreme Court landmark decision in *Goldberg v. Kelly*.¹ That case, *inter alia*, asserted both “the Nation’s basic commitment has been to foster the dignity and well-being of all persons within its borders” and the role of law to “help bring within the reach of the poor the same opportunities that are available to others to participate meaningfully in the life of the community.”

While not strictly a “right to counsel” opinion, the decision underscores the fallacy of a generalized mythology in which a) people either choose or deserve to be poor and, b) the vital role of meaningful access to justice in fostering both individual dignity and the societal goal of respect for the law.

In pursuit of both those laudatory aims, many attorneys, courts and legal organizations advocate for “Civil Gideon” laws — a right to counsel in certain essential areas of litigation impacting on basic needs such as shelter, income maintenance, child custody and healthcare. Modeled on *Gideon v. Wainwright*,² advocates seek to apply *Gideon*’s recognition of need for “the guiding hand of counsel”

because they lack “both the skill and knowledge [to] adequately ... prepare [their] defense, even though [they] have a perfect one.”

Unlike its criminal counterpart, however, Civil Gideon has proven more difficult to anchor in federal constitutional law. The “right,” therefore, arises out of state constitutional mandates such as Oklahoma’s Bill of Rights requiring that “The courts of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice.”³

To date, only California has legislatively enacted a comprehensive civil right to counsel. That bill — Assembly Bill 590 — became law in October 2009. It creates a series of pilot projects by which courts appoint counsel to indigent civil litigants in matters involving basic human needs. In addition, through the increase of certain court fees and fines, a dedicated funding stream ensures that existing resources are not drained. It’s too soon to either see or forecast the impact this innovation will make on California’s civil justice system.

We can, however agree with its aims: rectifying unmet need for civil counsel, preventing interference with the administration of justice caused by lack of counsel, mitigating the costs to the state of unresolved legal issues exceeding the costs of providing a lawyer, increasing judicial efficiency and bolstering confidence in the legal system.

In-depth exploration of the pros and cons of Civil Gideon lies beyond the scope of this article. The most often heard counterpoints are: a) that the number of contested cases will increase and b) such a program would not be cost efficient. Most criticisms of Civil Gideon echo those of opponents to the original *Gideon* opinion 50 years ago. They also reflect a cynicism toward the legal profession and its obligation to *prevent* frivolous litigation. Finally, as alluded to above, many of the prospective benefits will offset worries about cost. Here too, however, “cost” cannot be viewed as a static thing. For example:

Benefits of representation may not easily convert to dollar amounts. Although not easily quantifiable, the “enhance[d] human dignity and self-respect” of a person who fully participates in a proceeding

where important decisions about family, home, income or other personal interest are made is significant.⁴

A 40th anniversary is traditionally symbolized by the ruby. Among its folkloric qualities were healing and protection. The Civil Gideon movement epitomizes both those attributes for litigants, courts and society as a whole. Unlike Dorothy's celebrated ruby slippers, however, it

holds no magic in and of itself. Rather, it represents one solid pillar of a structure of justice supported by a strong pro bono ethic within the legal profession; meaningful *pro se* reform, and public legal services institutions funded adequately to sustain their missions.

Civil Gideon represents a true branch of Goldberg's family tree and a step forward in Oklahoma's on-going effort to carry out her consti-

tutional mandate of open courts.

Mr. Goralewicz practices with the Senior Law Project of Legal Aid Services of Oklahoma in Oklahoma City. He is a member of the National Coalition for a Civil Right to Counsel.

1. 397 U.S. 254 (1970).
2. 372 U.S. 335 (1963).
3. OK CONST, art II, Sec. 6.
4. Kaufman, Dennis. "The Tipping Point on the Scales of Justice," 25 *Touro Law Review* 349, 387 (2009).



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Summertime's a Busy Time for the YLD

By Molly Aspan, YLD Chairperson

As I write this article, I have a hard time believing that this year is more than halfway over. The summer months have flown by, and my time as YLD chair ends in December. It has been a busy year so far, but I am pleased to see the excitement and involvement demonstrated by many young lawyers — both new and old — through the year. If you have not had the opportunity to become involved and meet other young lawyers, be sure to attend the new attorney happy hours in Oklahoma City and Tulsa coming up on Oct. 5.

New Attorney Reception and Happy Hours

The YLD is once again hosting receptions and happy hours welcoming new members to our profession. The swearing-in ceremonies will be held Sept. 23, and the YLD will be involved by hosting a cookie and punch reception for new admittees and their families following the ceremony.

Then, on **Oct. 5 at 5:30 p.m.**, the YLD would like to invite all members to attend a happy hour welcoming the new admittees into the YLD and the OBA. The happy hour receptions will be held in Oklahoma City at **Mickey Mantle's Steakhouse** in

Bricktown and in Tulsa at **Leon's Restless Ribbon** in Brookside. We hope that many of our members use this opportunity to meet the new admittees, as well as to meet other members and learn more about the YLD.

YLD Midyear Meeting

Young lawyers from all over the state descended upon the Oklahoma border at the Downstream Resort in Quapaw, Okla., for the YLD Midyear Meeting, which was held in conjunction with the OBA Solo and Small Firm Conference. Between the Midyear Meeting and excellent CLE, the YLD also hosted a well-attended hospitality suite, coordinated by board members Breea Bacon and Robert Faulk. Several YLD directors were on hand to promote involvement in the YLD and its various committees, while bar members of all ages enjoyed music, refreshments, and chatting with OBA leaders and each other. There were many young lawyers at these events, and they provided an excellent opportunity for networking and meeting other lawyers. This was the first year for the event at the Downstream Resort, and, if you had to miss the event this year, be sure attend next year as there was outstanding CLE, great activities and programs

for the kids, and a lot of socializing and pool time.

