

Commentaries

"Stand In The Place Where You Live." REM

August 2007

Letter from the Editor

Dear Members,

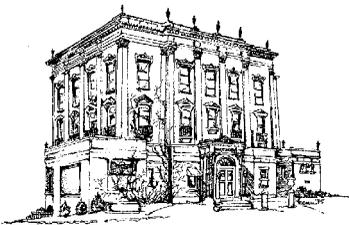
Welcome to new members Dr. Louis Hart, Thomas M. Pie and Brian Raudenbush. We that you and all members enjoy tonight's presentation by Wheeling Architect Victor Greco, who hails from Weirton, by way of Baltimore, Maryland, and whose talk is entitled, "*What Were They Thinking? A commentary on what some think is 'architecture.'*"

We think you'll find tonight's presentation fascinating, but don't forget to let us know whatever you are thinking by using the new blog site on the WALS web-page: www.firststatecapitol.com.

If you have already forgotten the login ID, or password, reply to one of those many meeting reminders from Barb and ask her to send it along to you by email again. And don't forget that you can read past issues of *The Blackstone Club Commentaries* on line as well.

Yours Truly,

G'C of D.



Tullamore Dew Profiles

Patrick Michael Flatley

The story of my life begins, quite naturally, at my birth on August 9, 1954.

Born in Wheeling, I was my parents' first child; two siblings followed, Timothy and Mary

Ann. I have been reliably informed that I was a colicky baby, as if that presaged something. To my knowledge, I could not help the condition and it meant nothing. But I'm open-minded about its significance, just as I am receptive to the

notion that our little corner of the universe has been visited by extraterrestrial beings.



As the X-Files anthem declared, "The truth is out there." Which, in turn, causes

me to join with the protagonist in Hemingway's Islands in the Stream in opining that there is no one true thing; rather, "It is all true." However, that's enough obfuscation

Continued on page 3

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Remember...

as a dues-paying Blackstone Club member, you may bring a different non-member lawyer or non-member educator to any meeting as your guest, to introduce him or her to the club.

Flatley

Continued from page 1

and fuzzy thinking, at least for the moment. For as you will see, I fear that I can't help myself in that regard, given the influence once exerted upon me by a notable barrister whose identity, alas, is revealed below.

My formative years were spent in that steel city by the river, none other than Weirton, WV; the very same city from which the Blackstone Club's fearless leader and founder hails. In fact, it was based on that extraordinary bit of serendipity that I ended up practicing law in Wheeling. Following graduation from Madonna High School ('72), Bethany College ('76), and WVU College of Law ('79), I was welcomed into the halcyon chambers of O'Brien, Cassidy, and Gallagher; the foremost Hibernian law firm in the region. I landed there largely based on a connection made

possible by a mutual high school teacher friend that I shared with Pat Cassidy. My association with said firm was extraordinarily satisfying and fulfilling - and seemingly permanent - until 1982 when, after being nurtured for far too long by "Professor" Cassidy on the more exaggerated aspects of Friedrich Nietzsche's "will to power" and other philosophical outliers, I decided to break free of the bonds of the Ohio Valley and join the U.S. Marine Corps at age twenty-eight.

Having fed my Nietzschean appetite, or perhaps successfully repressed it unlike poor old Nietzsche himself (who, it seems, never could come to terms with reality and, quite evidently, never met an aphorism he didn't like), I returned to Wheeling in 1986 following completion of my service commitment in order to become a public servant of another stripe. I joined the U.S.

Attorney's Office for the Northern District of West Virginia where I worked as an Assistant U.S. Attorney for nearly twenty years during which, among other things, I handled a wide

However, that's enough obfuscation and fuzzy thinking...

variety of criminal and civil cases in federal court. In the fall of 2005, the U.S. Court of Appeals for the 4th Circuit selected me to replace the retiring L. Edward Friend II, as U.S. Bankruptcy Judge for the Northern District. I took over for him in March 2006 and am, thus far, living happily ever after. Well, perhaps not quite so. But it's a darn good life.

