



# Commentaries

“Nothing stays the same, but if you’re willing to play the game,  
it will be coming around again.” Carly Simon

August 2010

## Letter from the Editor

Dear Members,

Since our last issue in February, we have enjoyed a great Beach Party on May 7<sup>th</sup>, hosted by Executive Director Barb Knutsen, a sumptuous Surf & Turf dinner on June 25<sup>th</sup> hosted by environmental guru Ben Stout, and look forward to tonight’s presentation, “Tropic Thunder,” by Bryan Murray. We have also had a number of successful CLE programs, highlighted by an excellent presentation on “meta data” (beware the “meta data”) from Judge David W. Hummel of the Second Judicial Circuit, and this mornings’ offering of “Elder law for Boomers and those who represent (or love) them.”

Due to some unexpected personal circumstances, your editor has been somewhat tardy in publishing a new edition of The Commentaries, for

which we apologize. However, we are back; and take this opportunity to welcome new members of our WALs family—a number of Alumni “educators” from the class of 1970 of Wheeling Jesuit University who we “signed up” for membership at a Wheeling Jesuit re-union in early June, and invite them to join us on October 29<sup>th</sup>, for an ‘Oktoberfest’ presentation, the host for which will be a surprise (to all of us).

We hope you are enjoying the dwindling summer, and look forward to seeing you all at future meetings and events.

Cheers!

**OC of D.**

## Tullamore Dew Profiles Rose Humway-Warmuth

As an attorney, I guess it’s in my blood to enjoy competitive cooking events. In fact my husband Brian is the one who introduced me to competitive chili cooking.

Brian currently is the only person to hold the State of WV Chili Championship three times and we will both be heading for Huntington for the State Cook-Off in mid-September. I have also been a State of West Virginia Champ in Red Chili, Verdi Chili and Salsa. I’m really a sidekick to Brian in the chili realm, but I have been fortunate to be the chili chair for the Wheeling Feeling Chili

Cook-Off, which has raised approximately \$50,000 for the United Way of the Upper Ohio Valley over the years. It’s a great event, held



the first Saturday in June. Many local attorneys, and Blackstone members, have volunteered their time as chili judges, and they’re pretty good!

Along with Chili, other competitive cooking ventures that I’m really proud of has been Coleman’s Mustard, Colivita Oil, but the grand daddy of them all is the Pillsbury

*Continued on P. 6*

*Sir Peter Quimsley, FRIAS.*

# Design Champion

City of Weelainge, Scotland



**T**he Church of Scotland's Mount DeCastle Abbey of Nuns, whose name derives from the imposing castle built on the highest point in Weelainge (at the same elevation of Arthur's Seat in Edinburgh), has been an architectural landmark in this city for more than a century, when the castle was first constructed.

The Abbey school, situate adjacent to the grounds of Weelainge Kirk University, educated children from around the world at a time when international students were a rarity in surrounding schools, and the brilliance of its educational offerings in foreign languages, music, and the arts were the envy of other local primary and secondary schools. Many of the nuns who taught at the school and attended the Abbey devoted most of their lives to enriching

the school and their students, and many spent their last

days there, and were buried in the private cemetery on the castle lawn, which is, under Scottish law, hallowed ground.

Unfortunately, Bishop Brownfields, of the Diocese of Weelainge—Charlton (who by Church of Scotland rules has complete autonomy over church property in Weelainge) has unilaterally decided that Mount DeCastle shall be home to the Abbey nuns no more, and that the castle itself will be sold to another holding of the Church—the Weelainge Foundling Hospital—in an rumored effort to boost the financial position of the Weelainge Foundling Hospital in order for the Diocese to be able to sell it advantageously to an outside concern, perhaps the United Presbyterian Medical Center (U.P.M.C.).

