OBA Launches One-of-a-Kind Speakers Bureau

By Gary C. Clark

Part of the stated mission of the Oklahoma Bar Association is to foster public service among our state’s legal community, and one of the most important ways our bar members can serve the public is through education on law-related topics. That’s why OBA President Renée DeMoss asked me to manage the creation of the new OBA Speakers Bureau, an automated online service that connects schools and civic clubs with lawyers who can speak on a number of important topics and issues.

The creation of the OBA Speakers Bureau was a priority item for President DeMoss, who made public education a key component of her presidential year. The bureau’s web-based platform, developed in conjunction with the OBA IT Department, makes it unique.

“To our knowledge this is the only online automated speakers bureau offered by a bar association in the United States,” Ms. DeMoss said. “It’s an easy way for bar members to use their individual skills to educate the public about various aspects of the law. In the process, it will enhance the image of lawyers.”

See SPEAKERS, PAGE 5

YLD Year in Review

By Justin D. Meek

HARVEST FOOD DRIVE

The Oklahoma County YLD greatly appreciates the support of the Oklahoma County lawyers. With your financial support, we were able to make a $20,000 donation to the Regional Food Bank of Oklahoma through our annual Harvest Food Drive. The donation would have been impossible without the generosity of so many lawyers and law firms. The Regional Food Bank is extremely grateful to the Oklahoma County Bar and as a result of the donation and matching program over 200,000 meals will be provided to those in need in 2015. Special thanks to Co-Chairs Bob Jackson and Beth Price for their coordination of the annual fundraiser.

Again, thank you, Oklahoma County Bar Association. The YLD is proud to be a part of such a wonderful group that clearly makes a difference in the community.

See YLD, PAGE 7

Local Court Rule No. 40:
Pocket Squares, Google, and Decorum for Today’s Attorneys

By Collin Walke

Do you know what Local District Court Rule No. 40 specifically does not address? The wearing of pants to court by male attorneys. I’m guessing that something so obvious did not need to be explained in writing. But if that is so, then why does Rule No. 40 specifically require male attorneys to wear ties and jackets? Were there attorneys showing up to court without ties and jackets? Who? (I want to meet these people.)

Now, I will admit that I have gone to the courthouse to pick up orders or file an item without a coat or tie; but I would never appear in court without a coat and tie. I am also a frequent wearer of jeans to work. In fact, about two weeks ago, a debate was had over lunch between several attorneys and myself about the propriety of jeans in the workplace. This question had such existential proportions that I believed it was necessary to bring it to the attention of the readers of the Briefcase. And so now, I put it to you: When, if ever, is it appropriate to be casual?

Exhibit “A”: It is never appropriate to be casual.

Gay Talese, a renowned journalist and son of an Italian tailor, would wear hand-stitched suits to school when he was a child. Could you imagine any child wearing a suit to school on a regular basis in today’s culture? Times have changed, and in his article, Puff Piece: Gay Talese on the Art of the Pocket Square, Mr. Talese laments the haphazard and disheveled look of younger journalists. Talese’s exquisite dress was, as he puts it, “a sign of respect for the journalistic profession...” To Talese, the pocket square is more than mere fabric, it is a celebration.

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Elizabeth Price, Co-Chair of the YLD Harvest Food Drive Committee, presents a $20,000 check to the Regional Food Bank of Oklahoma.
BRIEFCASE
January 2015
Brieﬁcase is a monthly publication of the Oklahoma County Bar Association
119 North Robinson Ave., Oklahoma City, OK 73102
(405) 236-8421

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For advertising information, call 278-2820.

Postmaster: Send address changes to OCBA Briefcase, 119 North Robinson Ave., Oklahoma City, Oklahoma 73102.

Journal Record Publishing produces the Briefcase for the Oklahoma County Bar Association, which is solely responsible for its content.

OKLAHOMA COUNTY BAR ASSOCIATION MISSION STATEMENT

Volunteer lawyers and judges dedicated to serving the judicial system, their profession, and their community in order to foster the highest ideals of the legal profession, to better the quality of life in Oklahoma County, and to promote justice for all.

By Jim Webb
OCBA President

Reform is a frequently used word. We freely invoke this word when it strikes us as expedient. But what does “reform” really mean? Is it reorganization? Restructuring? Reﬁning? All of the above? None of the above?

“Reform” is a word we should never use recklessly, because the word — in its purest sense — means to change something because it is corrupt or wrong.

As we head into another legislative session in Oklahoma, we will undoubtedly hear about various “reforms” that are claimed to be needed. Yes, there are certainly instances where lawmakers must step into to truly reform areas of our government that are struggling to carry out their duties and meet their mission. We saw that happen relatively recently, when the legislature played a vital role in improving the operations of the Department of Human Services, an agency plagued for many years with woefully insufficient funding and staff to address the serious issues faced by Oklahoma’s at-risk children. That effort took cooperation amongst all three branches of our government.

What we witnessed last year was anything but cooperation between two of those branches, the legislature and the judiciary.

In fact, we witnessed almost open warfare between the two. I am not placing blame. Presumably, there is blame to spread all around. One thing is clear, though. Absolutely nothing positive for Oklahoma will come out of this fight if it continues in 2015. We will all pay the price.

Think back with me to high school civics — a long, long time ago for some of us! Our system of government relies on checks and balances. Operating as intended, this allows each of the three co-equal branches to appropriately limit — or “check” — the powers of the other branches, thereby ensuring the proper “balance” of power amongst the branches.

James Madison taught us (in The Federalist No. 51) the “legislative authoritatively predominate[s]” in our system of government. Similarly, in his Commentaries on American Law, James Kent said it this way:

“The power of making laws is the supreme power in a state, and the department in which it resides will naturally have such a preponderance in the political system, and act with such mighty force upon the public mind, that the line of separation between that and the other branches of the government ought to be marked very distinctly, and with the most careful precision.”

Inter-branch governmental disputes absolutely will happen. That is inherent in checks and balances. Particularly when it comes to the legislature and the judiciary, however, it is vital that restraint be shown in the relationship between the two branches.

The judicial branch was designed to be absent of politics as much as possible. We can debate all day about the prevalence or absence of judicial activism. However, when you cut through the fog, it is imperative that we take every possible step to make certain our judges can make their decisions based on the facts, the law — and absolutely nothing else.

This year we will presumably once again see proposals that are designed to allow the legislative and executive branches to directly impact the judiciary. Ladies and gentlemen, please let us not forget the past. In 1969, Oklahoma voters approved amendments to the state constitution to take party politics and potential corruption out of the judicial-selection process following a terribly embarrassing political scandal. Oklahoma has come a long way. Now is not the time to reverse that progress.

Oklahomans are best served when the branches of government work together to preserve democracy and ensure equal access to a fully funded judicial system. My hope for all of us is that we will see collaboration and cooperation between the branches during the upcoming legislative session.

As always, remember I have an open door policy. I welcome your ideas on how we can improve the OCBA. Please email me at jim.webb@chk.com or call me at 935-9594.

