

C.H. Rosenstein:  
70 Years  
In The  
"Thickets of the Law"



by  
*Francine Ringold*

Foreword  
by  
*J. Douglas Mann*

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"Repair thy wit, good youth, or it will fall To cureless ruin. I stand here for law."  
William Shakespeare  
Merchant of Venice, Act IV, Scene I

I cannot write or speak of Claude Rosenstein without admitting prejudice. Yet, it is a prejudice born from a conviction that I have known a man who stands not only for the majesty of the law but for the sanctity of human endeavor.

This biography was conceived from the idea that no more fitting tribute can be given to a great man than to tell of his life. Yet, this book does not pretend to be a complete exposition of Claude's life nor is it intended to have a "warts and all" approach. Rather, this biography is to acquaint those who never knew him and remind those who continue to love him of a life spent in dedication to the law and in service to all.

Claude's life and legal career have been rich and varied. He has seen the practice of law evolve from a calling to a business. He has filed legal pleadings that were handwritten or crudely typed and those which have been prepared on highly sophisticated word processors. He has travelled to court appearances by buggy, train and plane. He has appeared in courts in which the lawyers walked in from streets in which they were "knee high in dust or mud" and he has argued in the highest court of this nation. Claude's clients have ranged from philanthropic millionaires such as H. P. Taubman to outrageous scamps like John the Barber. He battled with Alfalfa Bill Murray and served as the guiding hand for desegregation of the Tulsa Public Schools.

Throughout it all, Claude has remained the soft spoken advocate whose eloquence came not only from his words but from his gentlemanly manner.

He has given us a legacy that hard work, preparation and an even-handed demeanor are the foundations on which to build not only a legal career but a life.

In this day when our heroes are few, it is reassuring to tell of the life of a revered and admired man whose qualities will endure.

Tulsa, Oklahoma September 15, 1985



1912, Claude Rosenstein, age 19



## A LAWYER'S LAWYER

*I'm not God. The currents and eddies of right and wrong, which you find plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. . . . This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down . . . d'you really think you could stand upright in the winds that would blow then? . . . I'd give the Devil benefit of law, for my own safety's sake . . . whoever hunts for me, God or Devil, will find me hiding in the thickets of the law!*

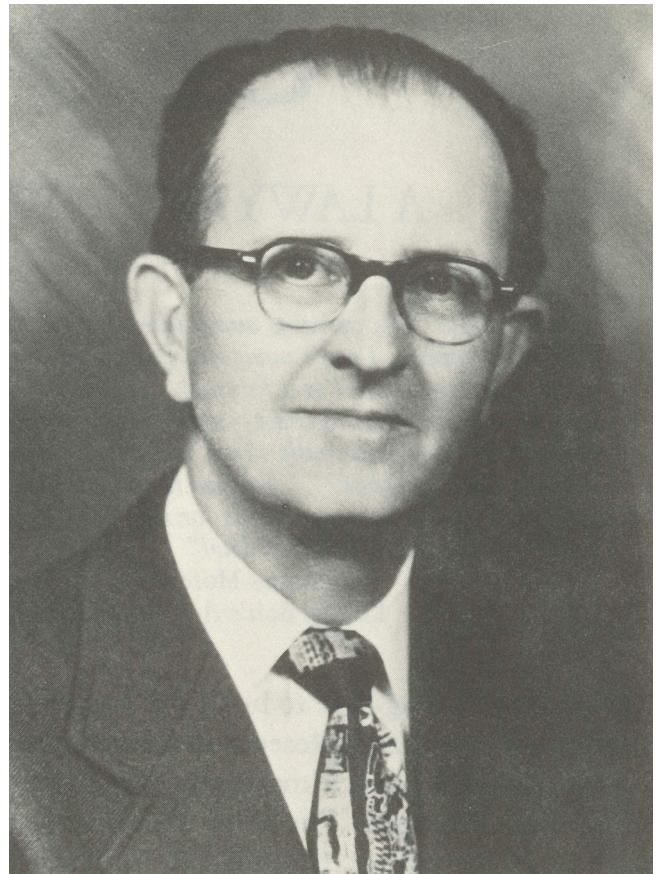
Sir Thomas More in  
Robert Bolt's *A Man for All Seasons*

It has taken a long time to build the firm of Rosenstein, Fist & Ringold, Attorneys at Law. Claude Rosenstein numbers among his past partners many good friends and staunch companions in the law: Isaiah Lebove, William Blake, Max Silverman, Theodore Rinehart, Henry Fist, Aaron Mesirov, Ralph Gore, Joe Shidler, Leslie Webb, Pearl McKeown, and Carl Livingston were all part of the long, complex and honored history of one of Oklahoma's oldest law firms. Of these pioneers, only Claude Rosenstein in 1985 at 92, is still entwined in the practice of law. David L. Fist, A. F. Ringold, Coleman L. Robison, Gene L. Mortenson, J. Douglas Mann, John G. Moyer, Jr. , John E. Howland, Thomas A. Mann, James W. Tilly, Steven K. Bunting, and Jon B. Comstock — all current partners in the firm — are continuously aware of being associates in the legendary practice of C. H. Rosenstein — a "lawyer's lawyer."

They speak, these lawyers, and proud associates of Claude Rosenstein, of sitting with Claude in court and being overwhelmed by the dignity and scope of their profession. They remember with chagrin arriving at the office at 8 : 30 a.m. on a Sunday and finding that Claude had already been there for an hour. And they are constantly delighted at having present judges, men like Jess Miracle of Okemah, who has been a trial judge in Oklahoma for thirty-five years, or Edgar R. Boatman of Okmulgee, son of a former lawyer, who never fails to ask about Claude, and who repeats the refrain: "Whenever my Dad had a problem, he called Claude Rosenstein."

Floyd Rheam, one of Claude Houston Rosenstein's oldest friends, and a lawyer who has shared many days in court with Claude and many months and years of preparing for those days — summarizes the opinions of most of Claude's legal associates when he says:

Rheam: He has a terrific sense of humor yet he is calm, deliberate, practical, knowledgeable and thorough. Claude also has a native ability for language and an instinctive recognition of the balance and wisdom of everyday psychology. He is always well prepared, always has the law behind him; he



1968, Claude Rosenstein, age 75

*knows what he is doing.* With the facts at his command, he doesn't have to be flamboyant or dramatic.

Claude puts it more simply: "I tried," he said, "to bring a little law to the situation at hand."

Helen Fist Rosenstein, Claude's steady partner since 1916, speaks with authority of the man she loves and admires:

Helen: He is solid, quiet. His solidity is something like the law. He practices life the way he practices law—with the same integrity. He always sticks to fundamentals. As you know, he is a quiet man. Maybe that doesn't fit in with the usual picture of a trial lawyer, but he was a great trial lawyer.

Let me tell you a funny story: my son, Bob, and I went to hear Claude try a lawsuit. We sat up front in the courtroom, but we never could hear a word. Of course, the judge heard everything. And, as Claude said later, "I wasn't speaking for you to hear."

He stuck to the fundamentals of the law rather than trying to persuade the jury with any foolishness. When he got through with his presentation the Judge usually instructed the jury on the points of law which Claude had made.

Judge Royce Savage, one of Oklahoma's most revered citizens, remembers Claude Rosenstein's days in his court with respect and warmth. They both share an abiding faith in the law and a determination to adhere to its tenets.

Savage: I remember an incident where Claude had requested a certain instruction to the jury which I concluded was not a proper instruction to give to the jury and I therefore declined to give it. The jury returned a verdict for Claude's adversary, the plaintiff, not a large sum, something around \$5000.

Claude Rosenstein was about to lose a case. Yet he was convinced then as he is to this day that Royce Savage is a great trial judge. "When Judge Savage ruled against you," said Claude, "he would make you feel like you had won. He understood what you were talking about and he was a gentleman—always."

With confidence in the Judge and the legal system, after receiving the verdict which would have cost his client \$5000, Claude filed a motion for a new trial on the grounds that Judge Savage had committed an error in not giving the instruction which Claude had requested. Judge Savage concluded, after having briefs submitted and upon presentation of the motion, that he had indeed made a mistake by not giving the instruction to the jury. He granted a new trial and set aside the verdict. This time the plaintiff agreed to settle out of court.

"It was the only occasion in my experience on the bench where I concluded that I had made a mistake in either giving or failing to give an instruction which necessitated granting a new trial," said Savage, sitting staunchly behind his desk. And Claude Rosenstein nods respectfully as he grins with delight at "the greatest trial judge I ever practiced before."

Claude Rosenstein was elected a Fellow of the American College of Trial Lawyers (only 2 % of the legal population are elected each year). He was on the governing board of the Tulsa County Bar Association for two terms, President of the Tulsa County Bar Association for one year. Claude was also a member of the Board of Governors of the Oklahoma Bar Association, a trustee of the Oklahoma Bar Foundation, and on December 4, 1971, he became the first recipient of the Oklahoma Bar Association's new President's Award. Claude has a few reservations, however, about what has happened to the practice of law in the past 70 years.



## THAT WAS THEN: THIS IS NOW

Claude: "I think the practice of law has changed completely in the nearly 70 years I have been practicing. It isn't a profession anymore. It's a business."

A business, a more efficient system, still proud of its standards and practices, but a "business." That's the way Claude Rosenstein regards the practice of law today. He feels that that practice lacks some of the passion, some of the life-consuming and life-fulfilling elements of his early days in the "thickets of the law."

The change in the texture and tone of the practice of law is, in part, the result of what might seem to be merely mechanical innovations.

In the early days of Claude's practice, some offices had typewriters (Claude learned to type at the beginning of his career and learned when to keep that skill a secret, as we shall see). There were of course no electric typewriters, no instant duplicating systems, no computers. The law office depended upon the individual, upon human memory and carefully and painstakingly copied materials. There was less paper and more good talk, more personal contact.