Worse, the intent seems to be to demolish Mount DeCastle, at an estimated cost of (3,000, 000

pounds sterling) Oh, yes, I know. You have listened to my ranting on buildings with architectural significance in Weelainge before (most recently in the February issue of *The Commentaries*); heard me discuss the preservation of buildings with significant cultural and historical significance; suffered my railings at the lack of “green consciousness” in destroying a building of such historically compacted energy; but arguments such as these often amount to just whistling in the wind.

“Show us the cash to save it,” say the sayers.

But we reply:

“Is there no one left in the Church of Scotland hierarchy who is willing to take the long-view on the history of the abbey or its adjoining university, indeed, on this place of education itself?”

In the case of the Mount DeCastle, most would agree that the property's

natural successor should not be Weelainge Foundling Hospital, but the adjoining Weelainge Kirk University, whose property is so entwined with the Abbeys that most people consider the Abbey to be part of the Weelainge Kirk University campus. Most appropriately, the castle could in future years serve as a Humanities building, or the location of the new Highlands School of Law, which is now being discussed at the University—even if the buildings need to be mothballed now until more propitious times, financially speaking.

Although the university was said to have been interested in buying and preserving the property for future educational use, the university today is plagued by financial constraints, and the Bishop was said to have refused to cooperate in a sale to the University—presumably because the Diocese's own financial pressures led to what in this author's opinion is an ill-conceived business

## Design Champion - con't.

judgment to “short” the value of the castle to the nuns and the university in favor of increasing the bottom-line value of the Weelaine Foundling Hospital to potential suitors.

Weelaine Kirk University is only 56 years old, and not as rich as other older and better endowed universities in the Church of Scotland system. But the Church of Scotland and its then Bishop Swift (said to be a descendant of Dublin born Jonathan Swift) were not looking at its founding for the university to be a “money-maker,” but were dedicating themselves to the “long” view on higher education for children of the Highlands; the same “long” view we think the present representatives of the Church


of Scotland should be considering with respect to the castle and the university’s educational mission.

As usual, the circumstances surrounding the sale and motives are shrouded in secrecy. Public pronouncements have been limited to the fact that the sale has been completed but no ultimate decision on the Castle buildings fate determined. But the pundits say it is already too late. Already a “done deal.”

But it’s never over until it’s over, and in matters of Preservation, that means until the wrecking ball arrives— usually on a weekend, unannounced.



*Any resemblance of the city of Weelaine to any existing city in the United States of America is strictly coincidental.*

So we ask the Church, the Hospital, wherever the process lay (a sale can be un-done), to enter into discussions with the University again, and consider long-term moth balling, or other options short of demolition consistent with the long-term educational commitment made to the Weelaine Kirk University founders by the visionary Bishop Swift in 1954, when he blessed the marrying of the location for the new University with the then thriving Abbey School. 



## 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.”*

Well, we are in our 8th year for the Mock Trial Project and about 8,000 students have participated so far in Ohio, Marshall, Hancock, Jackson, Kanawha, Tyler & Wetzel counties.

This school year we will be in all Ohio Co. 5th and 8th grade classes with NEW

scripts. The topic, RX drug abuse, will remain since statistics show it is in an epidemic stage among our youth today.

In September and October students from Clay, Braxton, Barbour & McDowell counties will be able to participate

and also learn about the dangers of RX use/abuse.

*A SPECIAL THANKS  
TO ALL LAWYERS WHO  
VOLUNTEER TIME TO  
MAKE THIS PROGRAM  
A SUCCESS!!*





In this country, we discuss the economy, unemployment, health care, education, even the deficit and environmental crises as individual challenges, neglecting not only a unified approach to solving these problems, but forgetting in the process that these same issues present not just differing economic and political choices, but “rights” recognized decades ago by our own country, and much of the rest of the developed world, as fundamental to providing “justice” and “human dignity” to all citizens.

Sixty-Two years ago (on December 10<sup>th</sup>, 1948), the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights, calling upon all member nations to publicize and expound the text of the Declaration, “principally in schools and other educational institutions.”