Let’s Just Get Along

By Bill Gorden

Chaucer’s Tale: 1386 and the Road to Canterbury

Paul Strohm, Viking, 2014, Hardback, 284 pages, $28.95

Winter recently has remained gloomy and cold until well into what used to be considered Spring. Long nights can lead to some large projects if one is patient and persistent. Reading one Shakespeare play each two or so nights can lead to getting through the Bard’s canon in a season. (Be advised, some of it is not that good.) Similarly, reading four pages a night from the Canterbury Tales in The Riverside Chaucer (Houghton Mifflin), will finish that project. It would be well to have another kinder version next to you for reference, as the Olde English gets a bit tedious.

Whether you wish to dive in or merely dabble, the book will be of assistance. One can scarcely go back 600 or so years and just pick up all the ambiance of the time. This is especially true of a time where “everyman” is “every which one”, and “mention” is “mention”. To get inside Chaucer’s work and understand his character, his book, it will take more than a companion speller.

This book can serve that purpose. Written as an explanation of why Chaucer wrote these particular Tales at this particular time, with a sidelight on what made the Tales stand out in literary history, this book is accidently more than these. What stands out in the book under review is the descriptions of London, from sounds to smells, and of course, sights. This allows us to feel Chaucer and his environs. Chaucer was many things, as well as center of trade, seat of royal dispensation, power, center of a variety of forces which would change the world. By the time Strohm makes his ultimate points, towards the end of the book, we are charmed of the description of the town and the man. Chaucer had actually finished most of his life’s work as an author by the time Tales was started, but his audience was limited. Strohm says that the way Chaucer’s Tales is laid out actually creates a work inside the work itself, inviting the rest of us in, and that is the Tales magic. In Strohm’s work, likewise, he enlightens us to something while explaining something else.

Take a winter vacation in 1300’s London.

Book Notes
Trial and Tribulation

By Joi McClendon

THUMP...THUMP...THUMP... My eyes fly open; my heart is in my throat. The clock reads 3:00 a.m. Questions swarm and flow: Did I get all of the witnesses subpoenaed? Should my client testify? Is my voir dire prepared? Am I prepared? Did I feed the kids? The dog? The cat? Is my client really innocent?! A cold sweat envelopes my body as my breath comes in short bursts. All this is symptomatic of TRIAL BRAIN.

Fear not. Every trial lawyer experiences the dreaded Trial Brain. Symptoms usually present themselves weeks before trial. In fact, precisely 10-14 days prior to trial. Given that motions are due at least ten days prior to the trial date, anxiety begins to seep its way inside of you. (Now of course, you could easily prevent this by having your motions prepared long before the start of trial, but then, who really does that?) I begin by preparing all of the stock motions (that way you feel as if you have accomplished something of value... you are on a mission! I am on a mission! I call everyone into the living room: Husband, Drama Queen Teen, Pouty Preteen, and Squirmy boy. Even the cat and dog are in attendance. I excitedly explain that I will be completely immersed in a jury trial soon. Groans and moans ensue... “But Mom! You are CRAZY when you are in trial!” “Momma, who is going to help me with my project?”, and “So that means take-out for the week?” All the complaining aside, my family really does mean take-out for the next several days. Of course, par-ents of a jury and vigorously defend my client and dog are in attendance. I excitedly explain that I will be completely immersed in a jury trial soon. Groans and moans ensue... “But Mom! You are CRAZY when you are in trial!” “Momma, who is going to help me with my project?”, and “So that means take-out for the week?” All the complaining aside, my family really does step up and support me.

Before I know it, it is the eve of trial. I’m wide awake at 3 in the morning. Quietly, I resign myself to getting up and prepare the coffee that will be my main sustenance for the days to come. I comb through the trial file for the hundredth time. I prepare for the day, changing outfits at least four times, cursing my hair for not cooperating and growing deeper over the past two weeks. I scowl over lines that seemed to have been written the weekend before it lands in the hands of the jury sure he looked this way. An eternity passes as the foreperson hands the verdict to the bailiff before it lands in the hands of the judge. Then you hear the two sweetest words in the world: NOT GUILTY! I feel blessed to be a trial attorney. The opportunity to practice with intelligent and wonderful lawyers. But what I am most thankful for, most blessed to have is my family who supports me every inch of the way. I get to be the things I love being the most: a lawyer, a wife and a mom.
By Jim Croy

January 26, 1915
One Hundred Years Ago

[Beauchamp v. Beauchamp, 1915 OK 45, 146 P. 30.]

Action by Lizzie C. Beauchamp against Commodore P. Beauchamp for divorce. Judgment for plaintiff, and defendant brings error. Reversed and remanded. Plaintiff in error will be designated as defendant, and defendant in error as plaintiff, in accord with their respective titles in the trial court.

On January 21, 1910, plaintiff commenced her first action against the defendant in the district court of Oklahoma county for divorce upon the ground of non-support as “gross neglect of duty,” which the court, on October 16, 1910, denied upon a demurrer to her evidence.

On September 3, 1911, plaintiff commenced the present action in the district court of Seminole county for divorce upon the same ground; and the only question here is as to the sufficiency of the evidence to show “gross neglect of duty” in that court.

The trial court having sustained defendant’s plea of res judicata as to this question up to and including that date.

In 1891, he was 26 years old; her age was 19 years. They were married. Her father was a tailor. Her mother was a seamstress. They were married in Oklahoma City.

In 1892, he went to work in a flour mill, and she went to work in a millinery shop. In 1893, they started a business, and they contributed equally to it. In 1894, they moved to Los Angeles, where they continued their business.

On October 16, 1910, they decided to separate. They lived separately and apart from each other. In 1896, they were divorced.

The judgment of the trial court should be reversed, and the case should be remanded for another trial.

January 23, 1940
Seventy-Five Years Ago


[Ed note: Lest we forget...]

This action was commenced in the district court of Kingfisher county by the school board of common school district No. 41 again the county, as superintendant to enjoin excess application of certain alleged statutory powers in connection with separate schools (sec. 7035, O. S. 1931, 70 Okla. Stat. Ann. § 453) and the consolidation of districts (sec. 6915, O. S. 1931, 70 Okla. Stat. Ann. § 251).

The writ was granted, and the superintendent has appealed.

Since the creation of said district No. 41 the negroes have been the majority race therein, and the affairs of the district school have been under the management and control of a board composed of Negro members. Apparently no separate school for whites had ever been established.

On February 9, 1938, the defendant superintendent, acting pursuant to the provisions of section 7035, supra, promulgated an order wherein the colored people of said district were declared to be the minority race and the whites to be the majority race, directed the colored children to attend school, beginning with the next term, at a building designated as Booker T. Washington School, and authorized the white people to organize as a common school at the regular annual meeting.

Thereupon the white electors of district No. 41 petitioned the county superintendent seeking to annex said district to consolidate district No. 2 pursuant to section 6915, above.

