

APRIL 1982

LASCHER AT LARGE

By Edward L. Lascher

Nothing big's got my attention this month, so I think it's a good time to air out a motley collection of foibles, if that mixes enough metaphors. For openers, I note some interesting doings in San Diego.

Let it be known that city is not only one of my favorite places to visit (next time you're there, set your AM dial to KMLO, visit Groovy Treasures in North Park, try any of the veal dishes at Nino's, if you can find it, and stay out of the courthouse). It also is the home of one of the two or three grooviest bar associations extant, easily the greatest one in any city.

I don't know how it happened, but they've always enjoyed the greatest camaraderie, esprit and (if I may be forgiven the non French) fun of any aggregation of lawyers in California. And have done it while simultaneously pioneering or participating in development of some of the most thoughtful and progressive activities of the organized legal profession. I think off hand of Defenders, Inc. and Appellate Defenders, the Inns of Court, the El Cajon Experiment and similar, but I suspect I offend by omitting others that just don't come to mind.

They were treated shabbily by the State Bar (as I've said before, this isn't a news column) in connection with the convention last year and I thought their put-down was classy. They also publish the nonpareil bar publication, Dicta, which I would not for a moment mind substituting for that academy of high-school journalism that eats up about one out of every eight dollars the State Bar extracts from each of us.

NEW WORLD OF HYPE

But some of the stuff that comes out of San Diego is funny funny. For instance, I somehow found my way onto the mailing list for the "Gray, Cary, Ames & Frye Quarterly" published by a law firm with offices in San Diego, La Jolla, El Centro and Telecopier. (Honest! You could look it up. The latter office is in a different area code, however.) If one looks inside, one finds it to be "a report to our clients and friends on legal developments of general interest," but not "an exhaustive legal study" (whew!) because "applicability to a particular situation depends upon investigation." In view of that, you may be surprised to learn, readers are invited to "contact the Gray, Cary, Ames & Frye attorney or Department Chairman indicated." Then there is, for example, 'From Labor Department . . . Sexual Harassment in 'The Workplace : Employer Beware'! (If you ask me, the employee oughta be wary in the bargain.) At the end of that item, an interested harasser/harassee is invited to "contact John R. Betts (author) or James K. Smith (Chairperson) of our Labor Department." Hoo boy, the Dow-Jones approach comes to lawyer advertising, right here in California. What hath Bates, O'Steen and Jacoby wrought?

On the other hand, one issue of the aforementioned Dicta has a wonderful shot of the five new San Diego Bar Association directors for 1982. They are all handsome, well groomed, decorous looking young ladies and gentlemen, smiling warm smiles and gazing -- aye, there's the rub. Five people in one picture looking in five different directions. Does that tell you anything about the organized bar? But who cares? Like I say, they have fun in the land of the Tijuana Trolley.

A later issue, honoring Judge Ed Schwartz (who -- this is serious -- is one of the neat judges of any kind and, a fortiori, neat among federal judges), contains a humor item of which was more double-edged than I suspect the columnist realized. It seems lawyer Allan Reniche got back an announcement he'd sent out, accompanied by the following, written by a member of a law firm:

"Unfortunately, Mr. Blank, to whom the card was addressed, is deceased and no longer with our firm" (emphasis by Dicta).

That's pretty good, but the unconscious zinger was Dicta's describing Allan's mailing disclosing his partnership with Jim Krause as sent to a list of "former acquaintances." If that's the effect of forming the partnership, I think Allan should have thought twice before throwing in with Jim. Should auld acquaintance be foregone . . .

And with that, the Coronado Ferry pulled away from the shore, and Sea World sank slowly into Mission Bay.

KLEPPED AGAIN

Ralph Kleps, about whose achievements and blind spots I wrote last outing (Journal, March 3, 1982), has called my attention -- by letter typed with a blue ribbon -- to potentially misleading remarks linking him with the ill-conceived and ill-fated mandatory pretrial program. It seems pretrial was already in place before Ralph received the orb and scepter, he being named prime minister to preside over the dissolution of the pretrial empire, so to speak. Goodness knows, nobody should be unfairly saddled with that dog. (My, don't the metaphors mix merrily today?)