It was a basic tenet of the Declaration that a denial of the human rights proclaimed therein was fundamentally a denial

of justice and a denial of basic human dignity. But this idea remains unknown to most Americans, who have not heard much of the Universal Declaration of Human Rights in their schools or “other educational institutions.”

Rather, our ideas of justice seem to narrowly focus on the workings and perceived shortcomings of the civil and criminal justice system; and as a people we seem to forget that after the death of Franklin Delano Roosevelt, it was former first lady Eleanor Roosevelt who is largely credited with having “drafted” the Universal Declaration of Human Rights, which our allies, and much of Western Europe adopted after World War II.

At the time of their adoption, the U.S. Ambassador to the Vatican said our country’s involvement in the Universal Declaration of Human Rights would result in a “world made new.”

With the United States as one of the leaders in adopting “The Declaration,” it is not surprising that the general political freedoms associated with our Constitution—such as free speech, the right to life, liberty, and security of person and private property,

privacy, equal protection of the law, free and public hearing by an impartial tribunal in criminal cases, and freedom for being subjected to arbitrary arrest, detention or exile, play a prominent role in The Declaration.

What we don’t hear much of are the “economic” rights proclaimed in The Declaration, such as the right to “work,” (not to be confused with our idea of “right to work” as keeping unions out of the workplace), protection against unemployment, and the right to “just and valuable remuneration for work...” “ensuring for [working persons and their families] an existence worthy of human dignity... [Article 23].

The Declaration also recognized as a basic human right “a standard of living adequate for the health and well-being” of working people everywhere, “including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond

[their] control,” [article 25];

It also recognized a right to education. “Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.” [Article 26].

Finally, the Declaration may be said to have anticipated environmental degradation caused by the actions of others, proclaiming that in the exercise of their own individual rights and freedoms, persons have “duties to the community” and may not impinge on the general welfare or living standards of others in the community [Articles 29, 30].

The Universal Declaration recognized these “economic” rights, as well as these “political rights,” as “equal and inalienable right[s] of all members of the human family,” as the



# of Justice

“foundation of freedom, justice and peace in the world,” and that the “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind...’ and that it is essential to protect these human rights “by the rule of law,” “if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression..”

Finally, The Declaration recognized” freedom from “fear and want” as the “highest aspiration” of people everywhere.

One cannot help but think of Franklin Delano Roosevelt’s words in his first inaugural address in 1933, at the height of the Great Depression, that “We have nothing to fear, but fear itself.” Yet in this time of the Great Recession, our political discourse seems stuck solely on a note of fear —fear of terrorism, fear of Islam, fear of the deficit, Obamafear—— while any “plan” (whether for the private or public sector) to provide decent paying “jobs” for all Americans as a matter of “justice” (which would go a long way to paying for things like the deficit, health care and a decent

standard of living) gets relegated to clichés about the misguided “welfare states of Europe,” or worse, “socialists among us.”

The recent book “Postwar” by Tony Judt contains an excellent discussion on the rapid acceptance by most European countries in the aftermath of World War II, (and as a result of the war and depression) of the idea that governments must ensure the provision of social services such as education, housing and medical care, subsidized public transportation, and social security from illness, unemployment, accident and old age, as a matter of fairness and justice; and Raj Patel, in “the Value of Nothing,” has explained that “while the language of individual rights was strident” [in the Declaration] the signatories compromised by deciding that “enforcement mechanisms would be left to individual countries to decide.” In the end, some countries did better than others with their promise of



“economic” human rights, with some countries of Western Europe coming closest to having enforced the “economic” tenets of The Declaration.

As one example, despite the popular (and “misleading”) criticism of the British health care system as one in which its citizens have to “wait in line” for health care, it is generally not mentioned by those same critics that the citizens of the U.K. have treated their health care system (as we do our social security system) as sacrosanct ever since the National Health Service (NHS) was enacted into law way back in July of 1948!