The plaintiff board says the superintendent had no such authority or order aforesaid or to proceed with the annexation in that the circumstances then existing were not such as would permit the action taken and attempted. Section 7674 reads as follows:

“County... separate school... in such county... shall be the same... the county superintendent... shall... the county... shall designate which shall be the common school and which school they should each attend. The fact that no separate school for whites existed in the district is of no material consequence. It has been suggested that Booker T. Washington schoolhouse was located in district No. 41 by mistake, whereas it was intended to be erected in consolidated district No. 2, which is adjacent to said district No. 41 by mistake, whereas it was intended to be erected in consolidated district No. 2, which is adjacent to said district No. 41, and was under the exclusive control of the county superintendent. As long as it is operated as a separate school, it is a county institution, and none, except perhaps the county, may question its location, and, so far as all others are concerned, must remain in the district of its erection until, through the process of statutory annexation of territory and consolidation of districts, it may be found in another district. The sale and disposition of such property is exclusively the duty of the county commissioners. Section 7051, O. S. 1931, 70 Okla. Stat. Ann. § 466.

We, as here, there are two schools in one district, the county superintendent may designate which shall be the common and which separate school, and disregard of which race is in majority with respect to school children, may direct which class, if any, shall attend the respective schools...

Referring now to the proposed annexation of said district No. 41 to consolidated district No. 2, we must hold that since the acts of the superintendent designating the white school as the common school have been confirmed as legal, the
GableGotwals is Pleased to Name Five New Shareholders in the Firm

With almost 90 active attorneys, GableGotwals has announced the promotion of three associate attorneys and two of council attorneys to shareholder status as of January 2015. The five new shareholders, who will split between the Tulsa and Oklahoma City offices, include Ellen A. Adams, Jeffrey A. Curran, Alicia J. Edwards, Thomas J. Hutchison and Diana T. Vermeire. Located in the Oklahoma City office are Adams, Curran and Vermeire while Hutchison and Edwards are in the Tulsa office.

Ellen A. Adams’ practice primarily consists of prosecuting and defending corporate and individual clients in a wide variety of complex business litigation in state and federal courts. Her representation has been focused on clients in a wide variety of matters including environmental disputes, breach of contract, labor and employment issues, lease cancellation, and royalty disputes. Ellen has been named a Rising Star by Oklahoma Super Lawyers since 2012. She is located in the Oklahoma City office.

Jeffrey A. Curran’s practice focuses on product liability defense, insurance matters, intellectual property litigation and commercial litigation. He also maintains an entertainment law practice, representing motion picture production companies, musicians and recording companies in contract negotiation, licensing and related areas.

Alicia J. Edwards’ practice areas include environmental law and intellectual property. Prior to joining GableGotwals, she was an environmental scientist from 1989 until 2004. She is located in the Oklahoma City office.

Diana T. Vermeire’s practice focuses on general corporate law, including state and federal labor, and employment law; administrative, regulatory and legislative advocacy; policy analysis and management. She brings a unique skill in the area of compliance review for companies that includes an analysis of workplace policies and procedures, identifying areas of exposure for potential litigation, and offering solutions.

Diana is located in the Oklahoma City office.

McAfee & Taft Names Matt Bown Chief Operating Officer

Oklahoma-based McAfee & Taft has named local executive Matt Bown to the newly created position of chief operating officer. In this role, Bown will be responsible for managing the firm’s business and financial operations, overseeing the firm’s administrative and professional departments, and working directly with the managing director and board of directors on strategic growth, risk management, organizational development, and profitability initiatives.

Prior to joining McAfee & Taft, Bown served as executive vice president and chief operating officer of Oklahoma-based Dean McGee Eye Institute, one of the nation’s largest and most respected ophthalmology institutes, for 19 years.

Bown holds a bachelor’s degree in accounting and business administration from Drew University and is a certified public accountant.

He began his career in public accounting, spending nine years with KPMG.

Active in the community, Bown currently serves as president and member of the board of directors of the OKC All Sports Association and as treasurer and member of the board of directors of the Tulsa Club of Oklahoma City. He also serves on the board of directors of Leadership Oklahoma City.

Crowe & Dunlevy Adds Three Associates in Oklahoma City

Crowe & Dunlevy recently announced the hiring of Erin Potter Sullenger, Denny D. Sweeney and Meredith W. Wolfe as associates in the firm’s Oklahoma City office.

Erin Potter Sullenger is a member of the firm’s Environmental, Energy & Natural Resources and Litigation & Trial practice groups. Prior to joining the firm, she clerked for the Honorable Gregory K. Frizzell in the Northern District of Oklahoma and served as an honors law clerk at the United States Environmental Protection Agency (EPA) in the water enforcement division of the Office of Enforcement and Compliance Assurance in Washington, D.C. At the EPA, she gained experience drafting and editing administrative and civil judicial enforcement matters under the Clean Water Act and Safe Drinking Water Act.

Meredith Wolfe is a member of the firm’s Litigation & Trial, Banking & Financial Services and Litigation & Trial practice groups. Prior to joining the firm, she clerked for the Honorable R. Wilson, a district judge in the District Court for the Western District of Oklahoma. During her time in law school, she served as an articles editor of the American Indian Law Review while maintaining her place on the Dean’s List. Wolfe also holds a bachelor’s degree in history from the University of Oklahoma.

Denny D. Sweeney is a member of the firm’s Energy, Environment, Public Utility & Telecommunications practice before the Oklahoma Corporation Commission and commercial litigation practice before the Oklahoma Corporation Commission and commercial litigation. Mr. Huddleston graduated from the University of Oklahoma in 2008.

Mr. Huddleston’s practices in the areas of product liability defense, insurance matters, construction litigation, oil and gas litigation, and bet-the-company contract and business tort law practices.

Mr. Huddleston graduated from the University of Oklahoma College of Law in 2008.

Alicia J. Edwards is an honors law clerk at the United States Court of Appeals for the Tenth Circuit. She is located in the Oklahoma City office.

She received her Juris Doctor from the University of Oklahoma College of Law and has been named an Oklahoma Super Lawyer for his work. He is located in the Oklahoma City office.

Mr. Huddleston has been recognized by Martindale-Hubbell as an AV Preeminent attorney for his work.

Drinking Water Act.

Under the Clean Water Act and Safe Drinking Water Act.
YLD from PAGE 1

**SALVATION ARMY TOY DISTRIBUTION**

In December, members of the YLD volunteered once again with the Salvation Army Christmas Program. Several board members assisted the Salvation Army with its annual toy and elderly gift basket distribution. As part of our efforts, members loaded boxes, organized gifts, and helped distribute turkeys, toys, and other necessities to residents of Oklahoma County in need of assistance. It is truly humbling to help play a role in providing Christmas gifts to those in need. The families are always grateful for the support and it seems like the project grows each year. The members of the YLD are to be commended for taking time off from brief writing, court appearances, and research to give back to the community. I am very proud of the YLD and the role we play in the community.

