What do you call a golf tournament held on July 16 in Oklahoma? A Sizzler! However, golfers never complain when they can be out on a beautiful course like Gaillardia instead of being stuck at their desks. Thanks to the Tournament Sponsor, instaScript, Hole-in-One Sponsor Steve Meador and the twenty-eight hole sponsors, the tournament was a success. Over $1,000 went to Family Junction, a youth shelter of Pivot.

This year no handicaps were used and the teams were divided into three flights based on the day’s scores. The Grand Champion of the Championship Flight received a large traveling trophy to be displayed in their office. That team was Gable Gotwals and golfers included Jeff Curran, Scott Kedy, Nick Merkley & Leo Portman. Second place went to the team of Kevin Blaney, Juston Hiersche, Henry Litchfield.
Lessons from a Fifth Grade Graduation

By David Cheek

In 44 years of practicing transactional and litigation law, I have run into many personalities, some of whom were lawyers. The interactions between the various personalities are what truly make up the practice of law. I attended my granddaughter’s fifth grade “graduation” recently. The speaker/headmaster spoke to them about what to expect as they moved on to middle school. In the process, he reinforced lessons that the school had instilled during their tenure so far. The lessons were: 1) work hard; 2) try to learn something new every day; and 3) always work together well. I was struck by the message, both, because of its simplicity, and its applicability to our profession.

The practice of law is not easy. I don’t think anyone really masters it completely. In part, that is because “the law” is in constant flux. The legislature sees fit to make changes every year. At the same time, the courts interpret the legislation and common law under an ever-shifting set of facts and circumstances.

The lawyer’s job is to not only “know” the law, but to keep up with, and in certain circumstances, anticipate changes, some major shifts and some subtle nuisances. To say that that requires lawyers to “work hard” is an understatement. I have never considered myself an authority on any part of the law. However, I have been quite successful in working as hard as possible to learn the black letter law, the purpose of the law and application of both to the facts before me. Only then do I venture an opinion. There are seldom simple solutions and quick answers. Hard work is the root of quality legal advice. Hard work often prevails over innate abilities.

Most lawyers, no matter how specialized in their practice, must learn something new constantly. The legislative activity and judicial functions have already been mentioned. Those are relatively straightforward to find and absorb. Applying those principles to “facts and circumstances” is not as easy as it sounds. Of necessity, human actions and emotions are involved. It takes a whole different skill set to blend the “law” with the client’s needs and expectations. This is not a skill set addressed in law school. It is developed over time and experience. It changes from case to case and client to client. When a lawyer claims to “know it all” on any matter, that lawyer needs to proceed with caution. There is always a different way of looking at a situation that might command a different result in the case. Failing to listen, consider and learn can cause a case to result in an unexpected way. Lawyers are never too knowledgeable or too old to learn something new.

In today’s fast moving world, that learning experience can be a daily event. It needs to be embraced and not ignored. Finally, the third point is one that has been addressed many times. Courts have even fashioned “rules” to instill “civility” between lawyers. However, one need only read newspapers and watch newscasts to appreciate how civil strife is an everyday occurrence in the world as a whole. We as lawyers need to be extra diligent in maintaining civility under all circumstances. This is nothing new. Lawyers have always been the filter between “warring parties”. It has been said many times before, but certainly bears repeating in these times, civility in dispute resolution is the best way to find a reasonable solution.

Lawyers are charged with finding solutions to problems. If we are going to be effective, the advice given to the fifth graders should be taken to heart. It applies whether one is in a litigation or transactional mode. I commend it to each of you.
Dear Editoresses:

Hi, it’s me. Rae. Once more Mr. P. is out on the ocean celebrating Shark Week. This leaves me to do double duty as both Queen of Gothdom (BEHNY Division) and Sovereign of that vast commercial empire of Roscoe’s Auto Parts, Bail Bonds and Bait Shop. I’d like to say I’m ruler of all I survey but I’m not, on accounta right now all I survey is the FedEx truck taking up two parking spaces in front of the door. So, before we get to socializing let’s get the legal questions did and done.

Dear Roscoe:

I don’t know if you know anything about Oklahoma’s new medical marijuana law. Living in a rural county, I’ve gotten several clients wanting info about getting into the business of growing or supplying marijuana consistent with state law. My research is getting in a fool’s paradise since they can still be prosecuted in federal court? R.S., Yukon, OK.

Dear R.S.:

Don’t worry R. I got this one. Not that I’m overly familiar with use of pot, mind you. Just that I kinda know a bit about this and that. For example, my best gal pal Viv, who you’ve met in this column before, and if you haven’t, start scanning the archives, anyway she’s a true aficionado of the herb, calls it the best thing you can’t buy. A true afflictionado of the herb, mind you. Just.