I would also like to thank Jason Rew, the chair of the Missouri Young Lawyers Section, who attended and provided information about the Missouri YLS, including new ideas for projects and events.

Disaster Legal Services

Weather-related disasters are not uncommon in Oklahoma, and this summer has proven to be no exception. The Federal Emergency Management Agency has made federal disaster declarations for many counties in Oklahoma affected by recent storms and flooding. Upon learning of the declaration, the YLD and the OBA Disaster Response and Relief Committee took immediate action to provide volunteer legal services.

In setting up this free disaster legal service, the YLD and the committee coordinated with the OBA to establish a website for individuals who needed assistance. Storm victims could fill out a form on the OBA's website that was then forwarded to volunteer lawyers. Thank you goes out to John Morris Williams, Jim Calloway, Debbie Brink, John Burchell, and the entire staff

of the OBA who so willingly assisted in this effort.

A number of lawyers responded immediately to the call for volunteers. Volunteers were Molly Aspan, Keith Bartsch, Richard Carson, Catherine Doud, Doris Gruntmeir, Henry Herbst, Jennifer Kirkpatrick, Marissa Lane, Carin Marcussen, Mark Patkowski, Richard Rose, Roy Tucker and Bryon Will. Thanks to the efforts of these volunteer attorneys, 21 individuals have benefited from this service.

Proposed Bylaw Revisions Affecting Elections

The YLD anticipates voting on amendments to its bylaws at its Board of Directors meeting on Aug. 28. The proposed amendments permit ballots for election of YLD officers and directors to be distributed both electronically and in *The Oklahoma Bar Journal* and permits for electronic voting. In the past, ballots were only distributed in *The Oklahoma Bar Journal*,

but, as some attorneys now receive the bar journal electronically and not in a hard copy form, the proposed amendments permit electronic voting in addition to the paper ballot.

Bar Exam Survival Kits Distributed

The YLD Board of Directors and the YLD New Attorney Committee assembled over 400 bar exam survival kits at its July Board of Directors meeting. The kits included items such as pens, pencils, pencil sharpeners, earplugs, snacks, bottled water, stress balls, aspirin and — of course — information on joining the OBA/YLD. The kits were also sponsored by the OBA Family Law Section, who provided the pencils and also included information about joining the section.

Breea Bacon, Leslie Edgar, Jennifer Kirkpatrick, Katherine Mazaheri, Lane Neal, Karolina Roberts, Jeff Trevillion and Collin Walke passed out the survival kits at

the bar exam in Oklahoma City, and Amber Peckio Garrett and Timothy Rogers passed out the survival kits at the bar exam in Tulsa. The YLD also extends special thanks to Doris Gruntmeir for assembling the contents of the kits - a task she has faithfully undertaken for the past few years. Though few were actually excited to take the bar exam, many were grateful for the essentials provided by the YLD.

New Attorney Happy Hours

**October 5,
5:30 p.m.**

***Mickey Mantle's
Steakhouse, OKC***

***Leon's Restless
Ribbon, Tulsa***

All are invited!

You are not alone.



Men Helping Men

August 19

Keeping Depression and Anxiety Away

Time - 5:30-7 p.m.

Location

The Oil Center – West Building
1st Floor Conference Room
2601 NW Expressway
Oklahoma City, OK 73112

- * **Food and drink will be provided!**
- * **Meetings are free and open to male OBA members.**
- * **Reservations are preferred. (We want to have enough space and food for all.)**

For further information and to reserve your spot,
please e-mail stephaniealton@cabainc.com.



Women Helping Women.....

August 26

Finding Your Balance

Time - 5:30-7 p.m.

Location

The Oil Center – West Building
10th Floor Conference Room
2601 NW Expressway
Oklahoma City, OK 73112

- * **Food and drink will be provided!**
- * **Meetings are free and open to female OBA members.**
- * **Reservations are preferred. (We want to have enough space and food for all.)**

For further information and to reserve your spot,
please e-mail stephaniealton@cabainc.com.

LAWYERS HELPING LAWYERS ASSISTANCE PROGRAM



Calendar

August

- 10 OBA Technology Task Force Subcommittee Meeting;** 11 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Deborah Reheard (918) 689-9281
- 11 OBA Government and Administrative Law Practice Section Meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jami Fenner (405) 844-9900
- 13 OBA Family Law Section Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Kimberly K. Hays (918) 592-2800
- 17 OBA Civil Procedure Committee Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229
- 18 Oklahoma Council of Administrative Hearing Officials;** 12 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Carolyn Guthrie (405) 271-1269 Ext. 56212
- 19 OBA Access to Justice Committee Meeting;** 10 a.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Kade A. McClure (580) 248-4675
- 20 OBA Technology Task Force Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Deborah Reheard (918) 689-9281
- Association of Black Lawyers Meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donna Bacy (405) 424-5510



- 21 OBA Title Examination Standards Committee Meeting;** 9:30 a.m.; Stroud Conference Center, Stroud; Contact: Kraettli Epperson (405) 848-9100
- OBA Law-related Education We the People Citizen and Constitution Teacher Training;** 8 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jane McConnell (405) 416-7024
- 25 OBA Professionalism Committee Meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Sharisse O'Carroll (918) 584-4192
- 26 OBA Strategic Planning Subcommittee Meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Deborah Reheard (918) 689-9281
- OBA Legal Intern Committee Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact: H. Terrell Monks (405) 733-8686
- OBA Unauthorized Practice of Law Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact: Deborah Reheard (918) 689-9281
- 27 OBA Board of Governors Meeting;** 9 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: John Morris Williams (405) 416-7000
- OBA Awards Committee Meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Renée Hildebrandt (405) 713-1423
- OBA Technology Committee/CLE Task Force Subcommittee;** 1:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donna Dirickson (580) 323-3456
- OBA Solo and Small Firm Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Donita Douglas (405) 416-7028