I've been married for 28 years to my first wife, the lovely and talented Rose Marie

(nee Chiodi). We have two wonderful children: Daniel Patrick and Valerie Rose. Dan is twenty-two and a Corporal in the U.S. Marine Corps. He is scheduled to deploy to Iraq in August. Valerie is seventeen and will be a senior this year at Central. Besides annoying friends and family with seemingly aimless philosophical speculation (please note the qualifying adverb), I like to read (nearly anything that is well written and holds my interest), exercise earnestly (though less effectively and regularly as I age), eat assiduously, share an adult beverage with friends from time to time (for which there is never enough time), and attend Blackstone Club meetings (which is time very well spent). Thank you for having me. 

The State of Justice

The State of Justice this month commends to your reading a new book by Joan Blades and Kristin Rowe-Finkbeiner called, “The Motherhood Manifesto, What American Moms Want and What To Do About it.” (Nation Books, New York, 2006)

While we spend a lot of time speaking in this country of “family values,” this book demonstrates with poignant logic the deficiencies of our social policy in providing any real assistance, financial or otherwise, in the American family’s efforts to raise the next generation, and the laggard response of policymakers to real “family” concerns in America, where all childbirth and child-rearing are treated as the private concern of parents, and often single moms, rich or poor.

Where is Plato (who thought the raising of children was of paramount importance to the survival of the state) now that we need him?

This is not universal policy, as the book shows. Many industrialized nations provide for some form of child care allowance, or some extended time off with pay, for new mothers, recognizing the value to society of child rearing. Nearly all industrialized nations provide health care to all children, while in the United States some 12% of all children (closer to 17% in West Virginia where 26% of all children live in poverty) are without health insurance.

Unfortunately, the book makes clear that just like with health care, the United States lags behind many other industrialized countries in social policy that actually aids families (rather than lecturing to them) and worse, with the global downward spiral of wages for all working people in this country, many if not most working moms (and since 1999 at least, most moms are working moms) are having a hard time juggling the realities of work and

raising children.

The book cites the work of Harvard Law School Professor Elizabeth Warren that “Having a child is now the single best predictor that a woman will go bankrupt. In fact, this year, more children will live through their parents’ bankruptcy than their parents divorce.” The book also references the work of Ann Crittenden, author of the Price of Motherhood: “Social policy does little to reward mothers for their economic contribution. Nannies earn Social Security credits; mothers do not. They earn a zero for every year they spend caring for family members.

This means that motherhood is the single biggest risk factor for poverty in old age.”

Then too, the authors cite Census statistics that show that significant wage disparities still exist between women and men’s pay scales, most significantly when the women are also mothers. All told, the

book does not give a rosy picture of the prospects of working mothers and their families in the short term.

But rather than wallow in negativity, the book encourages in the last chapter, aptly titled “As Mothers go, So Goes the Country,” organization and promotion of “parent friendly” legislation, and good suggestions for solutions for some of the more intractable failures of a system that too often speaks, but only speaks, of promoting family values.

We can’t speak for Oprah, but WALS highly recommends 

Commentaries

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Academy of Law and Science.

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Ask Bartleby

Dear Bartleby,

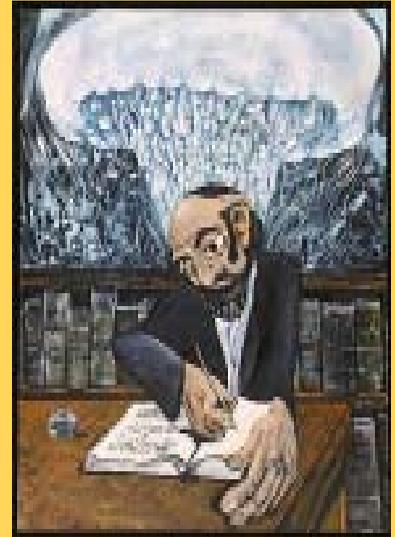
What is or was the legal status of Wheeling's history as a Port of Entry, and what exactly did that mean?