Anyway, to answer your question R, if I could tell you my collie mix Auggie, he’s gotta be at least in his Sixties. So this Carpenter guy gets convicted, and I know I can’t. But I have the good fortune of being a gourmet or gets some expertise in the subject. I’m not inferring that she’s an addict or anything like, just that she’s a true afflicted one. The term marijuana addiction is pretty much an oxymoron anyway – yes Jeff Sessions, I’m talking to you. In fact, one of the best things about legalizing medical marijuana is that it can take production out of the hands of Big Pharma and Big Ag and put it in the hands of the stoners themselves, who actually know what they’re doing. OK, now, about the feds, marijuana still remains a Schedule I drug, which means it’s both lacking in medical use and high in addiction, both of which are now known calumnifications of the product.

United States v. McIntosh 833 F.3d 1163, 1168 (9th Cir. 2016), brought by criminal defendants to enjoin their prosecution held that a spending rider approved by Congress in 2014 and 2015 prohibited the DOJ from prosecuting marijuana suppliers who fully comply with state laws allowing the use of marijuana for medicinal purposes. Although it didn’t necessarily help the growers, who planted their seeds in public land. Also, Congress could re-fund the prosecutions tomorrow, and we still have that Supremacy clause thingy to worry about. Still, McIntosh represented a major shift in the federal judicial ‘tude and shows the courts don’t give the pot growers a carte blanch or whatever. It was more surprising when you consider how little traction there is traditionally in attempts to enjoin criminal prosecutions. So to the extent your clients remain law-abiding under State law, they have little or at least less to fear from a federal swoop. Dear Roscoe: Can you explain the significance of the Carpenter decision? Retired but Curious, OK, OK Retired but Curious. I like that. You know, over at Our Lady’s where I hang out with Jesus when I feel the need, they have a stained glass window of – of course – Our Lady, sitting on the steps with Baby Jesus. Father Auggie told me it’s from a sculpture by Michaelangelo called Madonna on the Steps. Makes you think? Kay, so Auggie then makes some smart aleck remark like Michaelangelo was an important artist back in the day even before Father Auggie and not just a Ninja Turtle. And I’m like “no duh, Padre” which I say to myself and not to him because I’m not at all ready to get slapped on the back of my head like he is well-known to do. Anyway, he then tells me that Michaelangelo died when he was like pushing 90 or there abouts and his last words were: “I’m still learning.” I tell this story whenever someone tries to teach me how to fish. And I’m oldsters in my present on account of things like “can’t teach an old dog new tricks” upon which I here and now call bullshit as well anyway. As Exhibit A I show you my collie mix who’s eleven and still learning. So his oldsters in my present on account of things like “can’t teach an old dog new tricks” upon which I here and now call bullshit as well and he’s gotta be at least in his Sixties. So good on you BBC.

Anyway, to answer your question R, I don’t know if Mr. P. could explain Carpenter or not. I know I can’t. But I have the good fortune of being boyfriends up with the Lord of Plainclothes Geekdom, one Chips. So take it away Honeybuns (this’ll be his talking but my typing, well mostly.)

Yes, this Carpenter guy gets convicted and sentenced to something like 116 years a series of armed robberies in. Law-enforcement used cell-site records from his provider to place him in the vicinity of the crimes. On appeal, Carpenter argued that the police had no warrant for a warrant. A federal appeals court upheld his conviction, holding the government didn’t need a warrant because Carpenter could not have expected cellphone records maintained by his service provider to remain private.

In a 5-4 decision by the Chief Justice, in which he joined to so-called liberal wing of the Court, SCOTUS first looked at whether Carpenter had a right to have his movements in cyberspace be limited by warrant or not. The precedent said he could not. Not so fast, Roberts said. The times they are a-changing. People nowadays would not expect police to track their every movement over long periods of time, but that is exactly what went on here. The police even set a virtual trap where they virtually everywhere with them. Cell-site location records provide the government with “near perfect surveillance, as if it had attached an ankle monitor on Carpenter. He then went on to say that older cases dealt with more specific forms of personal information”: before cellphones became so widespread and yielded so much information about their users for so long. Because of this “carrying one is indispensable to participation in modern society,” it can’t really be said that a cellphone user is voluntarily sharing information about his location with his carrier – another rationale for the third-party doctrine. “

So here the Court struck a blow for privacy, but cautioned the decision was narrow and fact-driven to an extent. What this means is: stay tuned to future litigation for on-going developments.

So, I know you guys and gals out in Oklahoma are dying for some news about what Mr. P. and everyone else’s doing and where Sandy Kearny’s case is going. Things keep happening quickly, it’s hard to keep up. Probably harder on you because you don’t get the story fresh and in real time ‘Kay, so Mr. P. and the Lieutenant come back from Pennsylvania and then they had a deal with the Hudson County D.A. and the USA for a series of Meetathons in Newark. Cuttin to the chase as y’all probably say out there, the Great State of New Jersey is gonna take lead in the prosecution. Back in July, a Grand Jury indicted Billy Hurl, Joseph C. Kearny, and Peter D. Kearny (poor Katie’s dad and uncle) on multiple counts of trespass, conspiracy, identity theft, cyber theft, and hate crimes. Hurl will likely witness for the prosecution in exchange for use immunity, witness protection, and an agreement that Penny won’t use its RICO law to take his mom’s house.