September

- 3 OBA Diversity Committee Meeting;** 11 a.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Marvin Lizama (918) 742-2021
- 6 OBA Closed – Labor Day Observed**
- 10 OBA Communications Committee Meeting;** 12:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Douglas Dodd (918) 591-5316
- OBA Family Law Section Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Kimberly K. Hays (918) 592-2800

- 14 **OBA Military Task Force Meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City with tele-conference; Contact: Deborah Reheard (918) 689-9281
- 15 **Ruth Bader Ginsburg American Inn of Court;** 5 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donald Lynn Babb (405) 235-1611
- 18 **OBA Title Examination Standards Committee Meeting;** Tulsa County Bar Center, Tulsa; Contact: Kraettli Epperson (405) 848-9100
- 21 **OBA Civil Procedure Committee Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229
- 22 **OBA Professionalism Committee Meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Sharisse O'Carroll (918) 584-4192
- 23 **New Admittee Swearing In Ceremony;** House of Representatives Chambers; Contact: Board of Bar Examiners (405) 416-7075
- Oklahoma Bar Foundation Trustee Meeting;** 4 p.m.; Tulsa Country Club, Tulsa; Contact: Nancy Norsworthy (405) 416-7070
- 24 **OBA Board of Governors Meeting;** 9 a.m.; Tulsa County Bar Center, Tulsa; Contact: John Morris Williams (405) 416-7000
- OBA Board of Editors Meeting;** 2:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Carol Manning (405) 416-7016
- 25 **OBA Law-related Education Representative Democracy in America and Project Citizen Programs;** 8:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jane McConnell (405) 416-7024
- 28 **OBA Law-related Education PROS Teacher Training;** 8:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jane McConnell (405) 416-7024
- OBA New Lawyer Experience;** 8:30 a.m.; Tulsa County Bar Center, Tulsa; Contact: Jim Calloway (405) 416-7051
- 29 **OBA Law-related Education PROS Teacher Training;** 8:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jane McConnell (405) 416-7024
- 30 **OBA Women in Law Conference;** Tulsa, Oklahoma; Contact: Renée DeMoss (918) 595-4800
- OBA Survey Task Force;** 3 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Brian Hermanson (580) 762-0020

October

- 1 **OBA Diversity Committee Meeting;** 11 a.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Marvin Lizama (918) 742-2021
- Oklahoma Bar Foundation Meeting;** 1 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Nancy Norsworthy (405) 416-7070
- 5 **OBA New Lawyer Experience;** 8:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Jim Calloway (405) 416-7051
- 8 **OBA Family Law Section Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Kimberly K. Hays (918) 592-2800
- 14 **OBA 2011 Budget Public Hearing;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Craig Combs (405) 416-7040
- 15 **OBA Board of Governors Meeting;** 9 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: John Morris Williams (405) 416-7000
- Association of Black Lawyers Meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donna Bacy (405) 424-5510
- Lawyers Helping Lawyers Assistance Program Training;** 1 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donita Douglas (405) 416-7028
- 19 **OBA Civil Procedure Committee Meeting;** 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229



- 23 **OBA Young Lawyers Division Board of Directors Meeting;** 10 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Molly Aspan (918) 594-0595
- 27 **OBA Professionalism Committee Meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Sharisse O'Carroll (918) 584-4192
- 28 **Oklahoma Bar Foundation Meeting;** 8:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Nancy Norsworthy (405) 416-7070



Smith Appointed to Appeals Court

Tulsa County District Judge Clancy Smith was recently appointed to the Court of Criminal Appeals.

Judge Smith, a judge for 16 years, handles a felony trial docket. She will assume her duties on the appeals court effective

Sept. 1, filling the post vacated by Judge Charles Chapel, who retired March 1.

She served 11 years as a special judge before being appointed by Gov. Brad Henry to the district judgeship in 2005.

Judge Smith is a native of Hugo. She received a bachelor's degree from OSU and a law degree from TU in 1980.

In July the OBA hosted a reception and dinner for Chinese law students from Nankai University and lawyers from the Tianjin Bar Association, who were in Oklahoma City to attend the Certificate in American Law Course at the OCU School of Law. Among those attending were (from left) Nankai University representative Xie Yangjim, OBA President Allen Smallwood, OCU Dean Larry Hellman and Ma Ke Wei, TBA executive council member.



Ring Named District Judge

Judge Rodney David Ring was recently appointed district judge in Cleveland County. He fills the vacancy created when District Judge Bill Hetherington was named to the Oklahoma Court of Appeals last year.

Judge Ring has been a special judge in Cleveland County for 20 years. He was previously in private practice and also served as interim city attorney in Moore.



Indian Law Section Presents Scholarships

The OBA Indian Law Section recently awarded \$750 scholarships to three law school graduates to cover the cost of attending a bar exam review course. These scholarships were awarded during the Sovereignty Symposium held in June. The scholarships were awarded based on academic merit, expression of need and commitment to practicing Indian law in Oklahoma. Pictured are (from left) TU graduate Jessica Hunt, Indian Law Section Chair Debra Gee, OU graduate Anthony Walters, Indian Law Section Secretary Chrissi Nimmo and OCU graduate Richard Hunter.