**2015 CHILI COOK-OFF**

On Friday, January 30, 2015 from 6-8 p.m. the YLD will hold its Annual Chili Cook-off. The annual event will be held at Rocky’s in Bricktown and will feature chili made by lawyers, judges, and other friends of the YLD. Several Oklahoma County Judges will be on hand to judge the best overall chili, the hottest chili, and the best traditional and non-traditional chili. Soft drinks, veggie trays, and chips and salsa will be provided. A cash bar will also be available. There is still time to purchase tickets to the event and your participation would be greatly appreciated.

![Image of YLD members at Salvation Army toy distribution]

Sarah Moore, Benjamin Grubb, LeAnne McGill, Stephanie Cox and Curtis Thomas.

![Image of YLD members at Chili Cook-off]

Sarah Moore, Benjamin Grubb, Kristy Makinson, Nancy Hurst, Brooke Bowling and Candy Bass in front.

Sarah Moore, Bob Jackson, Chelsea Smith and Tessa Hager.

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**COURT RULE from PAGE 1**

of who he is and what he does “without any sense of modesty or mixed emotions.” By Talese’s old-school calculation, dapper attire is the outward expression of self-esteem and respect; and thus, a requirement for people who consider themselves professionals. Exhibit “B”: It is always appropriate to be casual.

The flip side of the Talese coin is the Google approach to attire. What could be a more hip and definitive sign of the times than Google? At Google, there is no dress code for employees or interviewees! I even found a photo of a Google employee wearing butterfly wings while working. And yet, Google is the No.1 place to work according to Forbes (I doubt a law firm has ever topped that list). In addition to being the greatest place to work, there is no doubt that Google is an innovative and productive work place. So if dress is so important, why is Google’s laid back approach so successful?

Showing respect to clients, other lawyers, the court, and the profession itself is not doubt important. But at the same time, I don’t know that sitting at my desk in a three piece suit while typing a brief is indicative of respect for others or myself. As is often the case, perhaps it is not an “Either/Or” issue. Maybe there is a definitive continuum for proper attire: Going to court? Suit and tie. Working in your office on a Saturday? Jeans and a polo. Everything in between? Gray area. Of course, maybe I’m wrong. Maybe a pocket square is the only way to go.
OK County Judges Sworn in January 12.

Newly-elected District Judge Aletia Timmons was sworn in by her uncle, Retired ALJ Theodore Haynes.

Newly-elected District Judge Don Andrews was sworn in by Oklahoma Supreme Court Justice Noma Gurich.

Oklahoma County Judges
Love Makes the World Go...
By Kurt Ockershauser

Judge John M. Amick grew up in rural Oklahoma and attended Oklahoma State University in Stillwater. Upon graduation from college, Judge Amick went into the Army where he served as a machine gun platoon leader in France where he saw some combat and eventually participated in the victorious sweep in Hitler’s Bavaria.

After the war, Judge Amick went to the University of Oklahoma Law School and graduated in 1948. He was then elected County Attorney of Grant County and thereupon variously became an Assistant U.S. Attorney and Assistant County Attorney here in Oklahoma County under James Harrod. In 1965, Judge Amick formed his own law firm but was shortly thereafter to be appointed to fill the unexpired term of Judge Frank Miskovsky. While he was originally assigned in the Probate Division, his talents as a trial judge were soon recognized and he has been serving as a trial judge ever since.

As most of you know, Judge Amick received the highest rating of any judge, either state or federal in a recent survey conducted by the Oklahoma Trial Lawyers Association in which participating attorneys were asked to rate trial judges in Oklahoma City, Tulsa, and Stillwater. Shortly after Judge Amick began his relatively short-lived career as a judge, he decided that given his choice, he wanted to be a judge for the remainder of his career. Nevertheless, Judge Amick has resigned from the bench. On July 31, 1973, the Associate District Judge’s position held by Judge Amick will be vacant.

Judge Amick is married, has five children and is active in community affairs. The judge has participated in United Appeal, Downtown Civican Club, the Boy Scouts of America and the Boys Clubs of America. He has been active in his church for many years and is currently an adjunct Professor of Law at Oklahoma City University.

Why has Judge Amick resigned? Apparently, it was a combination of factors which revolve around one central issue – money. Money in the form of increased salaries to our judiciary which has been long overdue not only to Judge Amick but also to many other trial judges, particularly in the larger counties. While love may make the world go ‘round, it is time we stopped worrying about terrestrial excitation and begin worrying about judicial resignation. In a recent survey, Oklahoma again came at the bottom among the larger states for the shortage of funds, OCU faculty would not have been upset about this that he came to Oklahoma City and actually sat beside the State Representative from his county when the legislature voted against the raise.

In spite of the legislature, there is a bright outlook. It is an unfortunate situation, at best, which has led Judge Amick to resign from the bench. Perhaps viewed more realistically, it could become a dangerous situation for if we are unable to retain and compete for highly qualified judges we can inescapably expect that the quality of justice will suffer as a result. We, the Bar, are singularly well qualified to handle this problem; indeed, if we do not, we can expect similar action from other members of the state judiciary.

District Judges’ salaries by 5%; however, the cost of living over the past year has increased by 4.7%. Consequently, our Judges have increased their lot by a whopping 3%! Now that extra money is not contingent upon good performance or anything else. In other words, each and every month they can count on approximately $4.50 extra—before taxes.

I am happy to report that Judge Amick has accepted a job as professor at Oklahoma City University Law School. In addition to his position there, he is considering several offers to associate in private practice. I further understand that his family is happy to report that he will be earning more in nine months as a professor at OCU than he was in twelve months as an Associate District Judge.

It is an unfortunate situation, at best, which has led Judge Amick to resign from the bench. Perhaps viewed more realistically, it could become a dangerous situation for if we are unable to retain and compete for highly qualified judges we can inescapably expect that the quality of justice will suffer as a result. We, the Bar, are singularly well qualified to handle this problem; indeed, if we do not, we can expect similar action from other members of the state judiciary.

In spite of the legislature, there is a bright note to this particular case. While the judge has indicated that he will not run against any District Judge presently on the bench because of present friendships, if conditions improve we may yet again see Judge Amick on the bench.

2014 UPDATE: Judge Amick returned to the bench where he served as a stabilized example of judicial temperament and wisdom. Upon contact about this article, Retired District Judge John Amick explained:

“There is a story behind my resignation. Judges had been trying, unsuccessfully, to get the legislature to raise judicial salaries. One of the legislators who was opposed to any raise was from Garfield County. Judge Tom Blaine, who was then a District Judge in Enid, the county seat of Garfield County, was so upset about this that he came to Oklahoma City and actually sat beside the State Representative from his county when the legislature voted against the raise.

“This struggle for a raise was still going on when word got around that I was going to resign. Judge Carmen Harris, one of my fellow judges, came to me and suggested that I mention judicial salaries as the reason for my resignation. I was happy, of course, to do anything to help in this matter: So I did.