The FedEx truck pulled away from the door, to be immediately replaced by a chunky dude with a fancy suit and a serious case of T. Rex Arms Syndrome. Hm. Looks like a customer. Well, later Sooners, and give my best to Judge Walke. Areyna Daqueness

Dominae suae nocturnis
REMARKABLE LAWYER, MAN SELECTED

Justice Opala Starts Post

By Arthur S. Bay
Retyped and Republished By Geary L. Walke

Write an article about Marian Opala? Who would believe it? It’s like all those UFO reports. Have you ever been convinced by one? Oh, it might be replete with data. It might contain the velocity and direction of flight; the color, shape and dimensions; the language and attire of the little green men at the controls. It may be backed by sworn affidavits from five independent observers: an evangelical minister; a highway patrolman; an Air Force Colonel; the President; and a 10 year old kid. Although you might be swayed a bit by the kid, you’re not going to believe they’re for real until you are taken for a ride in one.

Same with Marian Opala. Until you get to know him you’re not going to believe he’s for real.

Let’s consider the data: Born in Lodz, Poland in 1921; underground freedom fighter and prisoner of war during World War II; immigrant to Oklahoma in 1947; graduate of night law school in 1954; subsequent member of countless honorary and professional organizations, including Order of the Coif; continued pursuit of legal education culminating in an L.L.M. degree from New York University, all obtained during brief summer “vacations;” author of numerous legal treatises with such headings as “Praescriptio Temporis and Its Relation to Prescriptive Easements;” recipient of innumerable awards for outstanding services; much sought after lecturer; law school professor at two Universities; experienced private practitioner; holder of public legal positions from Assistant County Attorney, Referee of the Supreme Court, Administrative Director of the Courts of Oklahoma, Presiding Judge of the State Industrial Court – to, inevitably, Justice of the Supreme Court of Oklahoma.

See what I mean?

Yet, this history, impressive as it is, hardly takes the full measure of the man. True, it attests to his tireless energy and scholarly aptitude – two worthy grounds for his elevation to our highest court. It likewise bears out his single-minded, life-long devotion to Law – dating back to Poland where he managed to “squeeze in” two semesters as a law student before being interrupted by Hitler’s legions.

But it doesn’t tell the whole story – the part about what a fine, humble, and decent fellow he is. Fortunately for this reporter, most Bar members know Marian Opala is indeed for real. In one way or another we’ve all had contact with him; either in his Courtroom, the classroom, at seminars, or within professional organizations. Less recently, many of us have met him as adversaries or in connection with one or more of his administrative posts. Perhaps no other member of our Bar has made his presence felt in so many diverse ways and to such a large degree within our profession.

In conjunction with my preparation of this article, I sought and received a brief interview with Justice Opala. Typically, I found him in shirt sleeves, buried behind a desk laden with open law books and hand-scribbled legal pads. As usual, he was an amiable and gracious host.

I was treated to the courtly, old-world manners, the eloquent, ornate turn of speech, the wry wit – all the patented traits that distinguish him and make conversation with him both unique and enjoyable. Underlying the pleasantries, moreover, is the integrity that inspires confidence in his sincerity and purpose.

In the course of our conversation I expressed gratitude for past favors when he had taken time to return my calls and to advise me on problems relating to appellate procedure. At this Justice Opala beamed. I was told that Oklahoma has one of the few “open” appellate courts, where all members of the court are freely accessible and where helpful advice concerning procedural technicalities will always be available. With Justice Opala, somehow, we know this will hold true.

So, even if I haven’t convinced everyone, even if the unacquainted still doubt there could be a man in our very midst the likes of Marian Opala; even so, the rest of us, to a one, will applaud his selection.

Congratulations Justice Opala!
To us, it’s personal.

Dobson Technologies gets it. When your network, Internet service, or phones are down, so is your business - and your productivity, and your plans for the day, and probably your revenue too. Keeping you up and running is why we get up every morning.

— Outsourced Managed IT Services Provider
— Fast, Reliable Fiber Optic Network
— VoIP Phone Solutions

At Dobson, our only business is caring for your business.

Call us today for a free estimate!

dobson.net | 405.242.1000 | info@dobson.net

Dear Community Partner,

Last year community partners made sure that no child in Oklahoma City Public Schools went without a warm winter coat. We are asking for your help again this year. When temperatures drop, thousands of Oklahoma City Public Schools students will not have a coat to keep them warm. It’s a shocking statistic, but is a reality for these children.

We cannot meet the needs without the support of community partners like you.

Help us reach our goal by October 1st!