OBA Member Resignations

The following members have resigned as members of the association and notice is hereby given of such resignation:

Samirah Muhammad Albakri
OBA No. 20450
1531 E. 66th Pl.
Chicago, IL 60637

Syma S. Azam
OBA No. 17840
302 Washington Ave. Ext.,
Ste. 3
Albany, NY 12203

Sheila Kayleen Bryant
OBA No. 15198
2805 Pascoe Lane
Nampa, ID 83686

Bart Charles Craytor
OBA No. 13948
424 W. Broad St.
Texarkana, TX 75501

Kimberly Ann Erickson
OBA No. 17245
11618 W. Palm Brook Drive
Avondale, AZ 85392

Hilde Haden
OBA No. 3685
17 Shipwright Circle
Port Royal, SC 29935

James W. Hamel
OBA No. 22025
2609 Summit Ridge Drive
Southlake, TX 76092

Jan M. Hunter
OBA No. 10352
3065 Hudson Way
Decatur, GA 30033

J. Phillip Patterson
OBA No. 6954
6403 NW Grand Blvd., Suite
204
Oklahoma City, OK 73116

Mark E. Pence
OBA No. 7015
1727 S. 140th E. Ave.
Tulsa, OK 74108-5513

Martha Kristen Wray
OBA No. 15273
P. O. Box 657
Grand Isle, LA 70358

OBA Member Reinstatements

The following members of the OBA suspended for non-payment of dues have complied with the requirements for reinstatement, and notice is hereby given of such reinstatement:

Johnnie Brent Baker
OBA No. 447
19115 Match Play Drive
Humble, TX 77346

John Max Burnett Jr.
OBA No. 1338
3230 Cherokee Road
Rogers, AR 72758

D'Arwyn Keith Daniels
OBA No. 22037
5214 Pine Arbor
Houston, TX 77066

Christian Rollow Haave
OBA No. 19665
305 E. Main St.
Edmond, OK 73034

Carlyle Ronald Hatfield
OBA No. 15015
217 N. Harvey, Suite 506
Oklahoma City, OK 73102

Robert Baker Highsaw Jr.
OBA No. 4193
8201 S. Walker Ave.
Oklahoma City, OK
73139-9451

Kristen Anne Hilty
OBA No. 21214
P. O. Box 720053
Norman, OK 73070

James D. Hurley
OBA No. 4506
2144 Boe Circle
Thousand Oaks, CA 91362

John Larth Kienzle
OBA No. 11659
2207 N. Kickapoo Ave.
Shawnee, OK 74804-2731

Richard Chilton Labarthe
OBA No. 11393
1621 N. Classen Blvd.
Oklahoma City, OK 73106

Jana Kay Leavey
OBA No. 17885
109 E. Comanche
Norman, OK 73069

Jennifer Melissa Miller
OBA No. 20781
1519 Nottingham
Lubbock, TX 79382

Obie Luschin Moore
OBA No. 6348
Chemin des Lombardes 5-B
Versoix (Geneva) 1290
Switzerland

Corrine Lynn O'Day
OBA No. 19900
221 W. Broadway St.
Muskogee, OK 74401-6608

Clinton Noel Patterson
OBA No. 19689
4613 Cara Lee Lane
Bartlesville, OK 74006

Jon R. Running
OBA No. 7826
P.O. Box 190354
Dallas, TX 75219

Stephen Hume Sturgeon
OBA No. 8725
11116 Hurdle Hill Drive
Potomac, MD 20854

Lonna Adams-Webb
OBA No. 16976
1601 S. Elwood Ave.
Tulsa, OK 74119

OBA Member Reinstatements

The following members of the OBA suspended for non-compliance with the Rules for Mandatory Continuing Legal Education have complied with the requirements for reinstatement, and notice is hereby given of such reinstatement:

Mike Aston
OBA No. 13241
3242 E. 30th Pl.
Tulsa, OK 74114

Mitchell Kenneth Coatney
OBA No. 21066
8 Sherman Lane
Ponca City, OK 74604-5723

Richard Chilton Labarthe
OBA No. 11393
1621 N. Classen Blvd.
Oklahoma City, OK 73106

Jon W. McLanahan
OBA No. 12777
5105 Circle Glen
Edmond, OK 73025

Barton Casity McSpadden
OBA No. 15162
1 N. Hudson Ave., Suite 900
Oklahoma City, OK 73102

Corrine Lynn O'Day
OBA No. 19900
221 W. Broadway St.
Muskogee, OK 74401-6608

Nicole Jacqueline Petty
OBA No. 19690
12531 E. 20th Pl.
Tulsa, OK 74128

Jonna Lynn Reynolds
OBA No. 21336
1408 S. Denver
Tulsa, OK 74119

Shaun Thomas Riley
OBA No. 21887
228 Robert S. Kerr, Suite 100
Oklahoma City, OK 73102

Douglas Neal Ritter
OBA No. 19698
2012 S. Aster Ave.
Broken Arrow, OK
74012-6074

Health Law Section Clarification

The budget officer for the OBA Health Law Section was incorrectly reported to the OBA last December. The budget officer is Cori H. Loomis. She may be reached at 20 North Broadway, Suite 1800, Oklahoma City, 73102-8273; (405) 234-3238; cori.loomis@crowedunlevy.com.

Holiday Hours

The Oklahoma Bar Center will be closed Monday, Sept. 6 for Labor Day.

Oklahoma Bar Journal Editorial Calendar

2010

- September:
Bar Convention
Editor: Carol Manning
- October:
Probate
Editor: Scott Buhlinger
scott@bwrlawoffice.com
Deadline: May 1, 2010
- November:
Technology & Law Practice Management
Editor: January Windrix
janwindrix@yahoo.com
Deadline: Aug. 1, 2010
- December:
Ethics & Professional Responsibility
Editor: Pandee Ramirez
pandee@sbcglobal.net
Deadline: Aug. 1, 2010

2011

- January:
Meet Your OBA
Editor: Carol Manning
- February:
Tort/Civil Litigation
Editor: Leslie Taylor
leslietaylorjd@gmail.com
Deadline: Oct. 1, 2010
- March:
Criminal Law
Editor: Dietmar K. Caudle
d.caudle@sbcglobal.net
Deadline: Jan. 1, 2011
- April:
Law Day
Editor: Carol Manning
- May:
Real Estate and Title Law
Editor: Thomas E. Kennedy
kennedy@gungolljackson.com
Deadline: Jan. 1, 2011

- August:
Children and the Law
Editor: Sandee Coogan
scoogan@coxinet.net
Deadline: May 1, 2011
- September:
Bar Convention
Editor: Carol Manning
- October:
Labor and Employment Law
Editor: January J. Windrix
janwindrix@yahoo.com
Deadline: May 1, 2011
- November:
Environmental Law
Editor: Emily Y. Duensing
emily.duensing@oscn.net
Deadline: Aug. 1, 2011
- December:
Ethics & Professional Responsibility
Editor: P. Scott Buhlinger
scott@bwrlawoffice.com
Deadline: Aug. 1, 2011

If you would like to write an article on these topics, contact the editor.