Perhaps in retrospect the country who learned the lesson best of all is Germany, who was every bit as much a victim of Nazism and Nazi “fear” mongering [then, the rallying cry was “fear of Jews;” today, “fear of Muslims”] abetted by much of the elite business interests of the country, which culminated in Germany’s arrogant

imperialistic aggression, the Holocaust, destruction of millions of its’ own citizens, and an economy and infrastructure in ruins, not to mention the loss of life and destruction in the rest of the world.

But modern Germany, with its work councils, co-determined boards, and wage-setting multi-bargaining institutions that give workers a real say in the factories and businesses in which they work, is now maligned as one of those European “welfare states,” lacking the “labor flexibility” of the United States.


Yet it is Germany (where “living wages,” including six weeks of vacation every year, are the norm), that is running neck and neck with China in world export trade; Germany, that does not suffer from any trade deficit; and Germany, that has not, like the United States, dismantled much of its manufacturing sector and shipped it off to China.

Critics may call the German experiment “socialism,” but more perceptive analysts have described it as capitalism at its best, albeit with a more democratic face.

## The State of Justice- con't. from p.5

“Consider the Germans,”  
*Thomas Geoghegan,*  
*Harpers Magazine, March,*  
*2010).*

In this time of lingering recession, it may be in our own national interest to unlearn the paralysis of “fear,” and instead, start a debate on how to get Americans back to work again, not at “minimum

wage” jobs, but at “living wage” jobs, that will ensure decent living standards not as a matter of partisan politics, nor as an agenda of the “left” or the “right,” but as a requirement of basic justice and human dignity; before we too have to learn the lesson the hard way. 



*Brest State University today*

In fact, as we would not learn until later, Schmidt was still alive. He had not died on November 9, 1989, but had suffered a massive stroke that paralyzed his entire left side. He could no longer talk, except usually to affirm “Yes” or “No,” yet he seemed to understand everything said to him. His “yeses” were always straight-forward, but his “noes,” the instinctual expression of his autonomy, were

delivered with a dramatic intonation of voice, demonstrating that the passion for his “negative” expressions was not lost to disability.

Then too, he would on occasion amplify on his negative or affirmative responses, with a phrase in Latin, like “that’s terrible,” or a few favorite words in German, like “Eleganz,” the latter to show his approval or appreciation of the words or actions of Frederica

## Humway-Warmuth - con't. from P. 1

Bake-Off. I have been blessed and extremely lucky to have been a two time competitor at that event once in 2002 and again in 2010. My first recipe was called Chuck wagon Cheeseburger Skillet and this year my recipe was called Grand! Good Morning Orange Walnut Biscuit. I really thought I had a shot at the \$1 Million prize, but hope springs eternal, there’s always next year.

Married to Brian Warmuth for nearly 15 years. Brian is the Human Resources

Director for West Liberty University. Rose and Brian reside in the Edgewood Section of Wheeling. Rose’s mother is State of West Virginia Magistrate Rose M. Humway. Rose has one brother, Richard, who resides in the Wheeling area and one sister, Christine, who resides in Washington D.C. and is an attorney for the DOJ.

*Rose serves as City Solicitor for the City of Wheeling and also legal counsel for the City of Cameron.*

# La Cerca - Chapter 15

Illyich, who Belarusian officials hired in 1989 as a care-taker to Schmidt in his University apartment, and who had become for all intents and purposes the invalid’s adopted mother.

Although Schmidt could still eat most foods, Fredericka first had to cut up his food into small morsels, so that he was able to eat it with a fork utilizing his still serviceable right hand. He could still walk, but only with difficulty and with someone at his side at all

times, to prevent against a loss of balance, or hold his cane when he sat or rose from a chair. He had to be helped even in his dress and bath, even for such simple things as getting into the shower, and washing parts of his body not reachable with his right hand.