Here are some ways you can help:

DONATE

Online at www.OKCPS.org/CoatAKid

Or, send a check to The Foundation for Oklahoma City Public Schools, 431 W. Main St. Suite E, OKC, OK 73102, with Coat-A-Kid in the memo line

SPREAD THE WORD

Post about Coat-A-Kid on your website and social media. Send an email to your coworkers or plan an employee fundraising drive. We will be happy to visit with your staff if that would be helpful to you.

No child in Oklahoma City Public Schools should go without a winter coat.

Thank you in advance for your help in keeping our kids warm and ready to learn.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Commit to help and make your contribution today! Your donation will be life changing.

Many Oklahoma city families simply cannot afford warm winter coats for their children after paying other necessary bills, such as rent and utilities.

Thousands of Oklahoma City Public Schools students will need a new warm coat this winter.

Coat-A-Kid GOAL: $115,000

 Goal: $115,000
  $90,000
  $75,000
  $60,000
  $45,000
  $30,000

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.

Volunteer Opportunities

To purchase a new coat for those students, more than $115,000 must be raised before October 1, 2018.
and Trey Tipton. First place team in the 2nd Flight was Don Cooke, Clay Ferguson, Jim Ferguson and Larry Spears. Second place team in the 2nd Flight was Jim Gibbs, Todd Goolsby, Perry Kaufman and David Proctor. First place team in the 3rd Flight was Scott Anderson, Judge Tim Henderson, Justin Lowe and Judge Mark McCormick. Second place team in the 3rd Flight went to Michael Grant, John Martino, Mark Mitchell and Eric Urbach. Hole Contest Winners were: Greg Chansolme, Closest to the Pin on Hole 13; Perry Kaufman, Longest Putt; Charles Earley, Straightest Drive; Juston Hiersche, Closest to the Pin on Hole 9; and T.J. Mantooth, Longest Drive.

It was a great tournament and everyone had a great time! Thanks again to our sponsors:

**Tournament Sponsor:**
GableGotwals
Hall Estill
Hartwog Conger Cason & Neville
Holladay & Chilton, PLLC
Journal Record Publishing
Lytle Soule & Curlee
Mansell Engel & Cole
Martino & Urbach – Criminal Defense & Personal Injury
McAfee & Taft
Midtown Law Center – Mitchell & Hammond
Miller Dollarhide
Melnix Goerke & Meyer
Phillips Murrah
Rimkus Consulting Group, Inc.
Ryan Whaley Coldiron Jantzen
Peters & Webber
Scott’s Printing & Copying
Bill Warren Office Products
White & Weddle

**Hole-in-One Sponsor:**
Steve Meador Court Reporting

**Hole Sponsors:**
Atkins & Markoff
Steve Barghols, Mediator
Bass Law Firm
Bentley Hedges Travel
Burch George & Germany
Christensen Law Group
Conner & Winters
Crowe & Dunlevy
DeWitt Paruolo & Meek
Edinger Leonard & Blakley, PLLC
Fellers Snider

**A VERY SPECIAL THANK YOU TO THE FIRM OF PHILLIPS MURRAH, WHO PROVIDED WATER FOR ALL PARTICIPANTS! YOU WERE A LIFESAVER!**
Coverage includes pro bono legal services with employer's written permission

Exposure to regulatory compliance issues, HIPPA, & other areas makes this well worth the expense.
The Honorable James B. Croy has retired from the Oklahoma County bench after what seems like an eternity but was a mere quarter century. To many lawyers in OKC Judge Croy has seemed a permanent fixture on the bench, having presided during the entire practice years of many lawyers.

Judge Croy is a true Renaissance Man! He has more interests in more diverse areas than most people can fathom. Perhaps it is best to review his life in an analytical, scholarly, academic, “obituary-like” manner.

Much of his youth is shaded by legend. Many of the short stories he writes are autobiographical and he has related many of these stories to his friends, who then related some of them to me. Such as the impoverished conditions in Kansas during a particular Christmas that his parents miraculously managed to salvage and make dreams come true. Jim’s father, Margaret, is his director and keeper and also the administrator of the chicken farm. She tolerates his eccentricities with patience and strength.

Upon graduation from high school Jim joined the U.S. Army, enlisting directly with the ASA (Army Security Agency – a part of the NSA). From boot camp at Ft. Leonard Wood, Missouri he was sent to Ft. Ord in Monterey, California for language school. When he discovered that they offered him language training in German and Russian he jumped at the chance. The other option was Vietnamese and Chinese which, in 1964, would probably have taken him to a different part of the world. When Jim came home to OKC at Christmas he discovered his parents had moved without telling him. He did find them but thereafter they moved to Bolivia. He’s had abandonment issues since then.

Jim was then stationed in Germany, on the east-west border adjacent to the Russian sector. There, he undertook James Bond style intelligence activities except there was never a tuxedo involved, or as many beautiful women. But the specifics of what he did are still confidential and the government would wholly disapprove of disclosure, although he has spoken solemnly about the ten members of his unit who died while in service there. But, just talking around the edges of Jim’s missions one can tell that the Cold War wasn’t cold everywhere.