If, however, the early practice of law was more personal, warmer, less tied to the machine, it was also less efficient, not just because of the absence of machines, but because modern practices and reforms in trial procedures have weeded out many dilatory actions through the use of pre-trial proceedings which serve to expedite the trial of cases.

Claude: When I first got out of Law School, it was not common practice to take testimony before a trial began. We had never heard of interrogatories. When we did take depositions, our questions were to be confined to what the witness knew about the lawsuit and we were prohibited from relying on depositions if a witness was going to be available when the trial took place. Depositions were confined to witnesses who would not be available to testify. That's quite a different philosophy from that of today. Back then it was considered unethical to try to find out what an adversary had (in terms of evidence) which might have been ascertained in a pre-trial conference. Each side considered his witness was his and the other side should have hands off!

As to exhibits, we had engineers' and architects' drawings, photos, letters, etc. They were first produced for your adversary at the trial and whether they were admitted as evidence or not depended on their relevancy and materiality — which was thrashed out at the trial and not at formal pre-trial conferences.

Now exhibits are offered to the adversary before the trial, and if each side agrees that the exhibit is relevant it is admitted as evidence in the trial. If material is going to be contested, the contestor must set forth grounds for his objections before the trial.

Given the cooperation of the client, Claude is convinced that the pre-trial practices which were instituted following the Federal Rules of Civil Procedures bring about a swifter and less cumbersome proceeding. A confusion or misrepresentation of the facts on the part of the client, however, can cause a trial to drag on interminably.

Such was the situation in the case of *Danzinger v. Bell*. The trial extended over more than a year with claims and counterclaims being filed on each side. The proceedings had gone on for so long that Claude and his then partner, Max Silverman, asked their wives to join them for a weekend in Lubbock, Texas, where the

case was being tried. As Claude puts it, "we wanted to be sure we were married to more than the law."

Claude explains that when in State or Federal cases the hearing of detailed evidence will glut the docket, the trial judge may appoint a special master to take testimony and report his findings to the trial judge. In *Danzinger v. Bell* the need for a special master was imperative and a master was appointed and then reported his findings of fact and his conclusions to the District Judge before whom the trial was pending. A compromise settlement was finally reached, but Claude is certain that had all the facts been unveiled at an earlier date, the settlement would have been reached much sooner and with more benefit to his client. "If a client does not totally disclose all the facts to his lawyer at the outset," says Claude, "there is no way to proceed to the best advantage now or ever." But under the present rules, the trial judge "is furnished the tools (especially pre-trial hearings) the use of which enable him to have control of pending litigation and move the trial along."

Claude: In the old days, before the adoption of the present rules, Saturday morning was called "motion day" in the State Courts. Motions, including demurrers, were usually filed by a young lawyer for an older lawyer for whom he was working. It was up to the young lawyer to argue his motions. Often the young lawyer filed a motion, such as "a motion to quash" not because he had a real objection, but in order to gain time. These frivolous motions asked for twenty days to enter a demurrer or file an answer. This practice gave young lawyers who were interested in becoming trial advocates an opportunity to learn how to handle themselves in court. However, this procedure was not conducive to speeding up the trial of civil cases.

Today delaying tactics are frowned upon. If a motion is intended to raise a question of law it will be presented and dealt with by the trial court; if the motion is of the frivolous type, it will be disposed of summarily and little time to answer will be allowed. Moreover, all motions and demurrers have to be filed at the same time

These practices put the case at issue quickly. That's good and bad. There is little room to negotiate or to encourage settlements. Everything is on the table before the trial. They know what you have and you know what they have. The trial may move along with less hitches, but before there was more of a chance for negotiating a settlement, for using common sense so as to stay out of court.

For example, we often had pollution cases where it was claimed that oil producers had drainage problems caused by the escape of oil onto land of the oil lessor. Sometimes there would be four or five defendants — each, for example, a large oil company. Each company had its own legal department, and for awhile the companies adopted a policy of trying to place the blame on one of the other defendants. They soon found out that that policy resulted in actually helping the plaintiff.

In order to expedite the trial and be as fair as possible, we used to get the defendants together and decide who was going to be the "goat," who, among the defendants, was going to agree to take the blame in a particular case. Then the defendants divided up the sum that was awarded to the plaintiff. We saved some court costs, accepted the inevitable outcome, and paid our fair share — without wrangling amongst ourselves in or out of court.

That kind of mutually beneficial arrangement, says Claude, takes sound reasoning and legal knowledge. But it also takes communication, the ability and the desire to talk to one's peers and one's clients; it takes the willingness to spend quiet hours alone with one's thoughts; it takes pride in prepared-ness; and it takes an optimistic appraisal of the value of men of good will finding solutions together.

Claude: We communicated with each other by telephone, telegraph, and by personal contact—in the office and out. Much of the personal contact was at meetings of lawyers in voluntary organizations such as the Tulsa Bar Association. Even our modes of travel contributed to increasing the time we had to spend with each other—time to talk and to listen.

In the early days of my practice, we traveled by railroad a good deal to the Supreme Court of Oklahoma and to the U.S. Court of Appeals. The use of automobiles for transportation was increasing rapidly, faster than roads suitable for automobile travel were being built. We used to get stuck in the mud. (Sometimes it hadn't even rained for months, but

we got stuck in the mud anyway.) The ruts were so deep the wheels would dig in and spin and the underbelly of the car would hit ground. By some odd coincidence, a young farmer, with a team of horses, was usually right there near these mud holes when you got stuck and would pull you out for a modest consideration. So all in all the railroad looked good.

The Frisco Railroad had a number of local train runs to Muskogee, Pawnee, Sapulpa, Okmulgee, Oklahoma City and other nearby cities and towns. The Midland Valley had a line to Pawhuska. Local oil men and lawyers could "ride the rail" to their business appointments.

Claude: I have a vivid recollection of a case that was set for oral argument on a particular day in Oklahoma City. My adversary in this case was a lawyer who was considerably older than I—John Haver.

John and I agreed that we would take the train to our court appointment and that in order to get a good night's sleep we would board the train early the night before the case was to be argued and before the train actually left the station. The Frisco Railroad had a Pullman car which was designated for use on this particular run. Anyone with a ticket was permitted to enter the Pullman car after 8:00 p.m. even though the car was not supposed to be picked up by the engine and the rest of the train until 11:30 or 12:00 p.m. in order to deposit us in Oklahoma City by 7:30 a.m.

We had plenty of time for a good talk. Then we hit the hay. I was sleeping well when I heard John shouting at me: "Get a move on," he said, "or I'll argue this case alone." I knew he was joking but I rushed out of my berth and into my clothes. It took just a little investigating to find out that a mistake had been made. The Pullman car had never been picked up; we were still on the side-track in Tulsa.

Of course, we had to call the Chief Justice and tell him what happened and he was kind enough to reset the hearing. Neither John Haver nor I, nor the Chief Justice, nor the Frisco Railroad—ever forgot that trip!

The Pullman car mishap was an unusual circumstance. Most often train rides provided time for leisurely discussion, for the possibility of compromise and settlement and for a thorough discussion of the legitimate purpose of the lawyers' trip.

Claude emphasizes that there is less communication now between lawyers over trial issues in an informal setting. "It's a business . . ." and the trains don't run. Travel is swift. Duplicating is fast and inexpensive. Paper is everywhere and the live word is buried under the paper. And the trial lawyer? According to Claude the trial lawyer is not the most important member of the large law firms of today. The trial lawyer is regarded as a "necessary evil" and everything is done to keep a controversy from going to court. "There's some good in that," says Claude, "but it takes some of the dignity out of the practice of law, some of the sense of community and tradition."

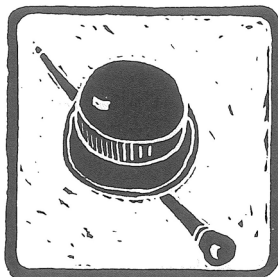
Claude: In addition, the legal profession is diminished every time a lawyer advertises that he is "on your side" or sells divorces for a nominal sum of money. There's no dignity in practices of that kind. Lawyers have become specialists in one area of the law or another. With all the boards, commissions and courts of special jurisdiction it is the rare lawyer who can do a good job being a so called "general practitioner." But because a lawyer is a specialist in one area of the law does not mean he should sell his speciality like someone would sell tires or hash.

Claude carries in his briefcase a quotation from a novel he read so many years ago that he's forgotten the title, but the sentiment is permanently fixed in his mind and heart.

*First class trial men, the quotation reads, are a breed to themselves. Trial men are men who love the law. Men who adjust to its idiocies, shake off incompetent appellate decisions and go on trying cases. Trial men are generally men of fair honor who exist for the courtroom, substituting its life for their own lives. Generally, they are the best left of what has become a very tricky profession again in these years of the individual.*

As Floyd Rheam says: "The Law has been Claude Rosenstein's world; and honesty his religion."