Libby Slater

Dear Libby,

A Port of Entry is any designated place at which a U.S. Customs and Border Protection (CBP) officer is authorized to accept entries of merchandise to collect duties, and to enforce various provisions of the customs and navigation laws (19 CFR 101.1). Wheeling was designated a Port of Entry along with Pittsburgh, Cincinnati, Louisville, St. Louis, Nashville, and Natchez by Congress [United States Statutes ch. 87 (Mar. 2, 1831)], because of its importance to shipping traffic on the river route to the Mississippi and the Port of New Orleans.

In 1854, Congress appropriated \$88,000 for the construction of a stone building to serve as customs house, post office, and United States courthouse [United States Statutes ch. 242 (Aug. 4, 1854)], which is now known as the old Customs House, or more popularly, Independence Hall, at Market and 16th Street. Wheeling lost its legal status as Port of Entry by Executive Order of Warren G. Harding on May 4, 1923. (SEE BELOW) West Virginia still has one Port of Entry, at Yeager airport in Charleston, West Virginia.



Yours Sincerely,
Bartleby, the Scrivener

Pursuant to the Act of Congress approved August 1, 1914, making appropriations for the sundry civil expenses of the Government for the fiscal year ended June 30, 1915, Wheeling West Virginia, is hereby abolished as a port of entry in customs collection district No. 12 (Pittsburgh) with headquarters at Pittsburgh, Pa.

WARREN G HARDING

THE WHITE HOUSE,
May 4, 1923.

(No. 3831.)

La Cerca - Chapter 4

“Fidus Achates. It is me. Is it really you?”

During his time in Wheeling, Schmidt had often referred to me in Latin as his “faithful friend,” but it seemed odd that he didn’t mention my name, or his, in a call after so many months.

“Yes, of course, it’s me, Georg!” “I’m surprised to finally hear from you after so much time.” “I’ve tried to call—tried to write!” “What happened to you?” “Is everything O.K.?”

“Please, Fidus Achates, no names.”

“I hope you and your family are well, but I cannot talk for long. I must get to the point. You must come to East Germany in March, to visit. It is very important that you come, and in March. I am no longer with the University, but still have a private residence in Leipzig. I can meet you there, the day after your arrival in Berlin. I will

have more information for you upon your arrival. Just drop me a line c/o the Hotel Elephant in Weimar as to the date of your arrival, and where you will stay the first night in East Berlin. After that, plan to spend two days in Leipzig, and two days in Weimar, where you should stay at the Elephant, where Lotte stays when in Weimar.”

I thought it odd that Schmidt inserted the seemingly light-hearted literary reference to Thomas Mann’s *Lotte in Weimar*, which we two had often discussed when he was in Wheeling, in an otherwise strained and urgent message. For a moment, I didn’t know how to respond. I knew that travel in East Germany would not be as easy as in the West. I hesitated to promise that I could come within sixty days.

Schmidt picked up on my hesitation before I could respond.

“Please, Fidus Achates. You must

come. And you must trust me. I can say no more. Remember only to send me your travel plans care of the Hotel Elephant. Nowhere else!”

“I’m not sure I can, friend. School has started again. March is a busy month here. I’m not sure I can get leave from my classes to come. Can you not tell me more?”

“I am sorry. I must hang up. Please let me know of your plans, remember, Zum Elephant.”

The line clicked. Schmidt was no longer on the phone.

It took me a few minutes to let the conversation sink in. I could not understand the meaning of Schmidt’s request, or his predicament, though in a predicament he seemed to be. Still, I was intrigued. It was not like Schmidt to act mysteriously. He had never asked for any favors while he was here in the States. Yet now he seemed so pleading, desperate even. I knew it would not be

easy. There would be family and work issues to be resolved. But I determined then and there that I would go.

My travel agent was not supportive. He advised I would need a visa from the DDR, as well as my passport; that I could not fly directly into Leipzig, but would have to fly into East Berlin (which Schmidt obviously had known); and that even then there may be “technical difficulties” at the point of entry into East Berlin, which since World War II was still “Checkpoint Charlie.” It couldn’t be that hard, I reasoned. Schmidt wouldn’t have asked me to come if he weren’t sure we could meet as planned. So obtaining the address for the Hotel Elephant, I wrote to Schmidt as requested, relating my arrival plans, the dates I would be in Leipzig, and when I would be traveling on to Weimar.