Today, on a good day, Jim will still speak in Russian or German to punctuate, season or kill a conversation. One can never be certain that he correctly self-translated his own foreign riffs, but we get the point.

Jim is a story teller. He writes short stories, but he loves to paint word pictures and especially leave a listener or reader anxious for the serious conclusion or hilarious punch line because there is generally an important moral lesson to
This Letter is a vivid illustration of the need for procedural safe-guards found in American Constitu-tional Law. So many of the evils addressed in Cat'o Letters would have been prevented, ameliorated, or at least mitigated by a system of foundational laws, ethics and common standards of morality in America. Curbing human nature, especially when coupled with power or wealth, is necessary for the best interests of the general population.

SIR, "Remember, enucleate the eye of mer-cenary city, ripe for destruction, and just ready to deliver up thyself and all thy liberties to the first bidder, who is able to buy thee?" said the great King Jugurtha when he was leaving Rome (King of Numidia along the northern coast of Africa, who believed bribes of gold would help buy his security and peace with Rome). Rome, the nurse of heroes, the mistress of nations, the glory of empires and the source, the standard and pattern of virtue and knowledge. Indeed, everything which was ever praiseworthy and valuable amongst men, was soon after fallen, ten thousand thousand fathoms deep in the abyss of corruption and impurity. No more of that public spirit appeared that rendered it amiable as well as terrible to the world. It had conquered by its virtue more than its arms. It had commanded a willing subscription from the numerous nations who readily acknowledged its superior genius and natural right to emprise and afterwards their own condition to be graced by the dignity of such a mistress.

“But” (says the Abbot Vertot—author of the History of Revolutions of Portugal—1695) “about this time another nation seemed to appear upon the stage: A general corruption soon spread itself through the degenerate and the state. Justice was publicly sold in the tribunals. The voices of the people went to the highest bidder, and the consuls, having obtained that great post by intrigues, or by bribery, never now made war but to enrich themselves with the spoils of nations and often to plunder those very provinces which their duty bound them to protect and defend. The provinces were obliged to supply these prodigious expenses. The generals possessed themselves of the revenues of the common-wealth, and the state was weakened in pro-portion as its members became powerful. It was sufficient color for ruffling the people and laying new imposts if they did but give those

exactions a new name. “There arose on a sudden and as it were by enchantment, magnificent palaces whose walls, roofs, and ceilings were all gilded. It was not enough that their beds and tables were all of silver, that rich metal must also be carved and adorned with horsa reliefes, performed by the most excellent artists. All the money of the state was in the hands of the great men, the publicans and certain freed-men richer than their masters.” He says, “It would make a volume to rep-resent the magnificence of their buildings, the quality of their jewellery, the grandeur of their equipage. But what did all this profusion and mag-nificence produce? “Mercenary city, ripe for destruction, and just ready to deliver up thyself and all thy liberties to the first bidder, who is able to buy thee?”

Cato’s Letters: No. 18
The Terrible Tendency of Public Corruption to Ruin A State, exemplified in that of Rome, and Applied to Our Own

By Geary Walke

Let us therefore grow wise by the mis-takes of others. Let us make use of the Roman language as a vehicle of good sense and see if any corruptions or abuses have crept into our own state. Quid times? Caesarum vetus. We have King George on board and at the helm, the favorite of heaven and the darling of all good men. Who not only gives us full leave but encourages and assists us to save ourselves. He will not, like some weak princes amongst his predecessors, screen guilty great men, suffer the faults of others to be laid at his door, nor permit his authority to be prostituted to patronize criminals, nor interpose and stand by and see these corruptions and abuses to complain of. I am sure, if we have, that it is high time to reform them and to prevent the dismal evils which they threaten. It is wild to think that there is any other way to prevent the conse-quence without preventing the corruption and the causes which produce it. Mankind will be always the same. It will always act within one circle and when we know what they did a thousand years ago in any circumstance, we shall know what they will do a thousand years hence in the same circumstance. This is what is called experience, the surest mistress and lesson of wisdom.

Let us therefore act the part of skillful pilots and call all hands to labor at the oars and at the ropes. Let us begin with throwing all our baggage and useless trumpery aboard. Then let us lower or take down all superfluous sails to prevent the boat from being overset. And when we have done all in our power to save the ship, let us implore the assistance of heaven and I doubt not but we shall ride out the storm.

In conclusion, let us examine and look at our great benefactor as not only fairly and suitably to have the honor and pleasure of that he may have the honor and pleasure of

port this extravagance. Such conduct in the great ones occasioned murmurs, universal discontent, and at last civil wars. The people threw themselves under different heads or leaders of parties who all aspired to make themselves masters of the commonwealth and enjoy the glory of public liberty. Despite the greatness Rome and all Italy was but one slaugh-ter-house. Thousands, hundreds of thousands, fell sacrifices to the ambition of a few. Rivers of blood ran in the public streets and proscription and massacres were esteemed sport and pastime, til at length two thirds of the people were destroyed and the rest made slaves to the most wicked and contemptible wretches of mankind.