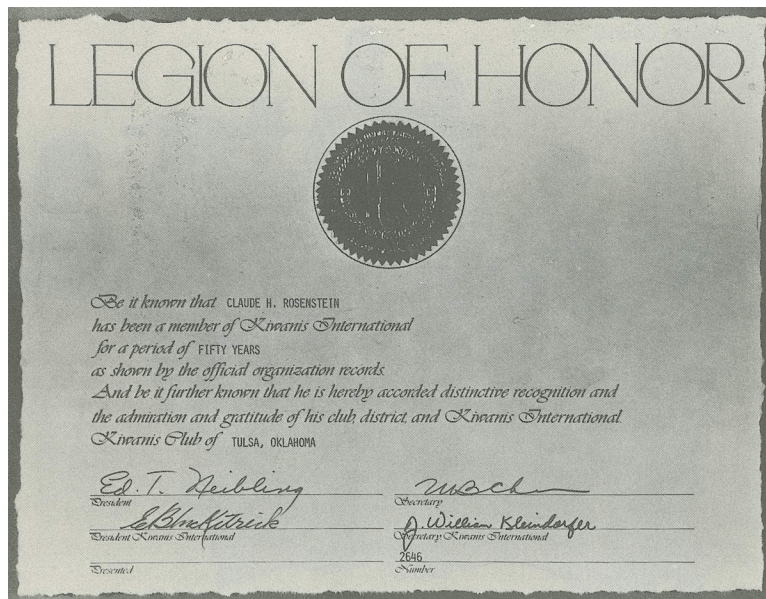
## "THE BEST MAN I EVER KNEW"

One of the many who regard Claude with deep affection is Raymond Kravis, a petroleum geologist and one of Claude's oldest friends:

Kravis: He was a real gentleman and at the same time active in his profession and very generous in his charitable contributions . . . . It was difficult for Claude to say "no" to a request for help. He was President of the Temple, at one time, very active in Kiwanis, and the Oklahoma and Tulsa County Bar Associations. Besides that, I could call him for a contribution to just about anything and he would say, "what do you think I ought to give?" No argument or anything. And I would tell him what I thought he ought to give and he would say "All right, I'll give it to you!" He was that way. Some others you have to eat your heart out before you get anything. He was generous and a first-rate lawyer, but let me tell you, he was also a lot of fun to be with. We used to take golf trips together.

We'd go to Hot Springs, Arkansas, once a year. Claude and Dr. Goodman and Max Silverman, who was a partner of his at the time, and Joe Jankowsky and I would go away once a year for a week. We would stay at the Arlington Hotel in Hot Springs and play golf every day. Claude used to get dressed in my clothes from time to time, just for the hell of it. We even had a correspondence that we carried on for years on clothes and when I had something that I didn't like I would give it to him and he would wear it. We would call these the KKK (which is Kravis

Krappy Klothes) and we would laugh about that and write letters back and forth, just for diversion. When Claude was way from the office, he'd always join in the fun and we'd do about anything. Once Sam Goodman and I decided, I can't imagine why, to give Claude a mucilage massage. He thought we were giving him a rubdown with lotion, when actually we were using that kind of white mucilage that school boys use (which will dissolve with water). Well, we smeared that glue all over him, and when he realized what it was—he took it! He laughed for hours! We all had a good joke because he was so good natured . . . . Then too, about twelve married couples used to get together. We had those Saturday night parties which were often designated as costume affairs. Some of the



Costume Party: Claude and the Saturday night regulars . . . .



men objected but Claude would wear anything. He is a sport. He enjoys people and they enjoy him.

The high jinks of the Saturday night parties and the golfing vacations were known to just a few of Claude's closest friends, but everyone with whom he came in contact recognized his wit, his brilliance, and his kindness.

Charles C. Mason, Superintendent Emeritus of the Tulsa Public Schools, spent many years working with Claude Rosenstein in his professional capacity. During those years, however, Claude became not only Mason's legal counsel but his "very dear friend." Writing to Claude on the occasion of his 89th Birthday, Mason commented on the quality of Claude's counsel and advice, that quality which "added security and well-being to the years of service" that they both devoted to the Tulsa Public Schools. "To say that you know Claude Rosenstein," says Charles Mason, ". . . is to establish for yourself a credential of personal respect. Few ever attain the admiration, respect and affection in which he [Claude] is held."

Larry Zenke, present Superintendent of the Tulsa Public Schools, speaks of Claude Rosenstein as "a mountain of a man"; Ella Whitman admires most Claude's "gentleness in dealing with people while at the same time always exhibiting good judgment and making wise decisions." Fanne Marsh recalls how the sight of Claude walking down the hall towards her desk in the Superintendent's Office at the Education Service Center cheered her. "I knew that I would be greeted softly, cheerfully and courteously." No matter how grueling the day's work, Claude was "patient and respectful. I appreciated that!" And Yvonne R. Hays, wife of the late Jack Hays, an attorney and close friend of Claude's, makes a confession on Claude's 89th Birthday: "During these many years I just never came out and said it: 'Claude Rosenstein, I love you: for fine legal talent, your fairness, your kindness, your dry ironic wit—and for your unfailing gallantry!'"

The woman who knows Claude best, however, and never fails to sing his praises is his wife Helen, mother of their three children. Helen, an admirer of poetry and fine novels, was honored as the first woman to receive the Hannah G. Solomon award for outstanding community service. The focus of her life, however, is Claude:

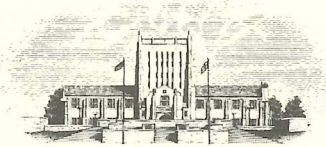
Helen: You know, Claude never brought his work home with him. When he came home from the office, he would say, "what are we going to do tonight?" The office was behind him. The only time I ever saw him really bring the office home with him was the night that Eli Foster was accused of stealing the athletic money from the high school. Eli was Superintendent of Schools in Tulsa, and a close friend. By the time the loss was discovered all the money had been paid back. But Eli was ruined. Claude was very fond of him.

He was worried and hurt but still he didn't say much. Of course, that is Claude. He keeps troubles inside of him.

About money! Well, Claude has been very successful. But Claude never wanted money. He made it anyway. Any business that Claude ever got came to him. Claude could never try to get business.

Business, friends, family cling to Claude. Perhaps that is because Claude is solid. He does not change. He never lets anyone down and he has always been a support to family and friends.

Helen: As I told him the other day, he always spoiled me! He is just the best man I ever knew. That is the only way I know how to put it. He's the best man I ever knew.



THE UNIVERSITY OF TULSA

College of Law  
Office of the Dean

August 25, 1982

C.H. Rosenstein, Esq.  
Tulsa, Oklahoma 74103

Dear Claude:

As you know, I'm a relative newcomer to Tulsa and to The University of Tulsa College of Law. As with any newcomer it takes time to settle in - to get to know who's who and what's what. One of the most satisfying aspects of my beginning days was the encouragement I received from not only those persons who, by presumption, would be supportive, namely our own faculty, students and alumni; but even more gratifying is the friendly support I have received from our "unofficial alumni."

Clearly, you have been a mainstay along with our good friends Ellis Gable and Floyd Rheam who, although not graduates of our own school, have exercised significant professional leadership in the Tulsa community. I'm delighted that you have considered the Tulsa College of Law as a substantial factor in the development of the legal profession of our community and beyond; and have translated that conviction into tangible efforts.

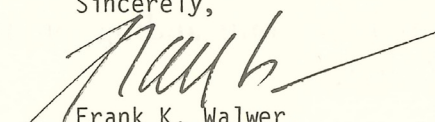
Your insight and support has not been of recent vintage. It reaches back across many years to original consultations with Frank Tenney, and Dean Morris and the establishment of the C.H. Rosenstein Scholarship Fund by you in April 1974. I know you can take pride, as I do, in how meaningful the fund has been to those students who have been supported through your efforts. A private law school such as ours could not exist and prosper without benefactions exemplified by your support. As originally contemplated the C.H. Rosenstein College of Law Scholarship Fund was established "to make it possible for students who were extremely worthy and who have the prospects of becoming first-rate lawyers, to attend law school...to bring to fulfillment the dream of studying law." At the time the College of Law recorded that the Fund "was a wonderful thing for a man who loves the law in the way you do and who has been with the bar for more than fifty years to take this step." Your initial intentions have been fulfilled by the reality of the events since the Fund was established.

It doesn't take too long for a new Dean to know who the good folks are. Thus it has been a great personal pleasure to come to know you and Helen. Since coming to Tulsa I have shared the moments when you received recognition by the National Conference of Christians and Jews and Helen was honored as the first woman to receive the Hannah G. Solomon award for outstanding community service. Both you and Helen have done so much for our Law School and for the Community.

I know I speak for the entire College of Law faculty, our student body, and our alumni in expressing our very, very deep appreciation for all you have meant to all of us.

Mary Ann joins me in extending very warm birthday greetings and best wishes to a grand fellow.

Sincerely,



Frank K. Walver  
Dean



Claude Rosenstein's parents in Tyler, Texas, 1890. R.E. Rosenstein, an itinerant minister, later became a lawyer and an associate in his son's law firm.



## "THE THICKETS OF THE LAW" EARLY YEARS

Claude Rosenstein was born in Texas, August 31, 1893. But Muskogee, Oklahoma, he says, is where he "met Helen and fell in love with her." Oklahoma, Helen and Claude form an enduring relationship.

The Rosenstein family moved from Texas when Claude was an infant. The first recollection Claude has of school was at Bartlesville, Oklahoma. There, as a boy, he got his first job: delivering the *Bartlesville Examiner* under the direction of Tom Shay. And in Bartlesville, too, Claude was given his first bicycle which he used to make deliveries.



*Claude's first bicycle and his first job at the Bartlesville Examiner*

The Rosensteins, however, were on the move. From Bartlesville they moved to Edmond, Oklahoma, and from there to Norman, where Claude graduated from high school as salutatorian. Claude's father was an itinerant minister of the Church of the Disciples of Christ (later he studied law and practiced in Skiatook and Tulsa). "Today," Claude said, "he probably would have been Oral Roberts or Rex Humbard. But at that time, he didn't make too much money tent-preaching." The family moved to Norman primarily so that Claude could finish his last year of high school there and then live at home and go to college at the University of Oklahoma.

Claude attended the University for one year after he graduated from high school, taking courses in higher mathematics as a prerequisite for attending engineering school. He was planning to study electrical engineering—but then, merely out of curiosity, he went to a murder trial in Norman that was creating a sensation in the newspapers.

Claude: The docket was crowded and they wanted to get through with this murder case, so in an open courtroom held on Saturday, I listened to the arguments of the attorneys. The adversary-type of proceeding appealed to me strongly. I had been on the debate team for one or two years in high school. It struck me that a lawyer was something I would like to be.