As it turned out, there was no trouble at all walking into East Berlin over the

bridge that separated the East from West. After an initial menacing command of “Achtung!” from a guard in green uniform as I approached the control point, and a somber review of my passport and visa, the guard suddenly looked up with a welcoming smile, and said, in impeccable English, “Welcome to East Germany, Mr. Fidanzo.” I was relieved to think I’d get to tell my travel agent how much his concerns were exaggerated.

Though I knew I would be meeting with Schmidt in Leipzig, I was still surprised to hear a knock at my hotel door at the Metropol that first night in East Germany, and see an envelope simultaneously slide under my door. By the time I could pick it up, and open the door to the hallway, whoever delivered the message was no where to be found. I noticed immediately that the envelope’s inscription was in the neat, orderly

handwriting of Schmidt, and addressed to Herr Fidanzo, *persönlich*, c/o the Metropol.” I carefully removed the letter from the envelope.

“Have been provided unknown manuscript believed to be of considerable importance. Your assistance will be required, if it is to have any chance of publication. Please maintain strict confidence. Andrew Gallagher, a student at the University, will provide further instructions.”

Despite my surprise at the Berlin message, I was flattered by the thought that Schmidt felt that I could help in some way with an “unknown manuscript of considerable importance.” The warning to maintain “strict confidence” was a little odd. I couldn’t imagine who Schmidt thought I would be talking to in East Germany about our plans. I tore up the message in little pieces and threw them in the waste paper basket, only to immediately pick them back out of the

waste paper basket when a sudden concern about the privacy of my hotel room came to mind, and threw the remnants in the bottom of my travel bag, to dispose of out of the room. I wondered what Schmidt had in mind. He could have explained more, but he didn’t.

“What kind of manuscript? And how did he obtain it? And who was this Gallagher? And how was I to meet him?” ...”in strict confidence. What does that mean?” All these thoughts were going through my head as I started to have an uneasy feeling about ever coming to East Germany. Qualms aside, I decided to go on to Leipzig the next day, as planned.

The sound of a siren awakened me with a start before dawn. I pressed the illumination button on my watch: 4:00 A.M. Sirens in East Berlin at that time, maybe still now in Berlin for all I know, are different from those in the States – more ominous— the kind of siren you hear in the old war movies during

a bombing attack on the city. Two alternating pulses – short, long; short, long; short, long. It made me shudder. I hoped it didn’t mean an international crisis was in the making. My travel agent had laughingly warned me when he made my arrangements for the trip that there would be no problem with my traveling in East Germany once I got in unless an “international crisis” developed. Then, he said, “It’s the same old story. The borders close!” I remembered asking him for how long. “Until the end of the war!” he replied, with a mischievous grin. It seemed funny at the time. Not so funny now, as I lay awake in a semi-conscious state, thinking that I had unwittingly become involved in some clandestine activity in the middle of an unfamiliar, threatening, country. But soon I was asleep again, until dawn. And with the light of day, and realization that the sirens of early morning must have been only from a passing Volkspolizei car, my
Continued on page 8

thoughts had eased enough for me to look forward to showering and joining the other guests for breakfast in the hotel's common dining room.

I thought back to when Schmidt visited our college, and how he became a source of colorful gossip when he requested, and received, permission from the college to order beer from the food service with his breakfast in the morning. Seeing the Metopol's breakfast spread, I realized how Germans could drink beer in the morning. Breakfast was more like a luncheon buffet of cold cuts—several kinds of sausages and bratwurst, thick bread, and cheeses—much different from the usual breakfast fare of bacon and eggs or cereal or toast back home. After a few mouthfuls of back rye, I felt it only natural to open up a bottle of the featured "Wernesgruner" beer. I thought fondly of Schmidt as I enjoyed a

long sip of what seemed in that context just a natural extension of breaking fast.