Thus ended the greatest, the noblest state that ever adorned the worldly theatre, that ever saw the sun. It fell a victim to ambition and faction to base and unworthy men, to passion and craft and every other nation must run the same fortune, expect the same fatal catastrophe, who suffer themselves to be debauched with the same vices and are actua-ting by the same principles and passions.

I wish I could say that the Abbot Vertot’s description of the Roman state, in its last decades, suited no other state in our time. I hope that we ourselves have none of these corruptions and abuses to complain of. I am sure, if we have, that it is high time to reform them and to prevent the dismal evils which they threaten. It is wild to think that there is any other way to prevent the conse-quence without preventing the corruption and the causes which produce it. Mankind will be always the same. It will always act within one circle and when we know what they did a thousand years ago in any circumstance, we shall know what they will do a thousand years hence in the same circumstance. This is what is called experience, the surest mistress and lesson of wisdom.

Let us therefore act the part of skillful pilots and call all hands to labor at the oars and at the ropes. Let us begin with throwing all our baggage and useless trumpery aboard. Then let us lower or take down all superfluous sails to prevent the boat from being overset. And when we have done all in our power to save the ship, let us implore the assistance of heaven and I doubt not but we shall ride out the storm.

In conclusion, let us examine and look at our great benefactor as not only fairly and suitably to have the honor and pleasure of
The OCC wants to Modernize National Charters for Fintech Companies

By Miles Pringle

Banking and financial services have changed greatly over the past decade or so. Instead of brick and mortar buildings with vaults, customers can make deposits and move funds on their phones. Loans are extended from unconventional sources, such as peer-to-peer lenders like Lending Club or Prosper. Bank accounts are linked to mobile apps so friends can pay each other back for dinner the night before. Money itself is no longer only government issued funds, but can be a virtual currency like bitcoin or dogecoin. Regulators continue to attempt to get their arms around this rapid change.

On July 31, 2018, the Office of the Comptroller of the Currency (OCC) announced that it would begin accepting applications for national special purpose bank charters from non-deposit-taking fintech companies that (fintech) engaged in the business of banking. In explaining its decision, the OCC stated that the “federal banking system must adapt to the rapid technological changes taking place in the financial services industry to remain relevant and vibrant and to meet the evolving needs of the consumers, businesses, and communities it serves.” 1 This is an idea the OCC has been considering since at least 2016 when it posed the questions: “Is the nation better served when banking products are provided by institutions subject to ongoing supervision and examination?” and, “Should a nonbank company that offers banking-related products have a path to become a bank?”2

Special purpose charters are not a new concept to the banking industry. To date, most special purpose charters are trust companies and credit card banks. Thus, any trust company with the initials “N.A.” at the end of its name is a nationally chartered special purpose bank. The OCC – however – believes that it has the authority to provide charters to a much wider array of companies. In order to obtain an OCC special purpose charter, a company must: i) conduct fiduciary activities; ii) take deposits; iii) pay checks; or, iv) lend money.3 The OCC is defining these functions very broadly. “For example, [the OCC considers] discounting notes, purchasing bank-permissible debt securities, engaging in lease-financing transactions, and making loans are forms of lending money. Similarly, issuing debenture or similar obligations in other means of facilitating payments electronically may be considered the modern equivalent of paying checks.”4 If companies provide one of these core services, they may be eligible for OCC charters.

There are several reasons why a fintech company would want to be a special purpose bank. First is the desire to capitalize on preemptions afforded to banks with respect to some state laws. It can be a costly and complicated web for companies to comply with laws and regulations on a state-by-state basis. Taking money transmitters as an example, currently non-bank money transmitters may not obtain licenses in more than forty states to provide services nationwide.5 Banks are preempted from some of those regulatory burdens. As you would expect, fintech companies are applauding the OCC’s announcement.

Come traditional banks, and many state regulators, oppose the OCC’s move and have previously filed lawsuits to stop the OCC from accepting fintech charters. They argue that fintech charters exceed the OCC’s chartering authority. Those suits were dismissed on ripeness grounds, but this latest announcement may spur a new round of litigation. The OCC’s attempt to modernize is likely prompted not only by its recognition of the revolution in banking services, but also the loss of many nationally chartered institutions. As you are likely aware, the U.S. has a dual banking system. Banks may be chartered nationally, by the OCC, or by states. Many banks are opting to switch from a national charter to a state charter (e.g. “Of the 780 community banks that changed charters between 1995 and 2015, 529 left the [OCC].”). In the past, a national charter provided benefits in addition to those provided by a state charter, e.g. the ease of inter-state branching. “Today, the primary differences between a state and national charter are the assessment fees charged to supervise the bank and the role of federal preemption over certain state laws.”7 While, OCC is stepping up to new challenges of technology based financial services, it may also be attempting to remain more relevant in the banking world.