A school of law had just been established at the University of Oklahoma the year that Claude heard the decisive trial. The Law School was in the basement of the Library, and shared the same wing as the Music Department. It was a committee of Claude's classmates who called on A. Grant Evans, President of the College at the time, asking his help in getting an appropriation from the legislature for a Law Building. Half of the Board of Regents were lawyers, and the committee lined up a large group of other prominent lawyers to get the appropriation. Evans, however, opposed it and ended up losing his job. The Building was completed in the fall of 1913.

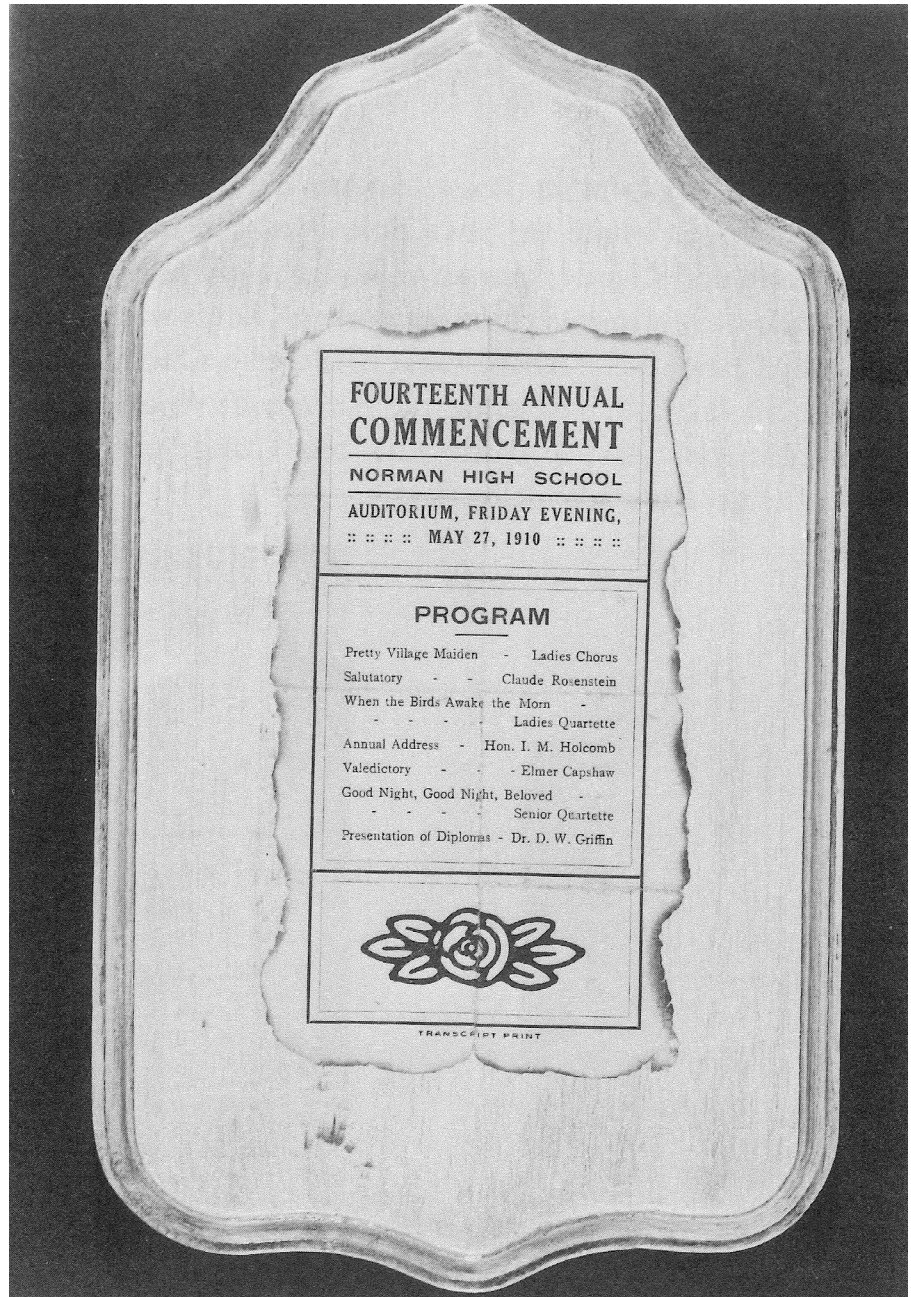
Claude: It was 1910, the fall following my hearing that trial. I went out and enrolled in law school. That's about all you had to do was show up and tell them you wanted to go to law school. At that time, you could go to law school even without a high school diploma, but they preferred you to have one. So I went and signed up and finished.

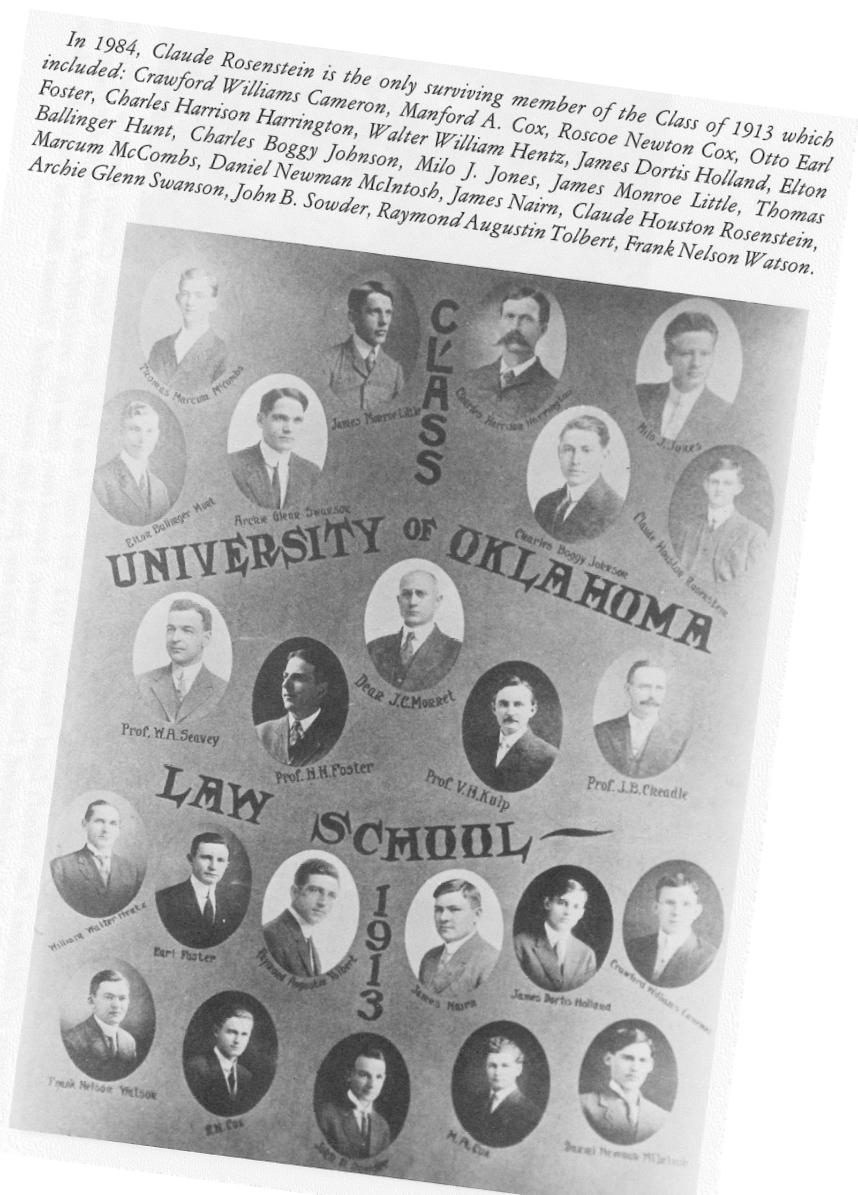
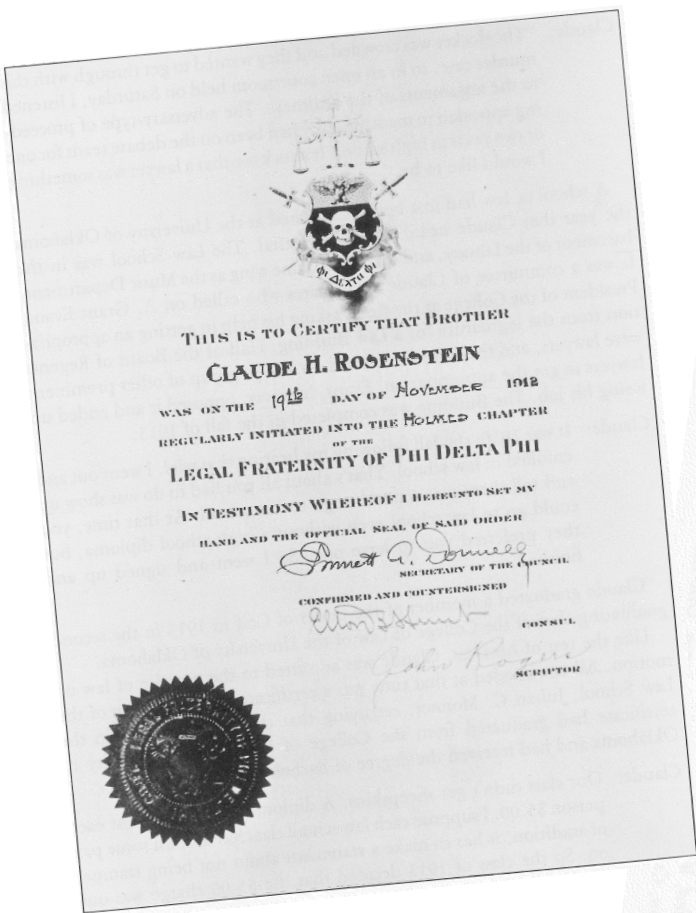
Claude graduated a member of the Order of Coif in 1913 in the second graduating class of the College of Law of the University of Oklahoma.