As I walked outside, East Berlin all of a sudden seemed particularly bleak. It was not just the rain, though it was coming hard and steady. It was not even the winter-like temperature, which was seemingly causing each passerby to clutch their coats tight around them, like so many shadows in a day turned dark. It was that the people themselves seemed grey, alone, oppressed beyond the temporary vicissitudes of the weather. As I walked underground to the rail platform to catch the train to Schonenfeld Airport, where the train to Leipzig departs, I felt conspicuous. No one but me was wearing penny loafers. No one but me had American Tourister luggage. The red, white and blue tags on my luggage seemed to be screaming. No one seemed to be dressed quite like me,

although I couldn't decide exactly what it was that made me look so different. The train was scheduled to leave at 9:30 A.M. it was only 9:00. People would gaze at me, size me up, and lower their heads—as if to acknowledge they realized that I was an alien presence. The words of an old song, "Hey, let's find somebody with a watch and stare at him" came to mind. What I really needed, I thought to myself, was on of those dark blue fisherman's caps that many men in East Germany seemed to be wearing. Then I would fit in. One just like the one the young man who was walking in my direction was wearing. Thinking that, that is, until my thought was shattered by the young man speaking to me, "Herr Fidanzo, bitte?"

Dumfounded, I yet had the presence of mind to respond in German, "Ja?"

"Ein Brief fur Sie."

He handed me a piece of small folded

paper, and scurried off the platform in the direction of the pedestrian bridge leading back to the main station. I had been too perplexed to say anything else to him. I looked around. Heads were still down. No one seemed to be watching, or seemed interested that I had been handed a paper from an individual who immediately walked away. The thought went through my head that the ticket agent in the main station gave me the wrong tickets, and had sent a courier with the correct ones. I unfolded the paper. Another message from Schmidt.

"Must leave immediately. Cannot see you in Leipzig tomorrow after all. Speak with Herr Gallagher at the Leipzig Zoo. He will advise when and where we can meet."

Tracking me down at the airport seemed odd, indeed. Why all the intrigue? My excitement to see Schmidt again turned to apprehension. "What was he up to?"

“Why couldn’t I meet him in Leipzig?” “Who was this Irish-German Gallagher at the Leipzig Zoo?” I started to think that perhaps I should not go to Leipzig at all. I had no enthusiasm for all the secretive behavior in which I was being pulled. I was beginning to feel like a spy. Yet the hotel in Leipzig expected me that day. There would be “official” questions of my whereabouts if I didn’t show up in Leipzig, as my visa required. But the apprehension stayed with me as I climbed aboard the train.

Although the train arrived in the station soon after 9:00 A.M., it did not leave for Leipzig until ten minutes after its intended departure time. From where I was sitting, it appeared that someone was being forcibly removed from the train several cars up by green-uniformed police, and that this may have been the cause for the delay.

From my vantage point, I could not get

a look at the person being removed from the train, but it appeared that he was being taken into custody for some reason. Now even more cautiously, I looked around for some seemingly innocuous passenger to sit beside, and sat down opposite a woman in a plain print dress and head scarf, who seemed ageless, in the sense that though she may have been as young as forty years old, she looked like she was sixty, and holding.

Upon motioning to the single seat opposite her, I tried some more of my limited German, “Entschuldigung, ist der Platz frei?” “Ja, bitte,” she replied, whereupon she commenced to deliver a lecture to me and presumably anyone else who would listen, in German—all of which I did not understand, but was able to pick up the general theme—that you could not trust the trains to be on time anymore since “the Russians came.” So much for innocuous.

It was a three hour train ride. She complained in a loud voice about that ten minute delay for most of the next three hours, stopping only for the time it took her to eat two wretched looking and inexplicably smelling sandwiches that she had brought along with her for the trip. Someone must have packed them for her, because while biting into the first, she would periodically peer between the slices of bread – in an effort to determine just what it was she was eating—without apparent success.