Endnotes
4. 1
7. 1

Year of the OCBA

By Michael W. Brewer

The good news, as of this writing, is that I finally got out of the sling and out from sleeping in the recliner. The recliner still sits in a corner of my home as I’m unable to lift anything and thus unable to get it out of my house. I never knew a piece of furniture could be such a hated yet necessary item. So with that new perspective, we enter August 2018. We have a lot of rain and sixty to eighty degree temperatures. This seems really unusual for summer in Oklahoma, but it has been an unusual year. This is the Chinese Year of the Dog no less. That explains a lot.

And, August brings us more change at the OCBA than just in temperatures. Yes some of us await the Saturday pigskin kickoffs while others realize that the jury trial season is upon us. But at OCBA, this is the time of change in leadership. OCBA President David Check will finish his term and President-Elect Judge Sheila Stinson will take over your OCBA in September. President Check has done a fantastic job of expanding our thinking on OCBA membership, diversity outreach and technology possibilities for the courthouse. His leadership year has been a great chapter in the OCBA book. David, thanks for your years of service to the profession.

Your next OCBA President is Special Judge Sheila Stinson, who will be a fantastic leader of your OCBA. I can’t wait to see what she has in store for the board and membership. I noted while in Las Vegas last February that this is the Chinese Year of the Pig. Interestingly, when my term as president of your OCBA comes in September of 2019, we will be in the Year of the Pig and I will finish in the Year of the Rat. I’m a little concerned about what that might imply. However, regardless of what I do during my tenure, being sandwiched between Judge Stinson and Judge Don Andrews, who will be your OCBA Vice-President and succeed me as President, I really can’t mess up too much that they can’t easily fix.

I spent some time in prior Briefcase articles recently discussing the dedication to our profession of board members, past-presidents, the demographics of your OCBA and the incredible work that you in OCBA do and at the OCBA Summer Annual Awards Luncheon. I would be remiss at not mentioning the incredible staff of your OCBA. In fact, before taking on the Vice-Presidency, I extracted a promise from Executive Director, Debbie Gordon, that she would remain on board for at least another three years to cover my term. Again, another safeguard against my glitches whether unintentional or intentional. After passing the bar in 1986 and becoming active in the young lawyer’s committee, I met Debbie Gordon in 1987 when she was an assistant at your OCBA. Working with then Executive Director Bobby Knaup, Debbie was energetic, organized and hard-working. She has continued being a significant presence in the OCBA, taking over as Executive Director in June of 2005. I worked with Debbie during my first go-round on the OCBA Board during the early to mid-90s. Debbie is the foundation that holds your OCBA steady. If you don’t know her, you need to get by the office and meet her.

Pam Bennett, who runs the Legal Placement Service, started with your OCBA in June of 1997. I laugh with these ladies as we talk about when our kids were little. Pam Bennett is a force in the legal placement community providing annual salary survey information for non-professional positions and providing placement of everything from receptionists to office managers in addition to attorneys. This is an incredible service and revenue generator for your OCBA. Connie Resar joined the OCBA and you will know her from the front desk and her voice from the phone, starting in 2002. Connie is the glue that makes everything go. She is the glue that holds OCBA together. Connie keeps everything going, makes sure everything, including this Briefcase, is mailed out and basically insures that the clocks and trains are on time.

If you have not met the terrific trio, get by your OCBA office and be social. This trio is the true heart of the OCBA that continues consistent functioning, as board members and leadership come and go. You can count your OCBA among the most successful bar associations in the U.S. We have great social gatherings, community service, CLEs and professional development. My goals for OCBA tend to gravitate toward the professional development side but that may be because of my recent stent in a recliner on pain meds in front of a TV. I did remember two quotes that may or may not guide my future tenure meeting your OCBA from my time in front of the TV:1

Well I believe in truth...but I’m also a big fan of justice. … How many of you are there? Not enough.

So, join me in strengthening your OCBA. We never had too many attorneys involved and well, don’t we all believe in truth and are fans of justice. –

End Notes:
Jim lives in a rural area along the banks of the Canadian River (somewhere east of the Oklahoma River). He and his wife, Margaret, have quite a menagerie with lots of dogs, a few stray cats, chickens and ducks. He is a musician and talented guitar player, having entertained groups of judges on festive occasions. He has a wonderful ear for music, sings and also plays the banjo. He loves to read, especially English mysteries. He is an avid photographer (and is fully acquainted with the technical aspects of real cameras and lenses, focal points and shutter speeds). He is a connoisseur of all good food, loves to cook and blackberry wine cake is one of his specialties. He also finds time to make wine and beer, wax candles and an assortment of salves and body oils.