Somebody else called my attention to the fact that pretrial wasn't the only reason why insurance defense firms have become one of the only two growth industries in the country these days (the other being computer software, dummy). The other cause is the American Motorcycle decision, the lawyers' WPA. Seldom in the history of litigation have so many owed so much to so little.

A-V REDUX

Some of you may remember the first offering of this column, in which we followed the adventures of Charlie, Elmer, Mr. Astor-Vanderbilt, the mail room, and similar tribal customs of those who go directly from Yale Law to 480-lawyer firms. Well, Mr. A-V struck again. A few days before a brief was due from Charlie in their case, A-V started hounding our hero about how they were going to get the document fast enough to satisfy A-V and Elmer's clients in Waltham, Mass. Because the law firm is so big that mail rarely gets through its mail room, Charlie had to admit it was a legitimate worry.

His patience wasn't up to the task, however. When he pointed out to A-V (who, according to Martindale, is 16 years, one month and three days old and an ex-clerk for the chief justice of the South Dakota Court of Patent Appeals) that he was still writing the bloody thing, and his secretary still had to type it (since they don't have voice-operated word processing, like downtown) and they'd start worrying about delivery at 4:55 p.m., A-V came unglued, as uncomprehending as if Charlie had lapsed into Urdu.

His last, plaintive suggestion was: "All I want to do is schedule our brief courier to meet your filing clerk when he gets to court." Charlie hung up. He's been heard to mutter "filing clerk" and "brief courier" under his breath a few times, while chatting with his pencil proctor, bookshelf monitor, file-folder factotum or coffee clerk. Just like all of us do.

However, even I, Ensign Pulver, get in on the fun. My recent experience involved a San Francisco factory, but this time a senior partner, who's been out of law school four decades -- although I don't think he realizes it. I got a letter chewing on me because a document had been misaddressed. Embarrassed and chagrined, I looked it up and, sure enough, it was wrong. It was addressed to his law firm, at its proper locale, and to the three other partners whose names were on the pleadings, but somehow omitted his. My correspondent's gripe was that, under such circumstances, there was no way he could ever learn about the document. Now, doesn't that tell you something about the way the aristocracy lives?

MEMO TO LAW BOOK PUBLISHERS

On the assumption (which, I admit, is open to challenge, at least from shareholders) that law publishers really try to produce things that help us lawyers in the pursuit of justice -- and perhaps even our daily bread -- I have some suggestions of things we're all aching for which appear to be unobtainable.

First, would somebody please produce just a plain, ordinary, unannotated copy of the California Constitution? It would even be enough if one were just included in the annual sets of hardback unannotated codes, but it would be even better in the form of a soft-cover pamphlet. (If nothing else, it would allow all of us to go around with one in our back pockets, emulating Sam Ervin -- a guy worth emulating -- on a purely non-federal basis, of course.)

Second, and maybe even more pressingly, we need annually available copies of the major codes, unannotated and separately bound, that we can throw in our briefcases for trial. (When I use the second person plural, of course, it is understood I refer to an oppressed minority among our profession which gets scant attention from the State Bar or elsewhere: those who divine some benefit in having a statute in a briefcase in a trial.)

I know that Parker's puts them out, but they are printed in type apparently designed for senior citizens (another minority group to which I belong, but I still can read type smaller than "Run, Spot, run") so that each pamphlet is about as thick as a James Clavell novel, thus defeating the purpose. West publishes them, too, and theirs are small enough, but they come out about on Thanksgiving weekend of the year in question. A couple of other publishers issue them early, but only with every code bound together in one volume.

Maybe some entrepreneur can see a possible combination in those shortcomings and put out small, individual codes early. However, I'm going to go on inhaling and exhaling until it happens.