Kudos

Steven L. Stice was recently sworn in as Cleveland County's newest special judge. Judge Stice graduated from OSU in 1991 with a degree in political science and received his J.D. from OU in 1996.

Howard R. Haralson was sworn in as Oklahoma County special judge in June. After graduating from OCU law in 1985, he served as assistant municipal counselor in Oklahoma City until 1987. His practice then included civil and criminal representation in municipal, state and federal courts.

Andrew M. Coats has been selected to receive the American Inns of Court's 2010 Professionalism Award for the 10th Circuit. The award will be presented at the 10th Circuit Judicial Conference in Colorado later this month. The award is presented bi-annually to honor a senior practicing judge or lawyer whose life and practice display character and integrity, coupled with ongoing dedication to the highest standards of the legal profession.

Richard C. Ogden was recently appointed to the Board of Regents for the Regional University System of Oklahoma. He is a business and commercial litigator and vice president and manager of Mulinix Ogden

Hall Andrews & Ludlam PLLC of Oklahoma City.

Judge Dean Linder was presented with his 50-year pin by Oklahoma Supreme Court Justice Yvonne Kauger in June, denoting his membership in the OBA for half a century. Judge Linder became district judge in 1982.

Michael Turpen was admitted into the 83rd Oklahoma Hall of Fame class. A native of Tulsa, he served as Oklahoma Attorney General from 1983 to 1987. Mr. Turpen is a partner at Riggs, Abney, Neal, Turpen, Orbison and Lewis in Tulsa and is a member of the Oklahoma State Regents for Higher Education.

Lindsay G. Robertson was recently invited to join the Advisory Committee on International Law of the U.S. Department of State. The ACIL is a 25-person committee of policymakers, legal practitioners and academics that advises the Department of State Legal Adviser and the Secretary of State on international law issues.

Owen L. Anderson was recently elected to the American Law Institute. Mr. Anderson joined the OU law faculty in 1992. In addition to teaching at OU, he is a visiting faculty member at the University of Dundee in Scotland and the University of Melbourne and the University of Sydney in Australia.

The University of Tulsa recognized professor **Vicki J. Limas** with an Outstanding Teacher Award, which is the highest teaching honor the

university bestows. Ms. Limas teaches employment discrimination law, employment law, introduction to alternative dispute resolution, mediation and tribal economic development.

Margaret Millikin was recently elected vice president of professional development for the Society of Women Engineers, Oklahoma Northeast region. In this role, she will be responsible for organizing activities to advance the professional development of SWE members and will chair the Tulsa Engineering Summit Committee and Career Coordination Committee.

Kimber J. Palmer was presented the 2010 Distance Educator of the Year Award at Texas A&M International University for the law-related courses she teaches there.

Gayle Barrett was recently presented with the 2010 Excellence in Human Resource Management Award from the Oklahoma State Council for Human Resource Management. The award recognizes and honors an individual who has demonstrated outstanding achievements in the field of human resource management.

Robert Redwine has been promoted to the rank of brigadier general in the U.S. Air Force Reserve. He is assigned as the Assistant Director, Intelligence, United States European Command, Stuttgart, Germany.

The Central Oklahoma Association of Legal Assistants named **Steven C.**

Davis the 2010 Attorney of the Year. This award is presented annually to a practicing attorney who has shown great support to the paralegal profession.

Midwest City attorney M.M. Joe Crosthwait Jr. has been elected to a two-year term on the Rose State College Foundation Board of Governors.

Kevin L. Sellers was promoted to Lieutenant Colonel by the U.S. Air Force. He currently serves at the Pentagon as an acquisition officer on the B-2 Spirit Bomber and the Next Generation Bomber. Later this summer, Lt. Col. Sellers will be reassigned to Lynn, Mass., where he will be the squadron commander of the Defense Contract Management Agency that has responsibility for contract administration for all General Electric military aircraft engines.

Tulsa County Bar Association officers have been elected for 2011. **Paul D. Brunton** will serve as president. **D. Faith Orłowski** will serve as president-elect during the upcoming year. President **Deirdre Dexter** will serve as past president. **James. R. Gotwals** will be vice president and **Trisha Archer** will be secretary. **Adam Marshall** has been elected as treasurer and **Tony Haynie** was chosen library trustee. **Bob Farris** will serve as the ABA delegate, and **Doug Dodd** and **Larry D. Leonard** were chosen as at-large directors.

The American Immigration Lawyers Association elected **T. Douglas Stump** as the association's new second vice president.

Hall Estill elected three partners to new positions on its executive committee and/or board of directors. **Steve Broussard** was elected to the executive committee for his first term. Newly elected to the board of directors is **Bradley Grundy**, and **Pat Cremin** was granted senior status on the board.

On The Move

Holden & Carr announces the opening of its third regional office in Turtle Creek in Dallas, Texas. Additional offices are located in Tulsa and Oklahoma City.

Michelle Skeens has been promoted to coordinating partner of all Holden & Carr offices, in addition to her legal practice with the firm. Ms. Skeens attended law school at West Virginia University.

Drummond Law PLLC of Tulsa announces **Taylor A. Burke** as an associate attorney. Mr. Burke is a 2006 graduate of the TU College of Law. In addition to civil litigation which will continue to be his focus, Mr. Burke has experience in regulatory law, estate litigation and family law.