Judge Croy has been a cohesive element for the Oklahoma County District Court bench. He has been a valuable institutional resource for recalling what worked, or didn’t, in docket management. He is a constant source of good advice and direction for judges who work with him, providing legal theory, precedent and factual context. He tells jokes. Not all of them are bad. He insists that judges communicate with each other and he was instrumental in getting a group of judges together to bolster Judge Dan Owens’ efforts to inform the state legislature of the needs and requests of the trial judges from around the state. Now that organization is known as the Oklahoma Judges Association.

In February 2002 Judge Croy, in league with four other judges, began a weekly tradition of Oklahoma County judges gathering for coffee as a time for judges to get to know each other. That phrase was naturally whittled down and abbreviated to “KOJ” over time. Judge Croy has taken virtually every Special Judge since 1997 under his wing to mentor and encourage. We all thank you for that, Jim. His good hearted banter, wry humor and valuable legal and judicial advice has helped us all. The title of this article is derived from Jim’s habit of referring to the District Judges, especially the retired judges, as “Kindly Old Judge” whoever. The very first reference I heard of this kind was about Kindly Old Judge John Amick. That phrase was naturally whittled down and abbreviated to “KOJ” over time.

Kick back and relax on your balcony, play your guitar as the sun sets over the river, write stories (and send them to the OCBA), take care of your furry and feathered friends, cook interesting things, make some wine and beer and know that we appreciate what a wonderful friend and judge you are, *Kindly Old Judge James Croy.* Take time to visit your son and his family near Detroit. Do what your bride, Margaret, tells you to do, as it will be better for everyone concerned. Enjoy your retirement. And stay in touch.

Jim has written for the Oklahoma County Bar Association newspaper, The Briefcase. He wrote many articles, but he always included a monthly Olio of Court Thinking that included Oklahoma cases from 100 years ago, 75 years ago, 50 years ago and 25 years ago. These cases revealed life in Oklahoma, as it existed at each of those intervals, and the law in Oklahoma, as it progressed in the last century. If you doubt that we have progressed then you need to review all of these Olios as they show what a rough and tumble state we had. The ways in which Indians were referenced, usually as unintelligent children incapable of mature thought or judgment, would now be deservedly condemned as racist. It’s no shock to anyone that minorities and women were viewed a mere century ago as inferior. However, to see that treatment locked into legal opinions of the highest courts is a stark reminder of our continuing responsibilities to reform our own thinking in every age. It is a shame, but the circular reasoning used by the early appellate courts showed the jurists’ true colors, and that isn’t a good thing, except as an historical lesson for what not to do. But, it is useful. And just like everything else, Judge Croy wants us to all learn from our mistakes and our past.

Judge Croy has been a cohesive element for the Oklahoma County District Court bench. He has been a valuable institutional resource for recalling what worked, or didn’t, in docket management. He is a constant source of good advice and direction for judges who work with him, providing legal theory, precedent and factual context. He tells jokes. Not all of them are bad. He insists that judges communicate with each other and he was instrumental in getting a group of judges together to bolster Judge Dan Owens’ efforts to inform the state legislature of the needs and requests of the trial judges from around the state. Now that organization is known as the Oklahoma Judges Association.

In February 2002 Judge Croy, in league with four other judges, began a weekly tradition of Oklahoma County judges gathering for coffee as a time for judges to get to know each other. That phrase was naturally whittled down and abbreviated to “KOJ” over time. Judge Croy has taken virtually every Special Judge since 1997 under his wing to mentor and encourage. We all thank you for that, Jim. His good hearted banter, wry humor and valuable legal and judicial advice has helped us all. The title of this article is derived from Jim’s habit of referring to the District Judges, especially the retired judges, as “Kindly Old Judge” whoever. The very first reference I heard of this kind was about Kindly Old Judge John Amick. That phrase was naturally whittled down and abbreviated to “KOJ” over time.

Kick back and relax on your balcony, play your guitar as the sun sets over the river, write stories (and send them to the OCBA), take care of your furry and feathered friends, cook interesting things, make some wine and beer and know that we appreciate what a wonderful friend and judge you are, *Kindly Old Judge James Croy.* Take time to visit your son and his family near Detroit. Do what your bride, Margaret, tells you to do, as it will be better for everyone concerned. Enjoy your retirement. And stay in touch.
For more than a decade, LawPay has been the go-to solution for the legal industry. Our simple online payment solution helps lawyers get paid faster. LawPay lets you attach a secure payment link to your email, website, or invoices so that clients can pay with just a click. Our solution was developed specifically for law firms, so earned and unearned fees are properly separated and your IOLTA is always protected from any third-party debiting. Simply put, no online payment processor has more experience helping lawyers than LawPay.

**THE PREFERRED CHOICE**

**SECURE** credit card processing for law firms

**IOLTA COMPLIANT**

Approved Member Benefit of 47 STATE BARS

**Trusted by over 50,000 lawyers**

Powering payments for 30+ TOP PRACTICE MANAGEMENT SOLUTIONS

Contact our legal payment experts at 866-276-9492 or visit lawpay.com/okcbar