Like the rest of his class, Claude was admitted to the practice of law on motion. All one needed at that time was a certificate from the Dean of the Law School, Julian C. Monnet, certifying that the person named in the certificate had graduated from the College of Law of the University of Oklahoma and had received the degree of Bachelor of Law.

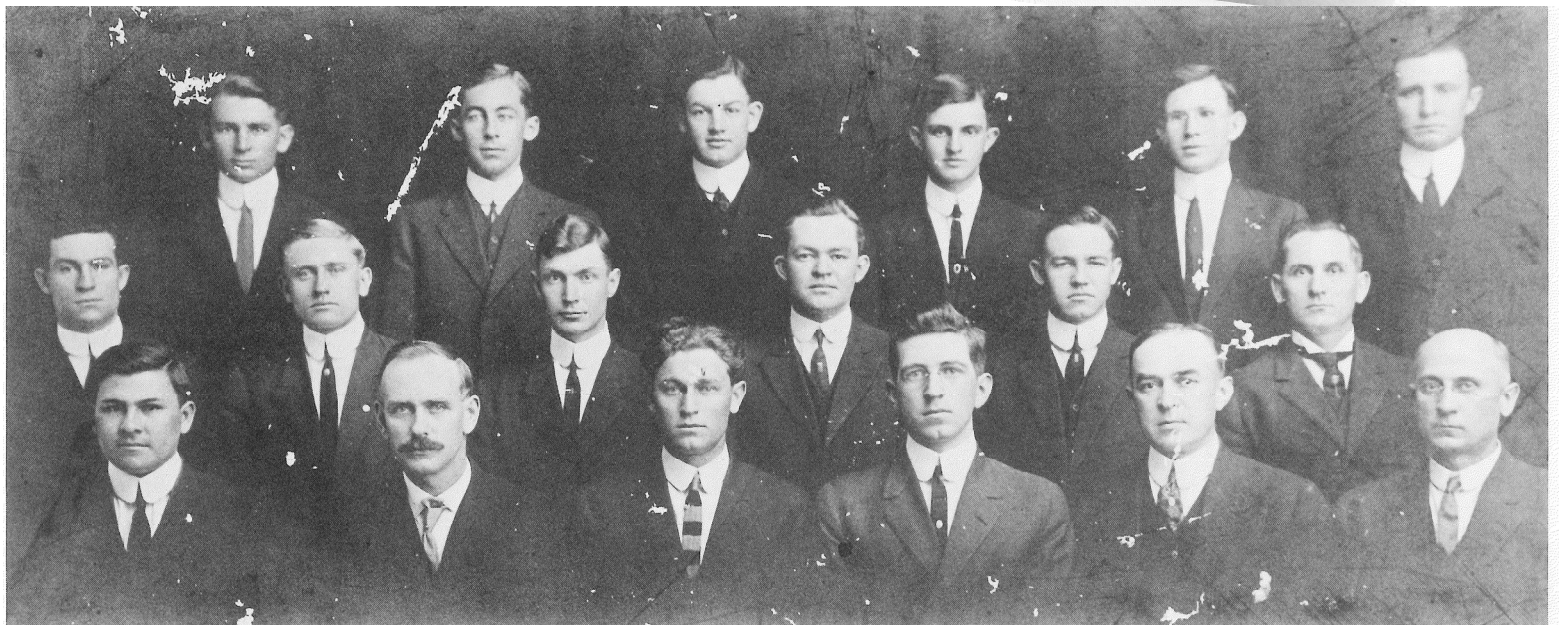
Claude: Our class didn't get sheepskins. A diploma would have cost each person \$5.00. I suppose each law school class has to resist some part of tradition; it has to make a statement about not being tramped on. So the class of 1913 decided that the \$5.00 charge was outrageous, and refused to pay it contending that since the University of Oklahoma was a state institution, graduates shouldn't be charged for their diplomas.

Many years later, Claude's diploma was sent to him at no charge.





In 1984, Claude Rosenstein is the only surviving member of the Class of 1913 which included: Crawford Williams Cameron, Manford A. Cox, Roscoe Newton Cox, Otto Earl Foster, Charles Harrison Harrington, Walter William Hentz, James Dorris Holland, Elton Ballinger Hunt, Charles Boggy Johnson, Milo J. Jones, James Monroe Little, Thomas Marcum McCombs, Daniel Newman McIntosh, James Nairn, Claude Houston Rosenstein, Archie Glenn Swanson, John B. Sowder, Raymond Augustin Tolbert, Frank Nelson Watson.



University of Oklahoma Law School's Legal Fraternity, 1912: First row, from left: James Nairn, Charles Harrison Harrington, unidentified, Raymond Augustin Tolbert, unidentified, Dean J. C. Monnet; Second row, from left: unidentified, unidentified, Elton Ballinger Hunt, Frank Nelson Watson, unidentified, Walter William Hentz; Third row, from left: unidentified, Thomas Marcum McCombs, Charles Boggy Johnson, Claude Houston Rosenstein, Crawford Williams Cameron, Otto Earl Foster.



## EARLY PARTNERS IN THE LAW

Rice and Lyons, a prestigious Tulsa law firm whose senior partners went to court dressed in morning coats and striped trousers, were Claude's first employers. They had a sign posted outside the door of their offices announcing: "Consultation by Appointment Only."

Writing from Tulsa on September 13, 1913, Claude addressed his class-mates in his characteristic style, a rare blend of high seriousness, eloquence, and down-home humor:

Dear Classmates:

I am just in receipt of the "Round Robbin" of the class of 1913, and have read everything, even the instructions, and while I deem it my duty as a lawyer to save exceptions to everything in the record, still I must confess that I have found no error in letter, although I have no doubt there will be some when I have finished.

I am in the greatest town on earth, and it is hardly necessary for me to tell you anything about it because you have all heard about it. I am enjoying the practice of the law as well as I did the theory, and you may form your own conclusions as to how well that is. I have had quite a little active work in Court since I have been over here and I have been able to get by without making any very big "bone heads", which is as much as I could hope for.

I trust that you are all succeeding and that 'ere long I shall see the Class Letter again.

Very respectfully,

C. H. Rosenstein

Claude had taught himself a system of Gregg shorthand, and how to use the typewriter.

Claude: Rice and Lyons discovered that I could take shorthand and use the typewriter and I found that after two or three months I was getting to be more of a stenographer than a lawyer. I didn't like that (which, of course, is the complaint of many professional women). So a lawyer by the name of J. B. Dudley who practiced in Norman while I was in the University and let me work in his office so I could see the practical side — I didn't get paid for most of my work, although I did some briefing for him for which I was paid, but he got me some loans and took a fatherly interest in me — Well, I got a chance to tell J. B. Dudley about my experience at Rice and Lyons. He said: "You ought to quit. You'll never get to be a lawyer as long as you stay there."

He told me that he had a partnership arrangement with a lawyer in Muskogee, though they each practiced in different towns. He said: "I'll tell John Mosier that he should hire you. You go see him." I did and he hired me. I stayed with Mosier a year and a half, and as I said



before, Muskogee is where I met Helen and fell in love with her.

Helen: My brother Henry Fist brought him out to see me. Henry was a reporter for the Muskogee newspaper at the time. And I fell madly in love with Claude. But I don't think he did with me, but I did with him—when I first saw him.

Claude: I was doing research in Muskogee and I was in the office one evening after dinner doing some work on some files that I was handling when Mosier came in and he said, "Young man, can you use a typewriter?" I said, "not very good." He says, "Well, I want to send a night letter to somebody and why don't you try to type it for me. While I dictate to you, you write it on the typewriter." I said, "All right." So he started dictating and I took my fingers and I would go here and then I'd look over there and after about two minutes he said to me, "Oh, Goddamn it, get up! . . . You're worse than I am on a typewriter. I can type it myself." I never did tell him that I could type on a machine that didn't have the letters on it. I'd learned my lesson with Rice & Lyons.

It was time to end his clerkship. After a year and a half with Mosier's law firm, Claude opened an office in Drumright with a former classmate, Earl Foster. It was just about the time that the Cushing Oil Field was discovered.

Claude: Cushing was a country town, the county seat of Payne County, I believe, before the oil was discovered. What they called the Cushing Field was primarily in Creek County. Drumright was pretty much of a wide open "boom" town. One night my friends and I went to a tavern to get a beer. I believe the place was called The Hump. Somehow I had a 32 automatic with me that I had just taken away from a client, Myrtle McClain, who was threatening to use it on her boyfriend. There was a disturbance in the tavern, someone actually said "stick 'em up!" My friends and I were edging toward the door when the hold-up man frisked us all and found Myrtle's gun. It was a tense moment. But he just took the gun and let us go.

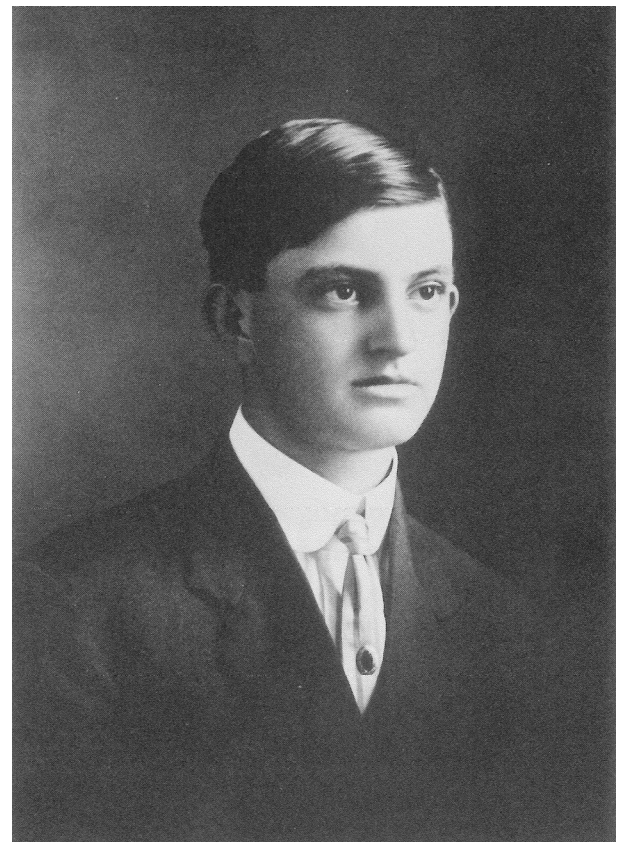
I had a hard time explaining to Myrtle how I lost her gun. And, of course, my friends kidded me about packing a pistol ever since.