Janie Simms Hipp of Fayetteville, Ark., has recently been named as Senior Advisor for Tribal Affairs to the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C. She also serves as director of USDA's Office of Tribal Relations. She earned her B.A. from

OU, her J.D. from OCU and her LL.M. in agricultural law from the University of Arkansas, Fayetteville.

Rubenstein McCormick & Pitts PLLC of Edmond announces that **J. Kacey Goss** has joined the firm. Mr. Goss' practice focuses on business transactions with an emphasis on tax planning, representation of individuals and businesses in controversies with the IRS, estate planning and litigation. He earned his J.D. from OU in 2007. After law school, he attended New York University School of Law and received an LL.M. in taxation.

Jon Franke of West & Associates in Oklahoma City announces the opening of his Advanced Dispute Resolution Office at 1500 SW 104th; (405) 378-8132. He graduated law school from OCU in 1990.

Don G. Pope & Associates of Norman announces **Edward Maguire** as an associate. Mr. Maguire attended Texas A&M University, College of Marine and Oceanographic Studies, earning a B.S. in maritime administration in 1991. He graduated from OCU law in 1994. Mr. Maguire practices in the areas of labor and employment law.

Hall Estill of Tulsa announces **Casey Cooper**, **David Newsome** and **Andrea Hoskins** have joined the firm. Mr. Cooper has experience with complex litigation in areas such as asbestos, Superfund cases and construction. Mr. Newsome also has experience practicing law in a variety of areas, including corporate and securities law, mergers and acquisitions, alternate dis-

pute resolutions and administrative law. Ms. Hoskins practices primarily in civil litigation, business law and corporate law.

Holmes and Yates of Ponca City announces the addition of **Shawna N. Taylor** as an associate attorney. Ms. Taylor is a 2008 graduate of the TU College of Law. Her areas of practice include divorce and child custody, criminal law and immigration.

The Law Offices of **Ramona S. Hanson** have moved to a new location at 423 N. Bryant, Edmond, 73034; (405) 330-1849.

McAfee & Taft's Tulsa Office has relocated to Mapco Plaza at 1717 S. Boulder, Suite 900, Tulsa, 74119. Phone numbers and other contact information remain the same.

Titus, Hillis, Reynolds, Love, Dickman & McCalmon of Tulsa announces that **Kelley Gilbert Loud** and **Stephanie Johnson Manning** have been named as partners of the firm. Ms. Loud focuses her practice on general civil litigation in federal and state courts throughout Oklahoma and Texas. Her practice areas include bankruptcy, probate and commercial law. She is a graduate of OU law and received her B.A. from OCU. Ms. Manning focuses her practice on labor and employment matters. Additionally, her practice includes drafting handbooks, policies and procedures, and providing client counseling to prevent unnecessary litigation. She received her undergraduate degree, summa cum laude, from Florida Southern College in Lakeland, Fla.,

and her J.D. with highest honors from TU.

Chris R. Hobza has been named associate general counsel for HireRight and will work in the company's Tulsa offices. Mr. Hobza most recently served as associate general counsel/executive director for the University of Houston system.

Crowe & Dunlevy announces the selection of **Stacey Spivey** as vice president of administration and **Adam Childers** as vice president of associate development. In her new role, Ms. Spivey will be responsible for the administrative operations of the Oklahoma City office. Mr. Childers will be responsible for the development, orientation and retention of the firm's associate attorneys.

Phillips Murrah PC of Oklahoma City announces that **Candace Williams Lisle** and **Chase H. Schnebel** have joined the firm. Ms. Lisle joins Phillips Murrah as an attorney of counsel. She represents clients in a range of complex business and commercial litigation matters. She received her B.B.A. and J.D. from OU. Mr. Schnebel is a tax attorney and CPA in Phillips Murrah's business department. His tax practice includes tax controversies, family wealth transfer planning and corporate law. He received his B.S. from the University of Kansas and his master's of accounting and J.D. from OU.

Conner & Winters of Oklahoma City announces the addition of **Jeanette C. Timmons** as of counsel. Ms. Timmons practices corporate and securities law for a wide variety of both public and

private companies. She received her J.D. and her B.B.A. with distinction from OU.

Mark H. Allen has joined the law firm of McAfee & Taft in its Tulsa office. Throughout his career, Mr. Allen has served as lead counsel and strategic business advisor on legal and business negotiations and transactions involving both public and private companies engaged in a wide range of industries. Mr. Allen is a graduate of OU and the Southern Methodist University Dedman School of Law.

Tomlinson & O'Connell PC announces that it has changed its name to Tomlinson, Rust, McKinstry, Grable. The firm will continue to focus in the areas of intellectual property, complex litigation, personal injury, employment law, products liability and general corporate counseling. Offices are located at Two Leadership Square, Suite 450, 211 N. Robinson, Oklahoma City; (405) 606-3350.

Holladay & Chilton PLLC of Oklahoma City announces **Gideon A. Lincecum** and **James E. Warner III** as members of the firm. Mr. Lincecum's practice focuses on state and federal litigation in general business, corporate law, insurance defense, eminent domain and intellectual property rights. He received his J.D. from OCU in 2002. Mr. Warner practices state and federal court litigation, appellate advocacy and alternative dispute resolution. He received his J.D. from OU in 2002.

At The Podium

Tom Cooper of Oklahoma City spoke at the annual convention of the Independent Insurance Agents of Oklahoma.

Matt Stump of Oklahoma City was a presenter at the American Immigration Lawyers Association Texas chapter spring conference in Austin, Texas. Mr. Stump presented a paper and discussion on O-1 petitions and related employment visas for researchers, professors, scientists and other professionals.