“This got me a world of trouble at OCU, where it had just been announced that, due to the shortage of funds, OCU faculty would not be receiving a raise they had hoped for at that time! This was one of my best lessons in learning to keep my mouth shut. Very truly yours, John M. Amick.”

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Black, Ostrich Leg Western Boots $595
Tan Burnished, Ranch Hand Western Boots $595
Blue Suaded, Caiman Exotic Western Boots $595
Full Qull Ostrich, Western Boots $1,195

Supplies limited. Sorry, no re-orders with this offer. Offer subject to change without notification.

Handmade Ropers & Western Boots

Handmade Western Wear

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The company owned by prolific San Francisco concert promoter Bill Graham (think The Fillmore and Live Aid) was sold several times after his untimely death. Included with the company was a building that passed from new owner to new owner. Deep in the basement of the building was an untouched unbelievable treasure trove of music memorabilia. Graham must have saved everything he could get his hands on from 20,000 or so concerts. Beginning in 1966, and until a fatal helicopter crash in 1991, he stashed away original concert posters, backstage passes, tickets, t-shirts, and photography. Graham even had the foresight to maintain the original business contracts which granted him all intellectual property and copyrights for these items. That was important because he also made in excess of 7,000 audio and video recordings of the concerts. Boxed up and forgotten in a dusty basement were high quality tapes from the likes of Otis Redding, Bob Dylan, Miles Davis, and Bruce Springsteen. That was until 2003, when Graham’s business was sold again and a Minnesota businessman purchased the basement’s contents for $5 million thinking he’d receive hundreds of thousands of items. Turns out there were millions of items. Because of the difficulty in valuing rare items (such as a recording of the Sex Pistols’ very last performance or the Who’s last performance of Tommy with Keith Moon), the collection is estimated to be worth at least $50 million and possibly as much as $100 million. Although the rarest items aren’t for sale, most of the memorabilia can be purchased from Wolfgang’s Vault that is a website named after Graham whose given name was Wolfgang Grajonca. The recordings can be either bought or streamed on wolfgangsconcertvault.com. Did you see Jimi Hendrix perform at the OU Field House in May of 1970? For only $535 you can own an original poster. It’s pretty cool.

Jim Webb: Jim grew up in OKC dreaming he’d be a forest ranger someplace far from the rest of us in the Yukon territory, living in a small log cabin with a couple of dogs, and having supplies periodically dropped from a plane, with perhaps one annual trip into town for a couple of hours. Happily, that’s not what he got. Instead, he’s married to a saint (Stacy), has five boys (17, 15, 13, 11, and 8), and is surrounded by people all day every day. Jim attended law school at Washington University in St. Louis. After graduating in 1993, he practiced in Denver before returning to OKC to work at McAfee Taft. He is now with Chesapeake where they have given him a long important sounding job title. He managed to acquire the dogs (three Labs) and he does live in Yukon - the town, not the territory. He’d like to play the guitar, but it’s going to take a lot more work. Shooting guns or beating on drums has damaged his hearing. Nevertheless, music remains the balm to his restless soul and he continues to enjoy all types of music. He was pretty hostile toward Toby Keith’s music so don’t expect to find it on his playlist below.

<table>
<thead>
<tr>
<th>Song Title</th>
<th>Artist</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tom Sawyer</td>
<td>Rush</td>
</tr>
<tr>
<td>Skinny Jeans</td>
<td>Andy Gullahorn</td>
</tr>
<tr>
<td>Country Roads</td>
<td>James Taylor</td>
</tr>
<tr>
<td>Escape</td>
<td>Journey</td>
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<tr>
<td>What Is Hip</td>
<td>Tower of Power</td>
</tr>
<tr>
<td>Fanfare For The Common Man</td>
<td>Aaron Copland</td>
</tr>
<tr>
<td>Rabbit</td>
<td>Ray Wylie Hubbard, 2006</td>
</tr>
<tr>
<td>Screaming for Vengeance</td>
<td>Judas Priest (Guilty Pleasure)</td>
</tr>
</tbody>
</table>
Edward Snowden: Hero or Traitor?

Part two through five of a five-part article reprinted from The Nebraska Lawyer with permission of the Omaha Bar Association.

By G. Michael Fenner

II. Where Are We Today With Domestic Surveillance

Today the NSA collects metadata. Telephone metadata includes names and phone numbers called, the number from which the call came, the length of the call, how often the one number calls the other. Internet metadata includes email and I.P. addresses, who an email is from and to whom it is sent, frequency of communication, and location information. It includes Web sites visited. It includes the electronic traces left when a person goes online.

- According to a recent study, people worldwide send 182 billion emails each day:
  - the U.S. sends 3 billion emails a day. The NSA collects this metadata randomly. They collect as much of it as they can and they keep the records for 5 years. Last December, General Keith Alexander—at the time he led the NSA and the U.S. Cyber Command—said that “[t]he NSA is collecting metadata of more than 300 million Americans.”1
  - Last December the population of the United States was just over 317 million. 300 million is most of us.

At the turn of this year the Washington Post reported that the NSA collects 5 billion new records a day.2

In February of this year the Wall Street Journal reported the story under this headline: “NSA Gets Only 20% Of Phone Records.” The article reports that the NSA gets 20% of the phone records of 95% of us. Their stated intention is to “catch up.”3

We’ve come a long way since the days of telegram surveillance when, over 30 years, the Government collected information on 75,000 citizens by reading their telegrams.4

- FISA, the statute, requires that when the NSA wants to collect metadata it must get a FISC surveillance warrant. The warrant allows the NSA to collect metadata only—not the contents of the calls, emails, and the like. If the news reports and General Alexander are correct and the NSA is collecting some metadata of most Americans, then the surveillance court is either
  - very busy, or
  - issuing general warrants, or
  - rubber-stamping warrants, or
  - the NSA is not abiding by FISC’s rulings, or
  - the NSA is not going to FISC for warrants.

And it appears that it may be mostly the latter.

Why would the NSA engage in warrantless surveillance?

FISA requires a warrant, but the Executive Branch has opinions from Justice Department and White House lawyers stating that the NSA can conduct national security operations without a warrant. What we know about these legal opinions is that they rely on three things: a Congressional resolution declaring war against Al Qaeda, the President’s command

mander-in-chief powers, and his inherent powers over military and foreign affairs.

I say, “What we know about these legal opinions” because the opinions are classified. They are secret. The details of the analysis have not been disclosed.

- So, we have secret justifications for the NSA not going to FISC for warrants. Add this: It is difficult to tell exactly how many requests for surveillance warrants FISC gets per year. This is secret as well. But there are some fairly reliable, if vague, figures that indicate that FISC gets 20,000 to 45,000 warrant requests each year and that it approves all but a very few.

A retired federal judge who is a friend of mine and was on FISC, said that the reason there are so few denials is this. Often the Court will tell the government that their warrant request is not sufficient and the government will take it back and investigate further and redo the request to make it sufficient.