Well, I stayed in Drumright until a lawyer by the name of Mason was in town on some legal business. He came to my office and asked me if I would like to move to Tulsa. By that time I was thinking seriously about getting married and in Drumright you were knee high either in dust or mud.

Helen: He used to come to see me every Sunday and he would be covered with mud. There was no way to get there except you usually walked or rode a horse and he came to see me every Sunday and he would just be covered with mud and dirt when he got there.

Claude: Helen's family wasn't rich and neither was mine. We had to figure out some way for two to live as cheaply as one. So without much negotiating, I took a job with a firm in Tulsa called Carroll and Mason. I went there in 1915 and I stayed with that firm until after I had been married a couple of years. I left in 1918.

Helen: When Claude went to work for Carroll and Mason he was earning \$75 a month. He lived on that and he still managed to save money. With Elton Hunt, he had a room and breakfast for \$10 a month at the home of the J. M. Halls. When either Claude or Elton didn't show up for a



1910, Claude Rosenstein, age 17

meal Mrs. Hall took off a quarter. Hall was a prominent citizen of Tulsa and they had a beautiful home, but the Halls were friends of Elton's parents and so Claude and Elton who had been roommates at O. U. Law School were taken in and treated royally.

On January 31, 1916, Claude and Helen were married. The wedding invitation was mistakenly imprinted "Tuesday" when Monday was the actual wedding day, but the error didn't dampen the spirits of the guests or the bride and groom. Claude was earning \$125 a month, which was raised to \$250 a month before he left Carroll and Mason.

Helen: Two hundred and fifty dollars a month was considered a fortune for a young lawyer in 1918. But Claude was ready to go out on his own again. Mason was a Cornell man and he thought that if you didn't graduate from Cornell you weren't worth tootin'. (I think Herbert Mason was on the Board of Regents at Cornell.) Anyway, Claude was an exception for Mason and he thought he had Claude. Mason told people, he said, "I've got this lawyer working for me that I wouldn't give up for anything in the world . . . and I've got him fixed. He can't afford to quit. He's married and he has a baby and he can't afford to quit me." But Claude quit him anyway. Claude always had such a good sense of things — sort of a balanced view. I remember one time a young lawyer worked for Claude, I believe his name was Reinhardt. When he quit Claude's office, he took a couple of good clients with him. One was Beth-lehem Steel Corporation. I said something to Claude about it. I didn't think that was very nice of young Reinhardt. Claude said: "Why, I think it was all right. They wanted him, they like him. When I left Carroll and Mason I took a few of theirs. That's the way it works."



*Helen's wedding picture, January 31, 1916: "The dress was pink tulle with a satin slip; it cost \$35.00."*

The way it worked best for Claude was to be his own boss. Another young lawyer, Isaiah Lebove, joined him in partnership. Claude was concerned about giving up such a stellar salary to go out on his own, but he decided to try it and Rosenstein and Lebove established an office at 4th and Boston in what became the Kennedy Building.

Claude: Isaiah was a colorful character. When he left Tulsa, he went to New York and then to Michigan where he was shot in a fight and died. I had several funny experiences with him, and they all revolved around money and gambling.

There was a lot of new money around Tulsa. Several people here were interested in boxing and put up money for these young fellows to show their talent. Lebove got involved in boxing circles, and one time when Lebove left Tulsa and went to New York, one of his clients, "John the Barber," came to see me.

John had a big barber shop on about 42nd and Broadway in New York. He had a

written contract on Jack Dempsey, he said, and it looked like Jack was going to be the world's champion boxer. John brought me the contract which gave John the right to a percentage of all the money Jack Dempsey made for a certain period of time. They were getting ready to have the Dempsey-Willard championship fight in Cleveland, Ohio, and John insisted that he wanted to stop it based on this contract, since Dempsey would be breaking the contract if he fought for anyone but "John the Barber."

It looked like a sound contract and so I went to Cleveland with John. We planned to get a lawyer there and bring an injunction against Dempsey to stop the fight.

In Cleveland I made arrangements for local counsel. A few days before we were to have a conference with all the parties involved, Dempsey's lawyer called and asked if we had seen an opinion of a Missouri Federal District Court pertaining to the Dempsey contract. I said, "I don't think so." He suggested that I take about thirty minutes to read it and then we'd talk further.

It seems that John the Barber" had also sued Dempsey in St. Louis to enforce his contract and Dempsey had won and obtained a judgment canceling the contract. This judgment had not been appealed and had become final. I said, "John, we're out of court."

I asked him why he hadn't told me about this before we went to all the trouble and loss of time and money coming to Cleveland. He said, "I didn't think that applied except in St. Louis!" So "John the Barber" got tickets to the fight and we went, and I apologized to Dempsey's lawyers who were — understanding.

Another time "John the Barber" (John Reisler was his given name) had a controversy with Nat Wissman over the respective rights of each after the sale of the interest of one of the parties in an oil and gas drilling venture.

Claude had represented Wissman and Reisler in the preparation of documents for all the many deals they had made. They both came to his office on this occasion, each telling different versions of the transactions between them. Claude tried to work out a settlement between them, but negotiations broke off when John threatened "physical persuasion."

Claude: The last I saw of that conference was Wissman's coattail standing in front of the elevator and John shouting his opinion of Wissman to his fleeing back. Fortunately Wissman got the elevator before John left my office. Later negotiations solved their problems.

"John the Barber" disappeared from Claude's life but Isaiah Lebove kept cropping up in unlikely places and in changing circumstances. Isaiah and Claude had formed a partnership shortly before the United States entered World War I. Lebove was single and was drafted. By the time he got out of the army, Claude had gone into partnership with William Blake, and since Lebove had, by that time, formed alliances with big time gamblers in New York, he announced his intention to leave Tulsa permanently.

Not long thereafter Claude went to New York and made a friendly telephone call to Isaiah. Lebove was very eager to come to Claude's modest hotel where he insisted upon sharing Claude's room and spending several nights "on the cuff."

But just a few years later, Isaiah wrote to Claude, inviting him to New York. Claude found his ex-partner ensconced in a suite at the Waldorf-Astoria, "living high on the hog." After that Lebove became involved in the oil business and moved to Michigan—and was shot. But before his unfortunate demise, Lebove was looking out for his first partner.

One day Claude received a phone call from a New York law firm seeking his assistance on a collection item against an extremely wealthy man who lived in Oklahoma City. Claude called the alleged debtor in Oklahoma City who announced that the New York lawyers were referring to gambling debts that he wasn't going to pay because he felt that he had not gotten "a fair deal from that gambling joint." The New York group urged Claude to get anything he thought he could from what they claimed was a debt of over \$10,000. Claude approached the Oklahoma City man again, telling him that if he didn't compromise he was going to have a lawsuit on his hands from which he would get unfavorable publicity, and he would have the additional expense of defending the lawsuit. Claude convinced the Oklahoma City man to settle out of court, sent the substantial proceeds of the collection to the New Yorkers, obtained a release for the Oklahoma City debtor,

and then asked one of the New York lawyers how they happened to have selected a Tulsa lawyer to settle the claim. "Oh," said the attorney, "our partner, Mr. Lebove, suggested that we call on you."

For Helen and Claude those collections of bad debts meant a down-payment on the first house of their own.

By the time Isaiah Lebove was shot and killed in Michigan for allegedly cheating on an oil deal, Claude who had never frequented the woods of Michigan or the gambling casinos of New York was, as always, quietly and diligently pursuing his life in the law.

"From the first," says his son-in-law Sam Zeligson, "he knew no hours . . . his clients and the law were his life. In the early years, during the depression, it was not unusual for him to take a chicken for a fee, or to employ the barter system in other ways. His services were always the most valuable side of the trade."

Once, however, Claude was sued over a fee. Rosenstein and Bill Blake, his second partner were employed to represent an Indian who had been deeded 160 acres in what turned out to be the heart of Tulsa. The acreage was the Indian's allotment under a treaty agreement between the Creek Nation and the United States government. The Indian feared that he was in jeopardy of being cancelled out of the monetary rewards of the sale of his allotted lands to a developer, and wanted to quiet the title and assure his claim.

Claude: At the time the Indian didn't have any substantial money but Bill and I took the lawsuit on a contingent basis. We were given two promissory notes: one to be paid on an agreed date at the beginning of the litigation; another, for \$20,000 was to be paid about a year after the first came due. After Bill and I had done a considerable amount of work on the case, the Indian hired another lawyer and settled the lawsuit without contacting either Bill or me.

I had been in Oklahoma City the day the Tulsa papers printed the news of the settlement. Bill told me about it later that after-noon, and he suggested that since they hadn't said anything to us, we would not expect to enforce or collect on the notes, but we *would expect to settle for a reasonable fee based on what we had already done.* We agreed on \$10,000.