James Hardwick and **Fred Gist** participated in presentations at the Energy Law's Short Course on the Law of Shale Gas Play held in June in Fort Worth, Texas. Mr. Gist spoke on a panel discussing "Regulatory Issues in Forming and Operating Units in a Shale Play." Mr. Hardwick participated on a panel discussing "Comparison of Litigation Trends and Strategies in States with Shale Plays."

Timothy C. Dowd of Oklahoma City spoke at a special institute on Due Diligence in Mining and Oil & Gas Transaction for the Rocky Mountain Mineral Law Foundation in April in Westminster, Colo. Mr. Dowd's topic was oil and

gas material agreements and unrecorded documents in the acquisition of oil and gas properties.

Dennis G. Chappabitty of Sacramento, Calif., was a panelist at the Tribal Energy Conference in Washington, D.C. in June. He spoke about the Benton California Paiute Tribe's geothermal feasibility study on a panel titled, "Changing Environment for Energy Development on Indian Lands."

Eric L. Johnson of Oklahoma City was a moderator at the National Automotive Finance Association's Below Prime Auto Financing Conference held in Ft. Worth, Texas, in June. He moderated a panel discussion on state and federal legal and regulatory issues affecting the automotive finance industry. He also spoke at the Counselor Library.com's 2010 Housing and Auto Finance Workshop held in May in Baltimore, Md. He covered the topic of "Important State Law Litigation and Legislative Developments for the Auto Industry."

Carrie L. Palmer of Oklahoma City presented "The Sleeping Giant, Issues of Company Data Security and Employee Privacy Rights Converge in Exploding PDA Use," for the Trial Attorneys of America Annual meeting in Chicago in June.

Chris A. Paul of Tulsa presented on "Developments in Eminent Domain Rulings" at the 2010 Interna-

tional Right of Way Association's 56th annual International Education Conference in Calgary, Alberta, in June. In May, Mr. Paul also presented to the Oklahoma Higher Education Heritage Society in Oklahoma City about communications and legal issues.

Kelli Stump of Oklahoma City was a presenter at the 2010 American Immigration Lawyers Association Annual Conference on Immigration Law in National Harbor, Md. She presented a paper and was discussion leader for an I-601 workshop explaining waiver applications, the necessary evidence for a successful waiver based on extreme hardship to a qualifying family member, waivers of the 10-year bar and criminal convictions, as well as the procedure for filing in the United States and at a U.S. consulate abroad.

Garvin Isaacs recently served as a faculty member at the 2010 trial strategies and skills seminar held at the University of Wyoming School of Law. He gave the opening lecture, "On Being a Trial Lawyer in 2010," and also gave lectures on expert witnesses and jury instructions.

*Compiled by Chelsea
Klinglesmith*

Articles for the Sept. 4 issue must be received by August 16.

Submit news items to Melissa Brown at barbriefs@okbar.org.

Sherry Ann (Redding) Cummings of Sapulpa died May 18. She was born Jan. 23, 1963. She graduated law school from TU in 1988. After serving as the assistant district attorney in Mayes County, she practiced family law in Sapulpa for 15 years. Her greatest loves included her family, music and playing in the community band.

Harvey Allen Rotman of Olympia, Wash., died June 28. He was born Sept. 21, 1938, in Blackwell and raised in Tulsa, where he graduated from Will Rogers High School and earned a B.S. in psychology from TU. In 1964, he earned his law degree from OU. He started his own law practice in Tulsa, and eventually partnered with a good friend to form Hall and Rotman. He loved fishing and boating and started his boating adventures with a canoe, which he used to carry on the top of his car and launch in Tulsa's Mohawk Lake. He continued

his love of the water after the family relocated to the Northwest in 1977. Memorial donations may be made to the Harvey Rotman Memorial Fund at the National Multiple Sclerosis Society at tinyurl.com/2ur2ph3.

Max Scarce of Pauls Valley died June 21. He was born Feb. 18, 1923 in Arapaho. **Mr. Scarce volunteered in World War II, during which time he served as an airplane mechanic in the Philippines and engaged in ground action.** At the war's end, he began a career as a teacher and coach and later worked at Halliburton. After attending law school at night at OU, he became assistant district attorney and then judge. He retired as judge at age 67 to spend more time on his ranch. He enjoyed gardening and attending Walker Baptist Church.

Kenneth Nicholas Wilson of Oklahoma City died June 1. He was born Feb. 13, 1943, in Carlisle, Pa. He

attended Nichols Hills Elementary School, Casady School and later high school at Shattuck School in Faribault, Minn. Following graduation, he attended Princeton University for three years before transferring to OCU, where he earned his B.A. He then attended law school at OU, where he worked on the law review. **Being a member of ROTC, he entered the U.S. Army in 1968 as a Second Lieutenant and was eventually stationed in Korat, Thailand, where he served as a JAG officer.** He practiced law for 35 years with the Fellers Snider Law Firm. He was a life master in bridge, a bogey golfer, an avid reader of history and a movie buff. He was also a member of the 75 Club and the English-Speaking Union. Memorial contributions may be sent to Westminster Presbyterian Church at 4400 N. Shartel Ave., Oklahoma City, 73118; or Shattuck-St. Mary's School at 1000 Shumway Ave., P.O. Box 218, Faribault, Minn., 55021.

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ATTORNEY WITH EXPERIENCE IN SOCIAL SECURITY DISABILITY CLAIMS seeks to join small to mid-size firm in Northeast Oklahoma with diverse practice. Please respond via e-mail: tulsassdiattorney@gmail.com.