- Sometimes that goes on multiple times with the same warrant request, until the government meets the legal standard. Or until the government gives up and withdraws its request. That, he told me, is why there are not many judgments of denial. But there are many de facto denials. And, he said, the court is not a rubber stamp. I believe him because I believe him.

III. Is It Legal?

The first problem with deciding if this surveillance is legal is the problem of finding out just what is being done. It is almost all done in secret — as surely some of it has to be. Most of what we know about what is actually being done is a result of Snowden’s leaks and subsequent admissions by the intelligence community that would not have been made but for Snowden’s leaks.

The second problem is that when the intelligence community does tell us what they are doing, it is difficult to determine if they are telling us the truth. For example, in March of 2013, James Clapper, a retired Air Force general and President Obama’s Director of National Intelligence testified before the Senate Intelligence Committee. Senator Ron Wyden asked Clapper a question. As a courtesy, he had provided him a written copy of the question in advance of the hearing. Clapper was not taken by surprise.

Wyden: “Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?”

Clapper: “No sir.

Wyden: “It does not?”

Clapper: “Not wittingly. There are cases where they could inadvertently perhaps collect, but not wittingly.”

Senator Wyden did not believe him. His office contacted Clapper’s office and asked

Clapper to acknowledge that his answer had been wrong. Clapper declined. Subsequently, Snowden’s leaks clearly showed that the Director of National Intelligence’s answer was incorrect. After the leak, Director Clapper wrote to the Intelligence Committee, saying “My response was clearly erroneous, for which I apologize.”

It is difficult to know exactly what is being done because it is largely being done in secret. And, when told what is being done, it is difficult to know whether we are being told the truth… until we “get it in their own handwriting.” Snowden got it in their own handwriting.

A. Statutory Law

Are the operations of the NSA legal under statutory law?

Since the Snowden revelations a number of FISC judges have criticized the NSA for continually collecting more information than the statute and the court’s opinions allow and for continuing to misrepresent its activities to the court. One judge wrote that he was “exceptionally concerned” that the NSA has been operating in “flagrant violation” of the court’s orders and “directly contrary to the NSA’s own sworn statements.”

On the other hand, as I said earlier, the White House has secret legal opinions stating that the NSA can collect much of this information without a warrant and so neither FISA nor FISC control what it can do.

Is this surveillance program illegal under statutory law? It depends on how much you know about what is being done and whether you agree with the Executive Branch’s legal opinions that, in this regard, the President does not have to follow statutory law or court orders.

I will say this: Justice Jackson once famously wrote that the President’s power is strongest “[w]hen [he] acts pursuant to an express or implied authorization of Congress.” It is weakest when he “takes measures incompatible with the expressed or implied will of Congress.”

The President seems to be taking action “incompatible with” the express will of Congress and the Court.

B. Constitutional Law

And what about the Constitution?

Search and Seizure: When thinking about these surveillance cases we tend to jump to the 4th Amendment. Is this an unreasonable search and seizure? Well, in many ways the 4th Amendment is irrelevant here. It is self-executing in criminal trials. There is no trial here.

Regardless, the NSA argues that the 4th Amendment does not apply to the collection of metadata. First, they argue that the Fourth Amendment applies only to “law enforcement” and they are not involved in law enforcement. They are just gathering data relevant to national security and foreign affairs. Second, they cite the 1979 Supreme Court opinion, Smith v. Maryland.6

Smith v. Maryland (1979): A pen register is a device that records all numbers called from a particular telephone. A victim was being called by the man who had robbed her. At the phone company, and without a warrant, the police installed a pen register on Smith’s line. Sure enough, he called the victim. Smith argued that the pen-register evidence was an unreasonable search and seizure.

The Supreme Court held that Smith did not have an expectation of privacy regarding phone numbers he called. First, those numbers were automatically given out to a third party every time he called the number. Second, if Smith did have a personal expectation of privacy, it was not “reasonable.” No warrant required. The intelligence community argues that the kind of information they are gathering is automatically released to third parties — phone companies; internet service providers; routers; web sites; tracking services; Google; and the like.

Well, a pen register provides phone numbers called. Metadata reveals who we call, how often, and how long we talk; to whom we send emails and who all is on the distribution list; what websites we visit and how long we stay — it is one thing if a person stumbles into a pornography site, a gambling site, a support group for those with Parkinson’s Disease, or the site of a suspicious charity and it is another to linger. And remember what General Alexander said last December: The NSA is collecting some metadata of approximately 95% of all Americans.7

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She found the surveillance program likely an unconstitutional search and seizure. He wrote that much has changed in the 34 years since Smith was decided. Our relationship with our phones has changed. And metadata reveals so much more about us than just the number we call. He granted a preliminary injunction against surveillance of the plaintiffs. The government appealed directly to the Supreme Court, which declined to take the appeal.

U.S. v. Jones (2012): More recently there is U.S. v. Jones. The police attached a GPS to a car. The owner made several trips to a crack distribution center. A unanimous Supreme Court held this tracking was an unreasonable search and seizure.

Earlier this year the Federal district court judge issued a preliminary injunction against some of this NSA surveillance.10 She found the surveillance program likely an unconstitutional search and seizure. He wrote that much has changed in the 34 years since Smith was decided. Our relationship with our phones has changed. And metadata reveals so much more about us than just the number we call. He granted a preliminary injunction against surveillance of the plaintiffs. The government appealed directly to the Supreme Court, which declined to take the appeal.

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With metadata the NSA is tracking us even tracking us to crack distribution centers. We can buy crack over the internet, from the comfort of our living rooms. The Federal Government

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The Constitution of the United States

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SNOWDEN

arrested a young American who they allege was responsible for leaking secret business from his laptop computer. His site put buyers in touch with sellers, took a piece of each sale, and had a rating system where buyers and sellers could rate each other. The drugs were delivered by UPS and USPS. They were mainly on electronic. They got rich before he got caught.26

Riley v California (2014): And there is a third case, one from this year. Riley v California involved a warrantless search of the data on the cellphone of a man who had been arrested. Regarding exceptions from the California’s requirement that the police get a warrant, the Court said that it assesses the degree to which the search intrudes on privacy versus the degree the search is needed for the protection of legitimate government interests. “Modern cell phones,” said the Court, “have an immense storage capacity. Before cell phones, a search of a person was... nothing but a narrow intrusion on privacy. But cell phones can store millions of pages of text, thousands of pictures, hundreds of hours of video.27

The Fourth Amendment was the founding generation’s response to the reviled “general warrants”... of the colonial era, which allowed British officers to rummage through homes in an unrestrained search for evidence of criminal activity.28

The Court said that the police need a warrant before they can search a cellphone. It also recognized that, “One well recognized exception applies when the exigencies of the situation make the need of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment.”