DEMOCRACY IN (L.A. BAR) ACTION

Sometime right about now marks the quarter century anniversary of my membership in the Los Angeles County Bar Association. Although I fled the smog and traffic jams more than 15 years ago, I have dutifully forwarded my dues support. Lately, though, the latter's been wearing a bit thin.

Whatever one might think of the substance of Dick Coleman's policies and proposals for the association, one thing unassailable has been his belief that the body needs some healthy democratization. It's not so surprising to me that it had gone along in its familiar, stodgy, old-boy fashion; after all, there is probably no enterprise known to personkind more affected by inertia than a bar association. (Except in San Diego. See above.)

But what I didn't anticipate was the violence of the reaction to Coleman's pointing out that the emperor lacked clothes. The very idea that someone would suggest something was worth reconsidering about such policies as secret meetings of the club's legislative body (Ralph Brown, where are you and your Act when we need you?), or adopting changes in the constitution and by-laws only at 3 a.m. meetings in the Tuttle & Taylor sauna, seems to have driven some theretofore highly responsible folk into paroxysms of rage. I could have accepted "Oh, for pete's sake, who cares?" or "Aw, shucks" embarrassment, or even a little waffling in the hopes it would all blow over.

What I wasn't steeled for was so many of my colleagues being either so far gone or so unable to understand what it is they are saying and doing that they can, with a straight and unblushing face, raise the banner of antidemocracy on high, and urge (command?) the rest of us to fall in and pick up the cadence. The fact that much of this passion for authoritarianism, and hatred of participation, occurs in the name of liberalism makes up in tragedy for what it lacks in logic. Sort of a "Jeffersonians for Repeal of the 14th Amendment" type of movement.

What brought all this to mind was the fact that I have been reading on all sides about how the nominating committee which holds the key to running that club is being "democratized." Upon receiving the details, I realize that it's the kind of democracy Czar Nicholas would have loved. I got a ballot with 21 names on it, from which I could elect ten nominators. So far, so good; I used to get a list of 21 names to fill up spots.

But wait a minute. It turns out that, although I get to elect ten, those ten are not a slate; they're only a half slate -- or, more accurately, a half-slate minus one. They get to join 11 others who are already nominators, by virtue of once having been officers or being appointed (yes, I said appointed) by such representative agencies as the Law and Technology Section. In other words, the lawyers of Los Angeles are 47 and a half percent for democracy. With that kind of representation, King George III could have lived in happy taxation.

NON-SHOOTOUT OK

Up in our neck of the woods recently we had an episode that got nationwide media attention. Some guy being arraigned or sentenced or something for drunk driving opted for a do-it-yourself stay of execution and took off down the hallway. He was tackled by the dynamic backfield duo of a slight female deputy and the judge ("robes flapping" in every printed version). Okay, that's not exactly man bites dog, but it's a break in the monotony.

What was intriguing was the thing most accounts deemed remarkable: the deputy didn't pull her gun and blaze away at the guy. Her much-wondered-at reason was: "It was just a drunk driving case. I didn't want to shoot a guy for that." (Or any of the people in the hallway, for that matter, I might add.)

On reflection, I guess that was newsworthy. Damnably so. I think the officer deserved a commendation on her record for that, but she'll never get it; the only way up the constabularial ladder, it seems, is by drawing and firing.

Which reminds me that I never heard what became of the incident in which a LAPD stalwart, crossing a street in midblock, fired off a few rounds at an approaching car he didn't think was stopping fast enough -- and which turned out to be a black and white. His excuse? "I didn't know it was a police car." Oh. To serve and protect whom?

DEPARTMENT OF THE TRULY NEEDY

I note with interest that the L.A. Board of Supervisors proposes to install electronic games in the jury waiting rooms. Pac-Man for Panels, as it were. It brought a warm glow of approbation to my heart: Somebody finally decided to do something for the poor souls we lock up in a Black Hole of Calcutta for days on end, waiting to be peremptoried. I glowed right up to the moment I discovered it was for revenue producing, not humanitarian, purposes.

1982, Edward L. Lascher