Bill tried to call the Indian's lawyer several times in the next few days to tell him that we were ready to settle, but he never could reach him. And the next thing we knew, we were visited by the Sheriff who had a summons with him. The Indian's new lawyer had filed a suit against us to cancel our notes and enjoin us from negotiating them. I told that lawyer afterwards that we had never intended enforcing the original notes. "It must be something you would have done," I said to him, "or you would never have thought of suing us."

Bill and I decided then that we were going to make them pay an additional fee for bringing that lawsuit. We tried the suit and beat them and then settled with them for \$15,000 instead of our intended fee of \$10,000.

Claude and Bill Blake maintained their partnership agreement until Blake decided to leave the practice of



*Helen and Claude: 50th Wedding Anniversary.  
"This, a lasting partnership . . ."*

law. Blake had moonlighted with Arch Hyden in some oil prospects while he was with Claude. One day they brought in a "very nice well" on the property that they had bought an interest in. The next day Blake walked into Claude's office and said: "Claude, God damnit, I'm not going to work so hard anymore. I've decided that being an oil man is a lot better than practicing law, so you can have the practice and I'll make the money."

Bill Blake and Claude had offices in the Mayo Building when Bill dissolved the partnership effective immediately. They had, however, just rented a five room suite in the First National Building. They hadn't moved in yet, but they had signed the lease. It was to be a sumptuous arrangement for the young lawyers. Each was to have a private office off of the reception area and then there was a large space behind with access from each of the private offices.

Claude: I was sort of worried about how I was going to pay the rent on this new suite of offices we had rented. We had spent quite a little money fixing it up.

Helen: When things were pretty bad, Claude always said to me: "Go on living the way you always did. Something will turn up." And it always did.

Claude: To show you how lucky you can be sometimes, a representative of a company called Producers Oil came in to see me just a few days after Bill had quit. Producers had some offices in the First National Building at the time, but they wanted more space and couldn't get it unless someone moved out. Office space was at a premium then. The representative said, "How would you like to give up that suite of offices you have on the fifth floor?" (We had about half of the fifth floor.) I said, "Well, I guess I could be talked into giving it up, if I knew where I could get some equally good space." I knew, of course, that I could get along on a good deal less space, and I wanted to see what he had to offer.

Claude wound up getting out of the lease for offices he feared he could not maintain and, in addition, getting a year's rent over in new offices in the Kennedy Building. What followed was another series of lucky accidents. But as a famous scientist said about discovery — the lucky accidents only occur when you've done your homework.

Back in the Kennedy Building, Claude was on the same floor with a lawyer named Edgar de Meules. De Meules was the Tulsa representative and a partner of George Ramsey whose main offices were located in Muskogee. Edgar had had another lawyer with him in the Tulsa office who had left to work in the legal department at Texaco.

Claude: Edgar de Meules came in my office after lunch and he said: "Young man, I've got a vacant office here in my suite and I've got a big enough reception room to be used by two people. Why don't you come down and join me." I said, "Well, what kind of a deal are you offering me?" He said, "I'm offering you free office space, a place for your secretary and anything you do for me — I will expect to pay you for."

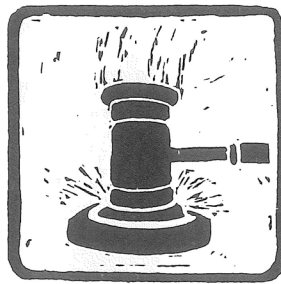
So I told him that I didn't see how I could lose any money on a deal of that kind. I had my three rooms in the Kennedy Building on a month to month basis and I knew I could give them up pretty quickly. He said, "Well, you do that and move in with me."

Edgar de Meules was a good lawyer and a relaxed and pleasing personality. He didn't like trial work and so Claude became familiar with the courtrooms of Tulsa and the district.

De Meules's Muskogee partner George Ramsey was a tough lawyer and a "character." Several months after Claude had moved into de Meules's "free space," Claude had occasion to write a will that created three or four trust estates. Afraid that with his limited experience, he might overlook something, Claude attempted to cover any and all contingencies.

George Ramsey used to come over to the Tulsa office — "no regular time, just whenever he felt like it" — and Claude, on one of those visits, asked him if he would mind reading the will in question.

Ramsey said, "sure, I'll be glad to take a look at it." The next day Ramsey came into Claude's office. He stood tall in front of Claude's desk and barked: "I read that will you wrote and it's all very good except for one thing . . . The testator is trying to run his business too long after he has gone to hell! . . . All those trusts are a bunch of foolishness." Ramsey was a good person to learn from.



## "JUST A POOR COUNTRY LAWYER" OR THE CASE OF JUDGES WRIGHT, BEAVER, CRUMP, AND WILLIAMS

In the early years of Claude Rosenstein's practice of law, there were a few who underestimated the soft spoken lawyer who humbly took his place in court. "Just a poor country lawyer" is the phrase District Judge Lucien B. Wright used to characterize Claude Rosenstein, until Judge Wright learned to be wary of the incisive mind and brisk actions of the gentle man who had just moved to Tulsa from Muskogee.

In 1900 the population of Tulsa was 1390 but in 1918, the year Claude left Carroll and Mason and went out on his own, the population had skyrocketed to 78,580. Tulsa had a commission form of government, Henry Kendall College with a \$500,000 endowment, forty-five cafes and restaurants, four thousand electric light consumers, nine thousand and eight hundred natural gas consumers, four hundred oil and gas companies, twenty-one oil field supply companies, twelve refineries, ten banks, more than three hundred miles of sidewalk, eight, ten, and fourteen story buildings, a standard opera house, a public library—and according to a brochure written by Fred S. Clinton, M.D. , and published in 1918 — Tulsa was "the recognized oil capital of the world."

The first authenticated settler in the territory embraced within the incorporated City of Tulsa was a fullblood Creek Indian named Archie Yahola who came to Tulsa from Georgia in 1836, as the King or Town Chief of the Tulsa Lochapokas. On June 25, 1901, in Red Fork, "gas in the well drilled by Doctor Joseph Bland and Dr. Fred S. Clinton (members of the Creek nation) broke loose and sent a stream of oil fifteen feet into the air. The flow was struck 540 feet and the oil was pronounced by experts to be of the very best quality." The Tulsa Republican continued their account of the event with this statement:

"Oil men, who have seen every phenomena in the oil world, say that this gusher is close in a well defined territory and that the strata of the oil bearing sand extends under thousands of acres of which Tulsa is the center . . . . Hundreds of people are visiting the well today to see the wonder and it is reasonable to suppose that within the next ten days the number will be swelled to thousands."

Indians and oil were the rockbed upon which Tulsa was built. Claude Rosenstein moved to Tulsa and found himself involved in a thriving community and in lawsuits involving oil and Indian title questions.

George Ramsey, the Muskogee partner of Edgar de Meules with whom Claude now shared an office, was "one of the top lawyers in Oklahoma." He did a great deal of land and title litigation and oil and gas litigation. Consequently, he had a lot of title questions in the eastern part of Oklahoma which was the old Indian Territory.

Claude: When the Indian member of the five civilized tribes got their allotments of land under the treaties between their respective tribes and the United States government, there were various restrictions relating to the allotments that had been made to individual Indians. All the fullbloods were restricted and couldn't sell their allotment except with the approval of the Secretary of the Interior. The full-blood heirs of fullbloods were also restricted so that their conveyances had to be approved by the County Court.

Ramsey was an expert at interpreting Indian Land Law, and his knowledge and judgment were valuable to Claude's development. Before long Claude was involved in one of the most complex Indian title cases in history and one which had a startling and dramatic conclusion with

**BOXLEY et al. v. WRIGHT, District Judge.  
(No. 12500.)**

(Supreme Court of Oklahoma. Nov. 29, 1921.)

Claude: The Barnard-Chapman group owned a fee simple title, by duly executed conveyance approved by the Secretary of the Interior, to 160 acres of land which constituted the allotment made to a full-blooded Creek Indian named Lete Kolvin. Minnehoma Oil (George Getty's company), Sinclair Oil & Gas Company and Atlantic Refining Company were oil and gas lessees of the Barnard group, as to the north half of the Kolvin allotment. The oil and gas lease as to the south half of the Kolvin allotment was owned by Gilliland Oil Corporation.

The Dawes Commission supervised the allotment of lands to the individual Indians of the Five Civilized Tribes. It was necessary to prepare rolls and in the preparation of the rolls it appeared that Lete Kolvin was deceased before the conveyance had been completed. The allotment was therefore made to the "heirs of Lete Kolvin." When oil was discovered on this allotment, the lessees were sued on behalf of "the heirs of Lete Kolvin." The heirs were trying to recover the land and claimed that Minnehoma was trespassing.

Claude, on behalf of Minnehoma Oil Company, stood on the legal principle that to recover land, the plaintiff had to do so on the strength of his own title and not the weakness of the adversary's claim. The case was tried in the district Court of Creek County in the early 1920s before District Judge, Lucien B. Wright.

Claude: It was a long drawn out trial, and when the evidence had been presented on both sides, Judge Wright took the case under advise-ment. He made an order setting the case for decision on a certain date, ten or fifteen days from the date he had originally said that he would decide it. And he also told our lawyers what he was going to decide. He said that he was going to appoint a receiver for the oil property. This proposed decision was adverse to the contentions of Minnehoma and Sinclair but apparently the Kolvin lawyers weren't aware that Judge Wright had made this announcement.

The lawyers for Minnehoma and Sinclair were going down the steps from the courtroom in a pack of people including those who had been listening to the trial and the lawyers for the Kolvin "heirs." One of the Sinclair lawyers, a young man who had not been active in the courtroom but had been "riding herd" on witnesses, was walking right behind a lawyer from Wewoka claiming to represent the Kolvins. He overheard the Wewoka lawyer say to his associate: "That son-of-a-bitch, I made a fair and square deal with him to decide this case for me and my clients and now he is going to decide it for the other side."