The saddest part of the transformation in Schmidt was his inability to read or engage in intellectual discussion, which was the mainstay of his life for

# La Cerca - con't.

many years as a teacher and then translator of the Nietzsche manuscript. A great intellectual and mentor, he had now been silenced; something that none of the state authorities, German or Russian, had been able to accomplish.

The only remnants of his brilliant intellect were the many books still in his personal collection, the copies of printed lectures from teaching days past, and perhaps now most importantly, the nearly 20 journals he had filled translating and annotating the "Transfiguration of All Values."

So this had become Schmidt's condition, lonely except for the ministrations of the ever solicitous Frederica, from the time of his stroke in 1989 until one day in 1996 when the phone rang, and he overheard Frederica speaking on the phone to Dean Petrova, of Brest State A.V. Pushkin University, which was the owner of the dormitory apartments in which Schmidt was allowed to reside.

"Ah, Dr. Petrova, oh yes, we are well, the Professor and I get along just fine, you know, with the help of the university."

"I have called to tell you that we have a visiting professor from the United States at the university, a Professor John Fidanzo, and he has been asking about a professor he knew in Germany in 1984—a Georg Schmidt. Could this be the same as your Herr Professor?"

"What a coincidence! Perhaps So! Yes, Herr Schmidt once taught in Leipzig!"

"Actually, it appears Professor Fidanzo has been searching a long time for Herr Professor Schmidt. He says he only chose to apply to our university through an international exchange program after learning that Schmidt had roots in Brest. Of course, I know nothing of Schmidt's background, only that the university was enlisted to provide him with living space these many years, but I thought that you would know; and that if the Professor wanted us to put him in touch with...."


"Oh, I don't know! I will have to speak with him. He cannot be taxed too strenuously of course. But I will ask him if he wants to speak with your professor, and call you back."

In Schmidt's existence, even telephone calls were rare, and having heard references to "Leipzig," and another "professor," Schmidt's face was all anticipation by the time Frederica got off the phone.

"Professor, that was Dean Petrova. A professor from the United States, a John Fidanzo is teaching this semester at Brest State University, and he has been enquiring about the whereabouts of a certain Professor Schmidt from Leipzig University in 1984."

A wave of emotion swept over Schmidt's face. Frederica wasn't sure how to interpret it.

"Shall I arrange to have him meet you?"

"Yes. Yes! Oh, yes! Eleganz!" 

*Prior issues of the Newsletter, including prior chapters of La Cerca can be accessed on the WALs website:*

[www.firststatecapitol.com](http://www.firststatecapitol.com)

## The Commentaries

is the official newsletter of the Blackstone Club, and is published by the Wheeling Academy of Law and Science.

For more information, contact Barb Knutsen, Executive Director - 304.232.2576 [barbaraknutsen@firststatecapitol.com](mailto:barbaraknutsen@firststatecapitol.com)



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



The Blackstone Club is not an official bar function, and has no ties to any city, state, federal, professional or political entity or organization; it is solely a project of the Wheeling Academy of Law and Science, Inc. a private corporation.



# Upcoming Blackstone Club Meetings & CLE's

## BLACKSTONE CLUB Tonight:

"TROPIC THUNDER" by Bryan Murray

Upcoming - **October 29, 2010-Oktoberfest** **December 9, 2010** (WALS Christmas Party)

## Continuing Legal Education Seminars

**Friday, August 27, 2010** - Up to 3.0 credits available

**Elder Law for Boomers AND Those who Represent (or Love) Them** by *Jeff Rokisky, Esq.*

**Friday, October 29, 2010** - Up to 3.0 credits available

**Ethics, Office Management, Risk Management**

*ALL required criteria to get a DISCOUNT on ALPS insurance*

**November 2010 - 60 min. CLE NOON SERIES - TBA**



**Friday, December 10, 2010** - Up to 3.0 credits available

**Morning with the Judges XV** - presenters *TBA*

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