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DOWNTOWN TULSA AV RATED FIRM SEEKS ASSOCIATE with 3 to 10 years civil litigation experience. Firm offers an excellent compensation package. Salary is commensurate with experience. Strong academic record required. Please send resume, references, writing sample and law school transcript to "Box Z," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

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THE LAW FIRM OF HOLDEN & CARR seeks an experienced litigator for the firm's Oklahoma City office. With offices in Tulsa, Oklahoma City and Dallas, Holden & Carr is an insurance defense firm with a broad client base and a strong, growing presence in Oklahoma City. The firm seeks a partner-level attorney with 10 years of experience or more in litigation and, in particular, jury trial practice. Proven track record in business development required. Those seeking to ascend to leadership and build on the foundation for the firm's Oklahoma City operations are encouraged to inquire. The firm strives to be the best and requests nothing less from its members, therefore strong leadership and trial practices skills are required. Salary to be commensurate with experience. All applications will be kept in the strictest confidence. To inquire, please contact SteveHolden@HoldenLitigation.com.

THE LAW FIRM OF LOVE, BEAL & NIXON, P.C. is accepting resumes for an associate attorney position for the firm's Northwest Oklahoma City practice. The practice is primarily creditor rights/collection related. Please send resumes and salary requirements to resumes@lbnlegal.com.

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THE MASON AND OLSON LAW FIRM seeks a full-time attorney. Responsibilities will include preparing briefs, motion practice, discovery support and conducting legal research. Firm has general civil practice in state and federal courts with an emphasis on personal injury (representing both plaintiffs and defendants) and eminent domain litigation. 1 - 3 plus years experience. Salary and bonuses commensurate with experience. Submit resume and writing samples containing a Motion for Summary Judgment, Motion In Limine and/or Motion to Compel to: Jennifer Bruner, jbruner@masonolsonlaw.com, 2516 Northwest Expressway, Oklahoma City, OK, 73139, (405) 600-9300.

PARALEGAL WITH EXPERIENCE handling social security disability cases needed for busy Tulsa office. Pay commensurate with experience. Bonus for bilingual ability. Send resume to "Box E," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152. All replies kept confidential.

AV RATED FIRM IN WOODWARD is seeking an associate with 0-3 years experience. Firm engages in a general civil practice, with an emphasis in property, oil and gas and estate planning. Applicant should be self motivated and have good communication skills. Salary is commensurate with experience. Send resume, references, writing sample and law school transcript to "Box J," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

ASSOCIATE ATTORNEY SOUGHT - Broken Arrow firm seeking associate attorney with broad interests and experience, especially family law. Compensation terms are flexible and commensurate with experience. Send resume and references to Ross & Eudey, 106 North Main, Broken Arrow, OK 74012.

FRED BOETTCHER LAW HAS AN OPENING for a social security disability assistant for their north Oklahoma City office. Assistant will handle a broad range of secretarial duties and must be adept at working with a wide variety of clients. Must have experience in Microsoft Office products. Ability to comprehend medical records a plus. Salary is commensurate with experience, benefits included. All inquiries will be kept confidential. Please e-mail resume and references to katherine@boettcherlawoffice.com.

EXPERIENCED PERSON NEEDED for Office Mgr.\ Bookkeeper\Legal Asst.\Runner for small downtown law office. Must know TABS billing, \$25,000-\$30,000 plus benefits. Send resume to Joaniehome@cox.net.

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More Atticus Finches

By Thad Balkman

Our family likes to beat the summer heat by watching movies on summer nights. Recently we watched one of my all-time favorites and classics, "To Kill a Mockingbird." As I watched the movie, it struck me that we need more Atticus Finches not just in the court house, but also in the state House . . . and Senate. During June's three-day filing period, 41 licensed attorneys filed to run for federal and state races.

Both Democratic candidates for governor, **Drew Edmondson** and **Jari Askins**, are lawyers, and the leading Republican candidate for governor and current 5th District Representative **Mary Fallin** is married to a member of the Oklahoma Bar Association. In the race for the 5th Congressional District, there were three licensed attorneys, Democrats **Tom Guild** and **Billy Coyle** and Republican **Kevin Calvey**. And challenging U.S. Senator **Tom Coburn** is **Mark Myles**.

Oklahoma City attorneys **Jim Priest** (Democrat), and **Ryan Leonard**, (Republican) and Broken Arrow attorney **Scott Pruitt** (Republican), were vying for attorney general.



Each of the statewide elections for lieutenant governor, state treasurer, labor commissioner and corporation commissioner included one attorney – **Todd Lamb**, **Owen Laughlin**, **Jason Reese** and **Dana Murphy** respectively. In the state Legislature, eight attorneys were running for the State Senate, and 20 were seeking election to the House of Representatives.

State Senate candidates were **Sean Burrage** (incumbent), **Darryl Roberts**, **Johnny Lord**, **John Sparks** (incumbent), **Sharon Parker**, **Rob Johnson**, **Anthony Sykes** (incumbent) and **Tom Ivester** (incumbent).

House candidates were **Ben Sherrer** (incumbent), **Mark McCullough** (incumbent), **A.J. Jones**, **Cory Williams** (incumbent), **Aaron Stiles**, **Samson Buck** (incumbent), **Michael Corrales**, **David Phillips**, **Jay Ramey**, **Fred Jordan** (incumbent), **Jeff Tracy**, **Daniel Sullivan** (incumbent), **Molly McKay**, **Randy Grau**, **Brittany Novotny**, **Richard Morrisette** (incumbent), **Scott Inman** (incumbent), **John Trebilcock** (incumbent), **David Looby** and **Tim McCoy**.

There is a bipartisan balance among the lawyers running for office, with 18 registered as

Democrats and 22 registered as Republicans.

Not all of the attorney candidates will be successful — some ran against each other in primaries and some will run against each other in the general election. But win or lose on Election Day, all of these attorneys and candidates are like Atticus Finch — they are heroes for throwing their hat in the ring and seeking to improve the communities and the state we live in.

Mr. Balkman is executive director of the Oklahoma Lawyers Association in Oklahoma City.



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Kimberly Lambert-Love



John F. McCormick, Jr.



Bob Latham



James P. McCann



Tony M. Graham



Mike Schmidt (NM)



Todd Cone

Sam P. Daniel