NSA Surveillance: Back to the matter of NSA surveillance. If the test for exceptions to the warrant requirement is a balance of the degree of intrusiveness on one’s privacy and the degree to which the search is necessary to serve legitimate government interests, then let us consider each side of that balance. On the one side, the intrusion into privacy seems pretty serious. The Court said that the 4th Amendment was a reaction to “the reviled, ‘general warrants’... of the colonial era, which allowed British officers to rummage through homes in an unsearched search for evidence of criminal activity.” This sounds a lot like what the NSA is doing today: rummaging in an unsearched search for evidence of criminal activity.

On the other side, the government’s interest today is one right at the top of the list: national security. But this was the interest of the British “general warrant” as well. The extent to which this much intrusion is needed to serve national security is difficult to determine. Both the surveillance and whatever security it provides are at issue.

Existent circumstances include terrorist situations. But what we have here is not a “terrorist situation,” but the NSA spreading a wide net to see if they can find something that looks like it could possibly be a terrorist situation.

One response may be, “Well, the NSA is going to FISC and getting warrants.” And perhaps they are, but 300 million warrants? It sounds a lot like those reviled “general warrants.”29

And there is a history of NSA cludging the issue, if not outright lying about what they are doing. It is, after all, the culture of spying that the spies must lie about even the most basic fact — who they are spying on. There is also evidence that search and seizure argument is not always compliant with the FISC Court’s orders. It all looks a lot like unrestrained rummaging.

Privacy: Second, there is the independent right-to-privacy argument — independent of the Fourth Amendment. The problem is that this is not likely to get very far with the current Supreme Court. It is too amorphous a right for this Court, and too tied into abortion.

Outside of the 4th Amendment, there currently is no right to privacy regarding surveillance. But perhaps there should be. Even if the NSA is only collecting metadata, it can learn a lot about the private parts of your life. Are you going to porn sites, gambling sites, or Alzheimer’s sites? Are your porn sites heterosexual, homosexual, transsexual, or do they involve dwarfs? What do you watch on TV, what books do you order from Amazon, what movies do you order from Netflix, what magazines do you read online? Do you regularly call an AIDS clinic, a psychiatrist, or a woman who is someone else’s wife? And do you do so from your privacy home?

Free Speech: Some argue that the real constitutional problem here is freedom of speech. We become hesitant to speak if we believe government is listening. Interception of the First Amendment Clause is big on preventing government from chilling speech — preventing government from taking actions that cause the timidity and the poor from refraining from speaking for fear of prosecution and the attendant costs, both financial and psychological.

During the Civil Rights movement of the “60s, southern sheriffs would go around to NAACP meetings and the like with cameras with no film in them. They pretended to take pictures of those in attendance. It was a kind of intimidation. And it worked on some people.

Remember the FBI memo quoted earlier? Hoover urged agents to step up their interviews with antiwar activists and members of dissident student groups. “It will enhance the paranoia epidemic and the circles and will further serve to get the point across that there is an FBI agent behind every mailbox.” Current NSA practices get the point across that we are under surveillance in record numbers and concerning record amounts of personal information.

The problem, some say, is that all of this surveillance of phone calls, emails, tweets, web searches, and the like chills speech. And most days on the news we hear examples of surveillance chilling speech in places like China, Russia, and the Middle East. Someone is seeing it happening here.

C. Is It Legal — I Don’t Know

Justice Souter once wrote, “In my own ignorance I am most likely to make the mistake of saying that if we had to decide today... just as the First Amendment should mean in cyberspace, we would get it fundamentally wrong.”30 Justice Kennedy has written, “The judiciary risks error by elaborating the problem with discussing the law as if it has provided are secret.”

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Guardians?

There are serious national security concerns at risk here. And a first-job of government is keeping its people safe and secure. We must protect ourselves from those who plot the government could have submitted plots that the government could have submitted to the evidence that the Court and this can be done in camera.31 Secrets needn’t be revealed. It does matter that the government could have submitted plots that the government could have submitted to the evidence that the Court and this can be done in camera.

And, one of the reasons why there is a problem with discussing the law as if it has provided are secret? Rather, the question should be, “How much do we believe government is listening. Interception of the First Amendment Clause is big on preventing government from chilling speech — preventing government from taking actions that cause the timidity and the poor from refraining from speaking for fear of prosecution and the attendant costs, both financial and psychological.

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Thomas Gavin Chambers
District Judge (1923-1933)

Judge Chambers, along with Otis Price, were appointed to two new judgeships in 1923. Judge Chambers served on the bench until dying in office in June, 1933. George Henshaw finished out Chambers’s term.

In the 1920s a book called _The Story of Oklahoma City_ carried the following article before Judge Chambers had taken the bench:

Thomas Gavin Chambers, member of the law firm of Ames, Chambers, Lowe and Richardson of Oklahoma City, was born at Charleston, Illinois, November 6, 1861. His father, William Mortimer Chambers, was born in Cynthia, Kentucky, in 1813 and was married in that state to Miss Mary Inels. Both have passed away, the latter having departed this life in 1877, while the death of Mr. Chambers occurred in 1892.

Reared in the mid-west, Thomas G. Chambers obtained his early education in the schools of Charleston, Illinois and later entered De Pauw University at Greencastle, Indiana, where he was graduated with the class of 1884. He next became a student in the St. Louis (Missouri) Law School and completed his course in 1886. He then entered upon the active practice of law in Wabash, Indiana, where he remained for a year, when he went to Coldwater, Kansas, there continuing from 1887 until 1893. In the latter year he became a resident of Oklahoma settling at Enid and in 1895 he came to Oklahoma City, where he has practiced law since, being now one of the partners of Ames, Chambers, Lowe and Richardson, one of the strongest legal combinations of this section of the state.

On the 7th of July, 1886, in Wabash, Indiana, Mr. Chambers was married to Miss Flora G. Gossert and their children are: Thomas G. Chambers, born in 1888, a graduate of the University of Michigan at Ann Arbor and now a member of the Oklahoma City bar; and Myron Guthrie, who was born in 1889 and is now business manager of the Oklahoma City News.

Mr. Chambers has always voted with the Democratic Party and while in Kansas he served in 1892 as a member of the State legislature when its personnel numbered but three Democrats. In 1907-1908 he was City Attorney of Oklahoma City, filling the position until he resigned. He is now, aside from his law practice, a director of the Stockyards Company. His interest in community affairs is manifest in many tangible ways and his cooperation is always sought for public benefit. In Masonry he has attained the Fourteenth Degree of the Scottish Rite and he belongs to the Oklahoma City Golf and Country Club, which indicates much concerning the nature of his recreation.

At the local bar association meeting in May, 1923 Judge Chambers was kidded as being a block off the chip since his son and namesake had preceded him as judge (police judge of Oklahoma City).