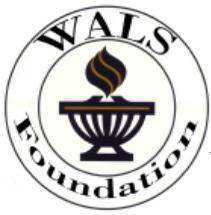
Having finished the sandwiches, she ceremoniously peeled and ate an apple, as if crowning the achievement of a remarkable feast. It had been a long time since I had seen anyone peel an apple, let alone savor it as she had. And all the while, between bites, she carried on, mostly to herself, but in voice that all around could hear,

about “die Barbaren”—the “barbarian horde.”

Her animated harangue had at least served to keep my mind off the more troubling incident I had only partially witnessed—the mysterious arrest of that unknown passenger on our train.

As the train pulled into Leipzig and my still complaining travel companion got up to leave, she threw her collected apple peels into a small trash receptacle on the side of our compartment under the window. As she turned to exit, the thought occurred to me to dispose of some trash there myself – the shredded second message from Schmidt—and the remnants of the first, which I found still in the bottom of my travel bag. 

See prior issues of the newsletter, including chapters of La Cerca, at www.firststatecapitol.com



Off the WALS:

News of the Wheeling Academy of Law & Science (WALS) Foundation

As we like to say, "If those who believe in the Justice system don't educate the public, those who don't will."

WALS Mock Trials Involve 4000+ Students

The Wheeling Academy of Law and Science (WALS) Foundation is about to begin its fifth year of the mock trial project. Well over 4,000 students have participated so far.

We are looking to expand into more Ohio County parochial and private schools this year as well as showcase the mock trials in several new counties.

New scripts are being written. The subject matter this year

will be the abuse of prescription and OTC (over the counter) drugs. It seems that this problem is the latest to surface for our youth, so we'll have a trial scenario that addresses the risks of using and/or becoming addicted to these drugs. **Get ready, lawyers, for the call!**
~Barb



Students from Laughlin Chapel visit the Ohio County Courthouse

Teachers Love Our Mock Trials

Here's a sample of recent comments from teachers:

- "Effective learning experience-students were very involved- conversation continued about the experience."
- "We hope that this will be offered again next year!"
- "Students enjoyed being able to participate in role-playing."
- "I felt the idea of involving drug abuse was excellent.(I also feel that they have a better understanding of drug abuse)."
- "EXCELLENT - We certainly would like this educational experience to continue yearly."
- "What a wonderful way for students to learn. The students took away valuable information."
- "Excellent presentation. Hope it will be presented on a yearly basis."
- "I really love this mock trial for our 4th grade."
- "Wonderful experience for the students!"



A Kanawha County eighth grader makes her opening statement

Upcoming Blackstone Club Meetings & CLEs

BLACKSTONE CLUB Tonight:

Presentation by Architect Vic Greco

“WHAT WERE THEY THINKING?”

A commentary on what some think is ‘architecture’”

October 18, 2007 - to be announced

Dec. 13, 2007 -- *Christmas Party Black Tie Event*



Continuing Legal Education Seminars

(Check it out - we're offering ALL your required courses before the end of the year!)

Friday, September 28, 2007 (Up to 3.0 credits) Ethics and Risk Management

Speakers will include Andrea Hinerman of the West Virginia State Bar Disciplinary Council and a Risk Management expert.

Friday, October 12, 2007 (Up to 3.0 credits) Charitable Giving

Presented by the Community Foundation for the Ohio Valley

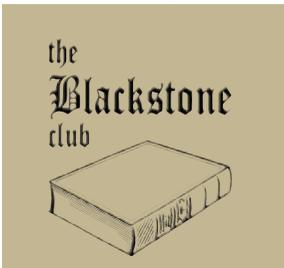
Wednesday, November 14, 2007 (Up to 1.2 credits) NOON SERIES Substance Abuse

Speaker to be announced. FREE for Blackstone Club Members

Friday, December 14, 2007 (Up to 3.0 credits) Morning With the Judges IX

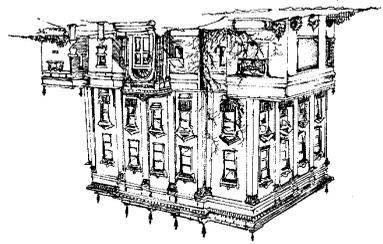
Honorable Julie Selmon (title - TBA)

Honorable Joy Conti (e-discovery session)which goes towards office management



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