From the Daily Oklahoma:

In January, 1933 Judge Chambers had an interesting divorce case involving the Cronan’s. Viola Cronan represented by former judge John J. Carney had petitioned for divorce on the basis of cruelty and infidelity. The husband, Eugene Cronan, had crossed petitionon on the basis of cruelty and was represented by R.R. McCornack. The husband claimed the wife was not satisfied with his salary as a funeral home worker. The rest of the courts got involved because their three year old child, Patty Lou Cronan, had rolled around on the floor screaming when the father let her go. The mother received custody. The little girl had amused courtroom personnel with comments like, “I don’t want to hear no more talk.” At the hearing a surprise witness appeared, Eugene Cronan’s mother who testified that the divorce should be denied. She explained that this was Eugene’s third marriage having been married at 16 and 19 and that he should learn responsibility. By staying married, she explained no other woman could be ruined by marriage to him. Opposition to granting a divorce caused the court to be stymied for a moment but Judge Chambers interrupted the attorneys to announce he was inclined to grant the divorce and award $20 a month child support to his wife dismissed her petition and went to live with her mother-in-law in Colorado. The cross petition was overruled by Judge Chambers leaving the couple married. The next issue of the paper stated that Eugene Cronan had married a fourth wife secretly in Kansas three weeks before the divorce hearing. The fourth wife, Mrs. Freddy Cronant, had advised Eugene to leave town and apparently he had done so.

Judge Chambers died in office in June, 1933 [The headlines that day were of Pretty Boy Floyd rampaging]. He had been ill for six years but continued to preside from his court in spite of evident pain and weakness.

Judge Chambers had presided over a series of turbulent tax protest cases in 1928 and 1929 involving hundreds of tax protest suits. The Judge also testified in the conspiracy trials of the tax protest attorneys.

Among Judge Chamber’s personal foibles was a dislike for both marriages and divorce cases. For years he refused to perform a marriage ceremony and avoided divorce cases as much as possible. Finally attorney friends persuaded him to marry couples. They prepared him a ceremony and he spent two weeks learning it.

His first couple stood before him and he was halfway through the ceremony. The bridegroom took the ring from his pocket and handed it to the Judge. The Judge was startled for there was nothing in his memorized ceremony about a ring. So startled, in fact, that he dropped the ring to the floor.

In the silence that always attends marriage ceremonies Judge Chambers said: “Now I’ve played hell, haven’t I!”

Judge Chambers was famed both for his real impartiality and the terse, ironic humor of many of his court rulings. He was merciless in squelching bullying or belligerent attorneys, and insisted on the utmost civility in his courtroom.

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allegies without a leash, but is forbidden from domestic spying — admitted that it has been spying on the Senate Select Committee on Intelligence. It secretly monitored the emails of its guardian.

V. Edward Snowden: Hero or Traitor?

Snowden, hero or traitor? There are, I suppose, four positions.

Traitor. Hero. Both. Too soon to tell. My position is the latter. History will judge Edward Snowden. Right now it is too soon to tell.

He surely is a criminal, but then so was Martin Luther King, Jr. He was a criminal who broke segregation laws in his crusade for racial justice. And he is a hero. Edward Snowden is a criminal. He broke the law, he says, to stop massive illegal domestic spying by the NSA, as if the Watergate burglary had been classified secret and he’d leaked that information. He says he is protecting our liberty, just what MLK Jr. was doing. Will history judge Snowden to be a hero? I don’t know.

Perhaps a close analogy is Daniel Ellsberg. In the late ‘60s the Rand Corporation conducted a study of government decision making during the War in Vietnam. The report was not favorable to the United States. It concluded, among other things, that the Executive, which consistently lied to Congress and the American people about the war. In 1969 Ellsberg secretly photocopied that report. He provided photocopies to the New York Times. He released a stolen national security document to the press, and the public.

As with Snowden, at the time some considered Ellsberg a traitor and others considered him a hero. Perhaps in Snowden’s case the answer to the hero/traitor question is that both are right, but that in the end, like Daniel Ellsberg, one day Snowden will not have a national holiday named after him and will be largely forgotten. But in his wake, he might have left some positive changes in the oversight of our national security system. Hero or traitor? “Maybe so and maybe not.”

Endnotes


15 Id. at 48. 17 Id. at 50.

16 Id. at 56. 19 Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 637 (1952) (Jackson, J., concurring).


26 Id. (internal quotation marks omitted).


29 Klayman, supra at 47.


31 Klayman, supra at 46 n.5.

white electors are the only citizens legally competent to participate in the proceedings for annexation as provided by section 6915, O. S. 1931, 70 Okla. Stat. Ann. § 251. One race may not participate in an election for annexation or consolidation of districts controlled by the other race. Ratliff v. State, 79 Okla. 152, 191 P. 1038. That decision was predicated upon section 7899, R. L. 1910, which provided in part that “one race shall not participate in any election pertaining to the schools of the other race.” By this section the court held that the annexation of districts controlled by the other white electors are the only citizens legally-
I exercise primarily because doing so allows me to consume huge numbers of calories. For example, on Fridays, I have lunch at Subway restaurant or City Bites with a couple clients of mine. They almost always purchase a 6 inch sandwich; I almost always purchase the foot-long sandwich.

In addition, though, I exercise because I know it’s “good for me.” I know that it enhances my health and lessens my risk of an early demise. In a Harvard Medical School study published earlier this year in *Journal of Physical Activity and Health*, researchers wanted to pin down what effect, if any, exercise has on those persons who are already diseased with cancer. That is, would active patients with cancer who are otherwise matched for age, body mass index, intake of alcohol, intake of red meat, intake of vegetables, and early parental mortality fare better than inactive patients with cancer?

Here’s how the study was conducted. One thousand men, who had an average age of 66 and who were diagnosed with cancer in 1982, were assessed, in 1988 (six years after cancer diagnosis) as to the number of calories that they burned per week in exercise. Then, almost 12 years after the exercise assessment, in the year 2000, a follow up was conducted. That is, who was still alive, and who died?

Here is what they found. Physical activity was inversely related to the risk of dying during the 12 year follow-up. The relative risk, adjusted for age, smoking, body mass index, early parental mortality, and dietary variables, for all cause mortality associated with increasing physical activity levels were .77, .72, .70, and .51, respectively.

The preceding paragraph describes the relative risk for mortality from any cause. The researchers found similar decreasing risks for mortality from cancer and from heart disease.

Equally fascinating is that when the researchers adjusted for the stage of the cancer (in situ or localized, regional or distant metastasis), the grade of the cancer (well differentiated, moderately or poorly differentiated), and the kind of treatment for the cancer (surgery, chemotherapy, and radiotherapy), the results differed very little. The corresponding relative risks for all cause mortality were .77, .72, .70, and .51, respectively.

Technology being what it is today, it is very easy to ascertain calories burned in exercise. Based only on this particular study, while we do not know whether you or I now have cancer, we now do know that we should be shooting for a calorie burn greater than 3011 per week. On a per day basis, that is only 430 calories.

Another data are available on whether exercise among persons with cancer is associated with better survival. Ladies, similar findings have been obtained in studies pertaining to breast cancer.

The authors of the study concluded by saying, “because many cancer survivors do live extended lives today, due to early diagnosis and better treatment, their numbers are increasing rapidly. Thus, physical activity should be actively promoted to such individuals to enhance longevity.”

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