Naturally, with that bit of information, we filed an original proceeding in the Supreme Court, which was granted, enjoining Judge Wright from rendering any decision in the case. The Supreme Court appointed a former Justice of the court as special master to hear the testimony in support of our application to disqualify. The lawyer from Wewoka, fearing a charge of perjury, testified that he had said exactly what it was claimed that he was overheard to say, and he added that he had furnished Wright with whiskey and a turkey (since it was Thanksgiving) and that they had taken him to Oklahoma City and shown him the night spots.

Judge Wright was disqualified and the court sent in an outside judge to vacate what had been done and let any parties, previously involved in the trial, amend their pleadings within a certain length of time. Claude tried the case before this new judge and had a successful outcome.

Claude: The Supreme Court made some new law for Oklahoma when they decided the case against Judge Wright. The special master didn't insist upon our proving that Wright had been bribed. But he did establish the principle that a litigant in Oklahoma is entitled to a trial free from the suspicion of bias.

The opinion of the court stated that: "Courts of equity are charged with too sacred a mission to allow shadows upon their scale beams, and the chancellor who holds the scales should keep himself above all just grounds for suspicion as to his honesty and fairness. No condition could be fraught with graver consequences

than that litigants and the public should lose confidence in the integrity of courts of justice . . . Courts must maintain a standard of justice which leaves no valid reasons for a lack of faith in them."

In this case, both parties were afraid of Judge Wright; each afraid that the other might exercise some undue or corrupt influence over him; each party suspecting that he was susceptible to such influence; each party suspecting the other of exercising such influence over Wright and fearing his yielding to such influence. The situation was demoralizing, and alert lawyers brought about its reversal.

A subsequent case, in 1951, involving the "heirs of Lete Kolvin" was tried before a legendary figure in Oklahoma, Judge Beaver, who used to sit on the bench and whittle. It was Beaver who was purported to have said in chambers, "You put \$5000 on the table and I'll decide this case any way you want." Beaver later rendered a judgment against Sinclair, Claude's client, for ten million dollars on the basis that the "statute of limitations was unconstitutional." In subsequent litigation, Claude got the decision reversed.

Judges Beaver and Wright were idiosyncrasies; the history of Oklahoma jurisprudence is studded with men of honor and integrity, judges who exacted discipline, hard work, and respect from the lawyers who stood before them, judges who were well aware, despite a penchant for humor, of the enormous responsibility of their position. To win a case before most of Oklahoma judges, one had to be well prepared and well spoken. Judge

Wright had been outwitted by a team of lawyers, headed by Claude Rosen-stein, the very man he had referred to earlier in his career as just a "poor country lawyer." It was Claude, however, who had first used that phrase (or one quite similar to it) in ironically referring to himself:

"*I'm just a poor young lawyer and I don't know as much law as your honor does . . .*" was how Claude began his response to another Judge, Judge George Crump, but then, of course, that was one of the few times Claude was angered enough to resort to histrionics in the courtroom.

Judge George Crump was a district judge from Holdenville. He was sent to Tulsa by the legislature to hear cases though his initial jurisdiction was outside of Tulsa County. Tulsa's dockets were crowded, and Crump would have been welcomed by the many lawyers clamoring to bring their cases to trial, but Crump tried to emulate a Federal Judge by the name of Robert L. Williams (who later became a Governor of Oklahoma). Williams "just loved to jump on lawyers; Crump had a particular fondness for abusing young lawyers." While Claude was with Carroll & Mason he tried a lawsuit before Judge Crump. Claude was representing Sun Oil Company which was being sued by a former employee on a personal injury charge. Claude's clients didn't think there was any liability on their part, and so they elected to try the case instead of attempting to compromise.

In a pretrial conference, Judge Crump asked Claude if he had tried to settle. Claude told him: "Not very hard." Crump was on Claude's back from then on.

Claude: There was a rule, at that time, that if you wanted an instruction given to the jury in a jury case, you had to ask for it in writing, and if it was not given to you in writing, you were to take an exception (an exception to the court's ruling denying the requested instruction), and you had to take that exception at the time the instructions were given.

It was a crazy procedure because it garbled instructions to the point that a jury couldn't tell what they were. Well, when we got down to giving instructions in this case, I had a bunch that Judge Crump refused. I wanted to take my exceptions at the time of their refusal. The Judge would read one of the instructions and refuse to give mine and I would interrupt and tell him that I wanted to take exception to the court's ruling. He said, "You've got an exception." "No," I said, "I want an exception in writing." He said, "You don't need that!" I said, "I'm just a poor young lawyer and I don't know as much about the law as your honor does. I wouldn't think of claiming that I did. But," I said, "as I understand it, one has to take exception for refusal to give an instruction at the time it is requested and take that exception in writing. I'm asking you to let me do that now and if you don't want to do it, just say you refuse to let me do it and I'll take my exception to that."



Crump agreed to follow the procedure, stretching the trial into a labyrinth of charges and counter-charges. Perhaps the jury felt sorry for Claude. "One never knows," Claude says, "what a jury will do." Nor can one count on the personality of the Judge. In this case, Claude's clients received a verdict which made them liable for a great deal less than they had originally offered to settle for. The plaintiff then filed a motion for a new trial. And Crump switched his line of attack and jumped on the plaintiff's attorney. He said, "I don't want to hear you complaining about anything! You got everything that you were entitled to and more. The only thing you're complaining about is you didn't get as big a verdict as you thought you were going to get. I can't do anything about that. Your motion is overruled."

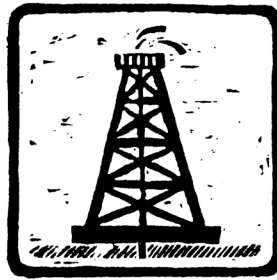
Whether overruled or sustained, Claude also likes to remember the cases he tried before the original scourge of Oklahoma lawyers, Federal Judge Robert L. Williams. One time Claude was trying a jury case before Williams that grew out of a drilling contract. Claude had a decision from the Supreme Court of Kansas interpreting various similar contracts the way he thought the case under consideration should be interpreted. Jerry U. P.) O'Meara was the lawyer for the plaintiff, a drilling contractor. At the conclusion of the plaintiff's testimony, Claude moved for a directed verdict based on the precedent established in the Kansas case.

Judge Williams was unusual in that he would not let a lawyer read a case to him or tell him what a case held. He insisted upon reading it for himself. Claude handed him the book which he thought contained the Kansas case he had cited. After ten or fifteen minutes, Judge Williams said, "Young man, you really don't know how to read a decision and tell me what it means, or else you are deliberately trying to mislead me." Claude retorted, "I won't waste time replying to your insinuations that I would try to mislead as smart a man as you. I would, however, like to know the style of the case I handed you."

Claude already suspected that he had mistakenly given Judge Williams the wrong book. He discovered his error, gave Williams the correct book, and after Williams read it, he took five minutes giving Claude "hell" for wasting so much of his time and informed him that he was going to overrule his motion.

Claude proceeded to put on evidence. But it was about 4:00 p.m. after Judge Williams had finished his harangue and had denied the motion for a directed verdict. Suddenly, he looked up at O'Meara and said, "Mr. O'Meara, you ain't got no case. This decision right here from the Supreme Court of Kansas is good law and under it you're not entitled to recover anything. I should have sustained the motion for directed verdict when you finished your testimony, but Mr. Rosenstein took up so much of my time I got impatient. I'm going to sustain the motion now." And he did.

Judge Williams was caustic but he was fair and willing to admit when he was wrong. Earlier in Claude's career, while arguing a case in the Eastern District with headquarters in Muskogee, Claude was relying on an Oklahoma decision and Williams was disagreeing with him. Claude kept coming back to the case he had cited as precedent. Finally, Judge Williams asked, "Young man, who wrote that decision?" Claude responded, "A Justice by the name of Robert L. Williams." Williams pulled his chin down and looked up and said, "I learned a lot since I wrote that opinion."



FRIEND OF MILLIONAIRES AND  
PHILANTHROPISTS:  
H. P. TAUBMAN, J. PAUL GETTY  
AND CHARLIE CHAPLIN

*[His] office was his passion. It was not so much that he liked the hard work. It was the atmosphere. The thick, musty texture of burgundy law books. The rich wood of the shelves, and the fine leather of his chair. The soothing notion that somewhere in these offices were the answers to all the rules of behavior in life. When he spoke of the law, even in the petty, run-of-the-mill cheap cases, it was with profound respect. So, it was usually a safe bet that he would be in his office late [even] on a Friday night . . . . It was his temple.*

The Verdict, Barry Reed

## H. P. Taubman

Claude was working quietly in his office when G. A. Mannahan knocked on his door. Destiny, in this case, knocked softly and with little fanfare. Mannahan, an oil man, had been Claude's client for a number of years. Claude had done the original title examination of some properties in Hughes county when Mannahan had first acquired them. H. P. Taubman had later acquired an interest in the same properties and he was now urging Mannahan to begin secondary recovery procedures in order to tap the oil which remained under the ground.

Claude: George Mannahan was an unusual character in the oil and gas industry. He wouldn't go into any deal that he couldn't finance; he didn't believe in borrowing money. So when he got to considering this secondary recovery project on properties that both he and H. P. Taubman were interested in, George didn't want to go along with the plan that Taubman and some engineers had devised because it would have necessitated borrowing money to finance the secondary recovery. Taubman offered to buy Mannahan's interest in the properties. After they reached an agreement the two of them came to my office and asked me to formalize the deal. I drew up the necessary contracts and other documents transferring Mr. Mannahan's interest to Mr. Taubman's company, Buffalo Oil Company. After I got the contract prepared, we had another meeting, went over the contracts, and when they both found everything to be satisfactory, they signed the papers. George told me that after they had received and read the contract, Taubman said to him: "Now, there's a lawyer I'd like to have myself. We didn't have to change a word in that contract. Would you have any objections to my hiring him to represent me?"

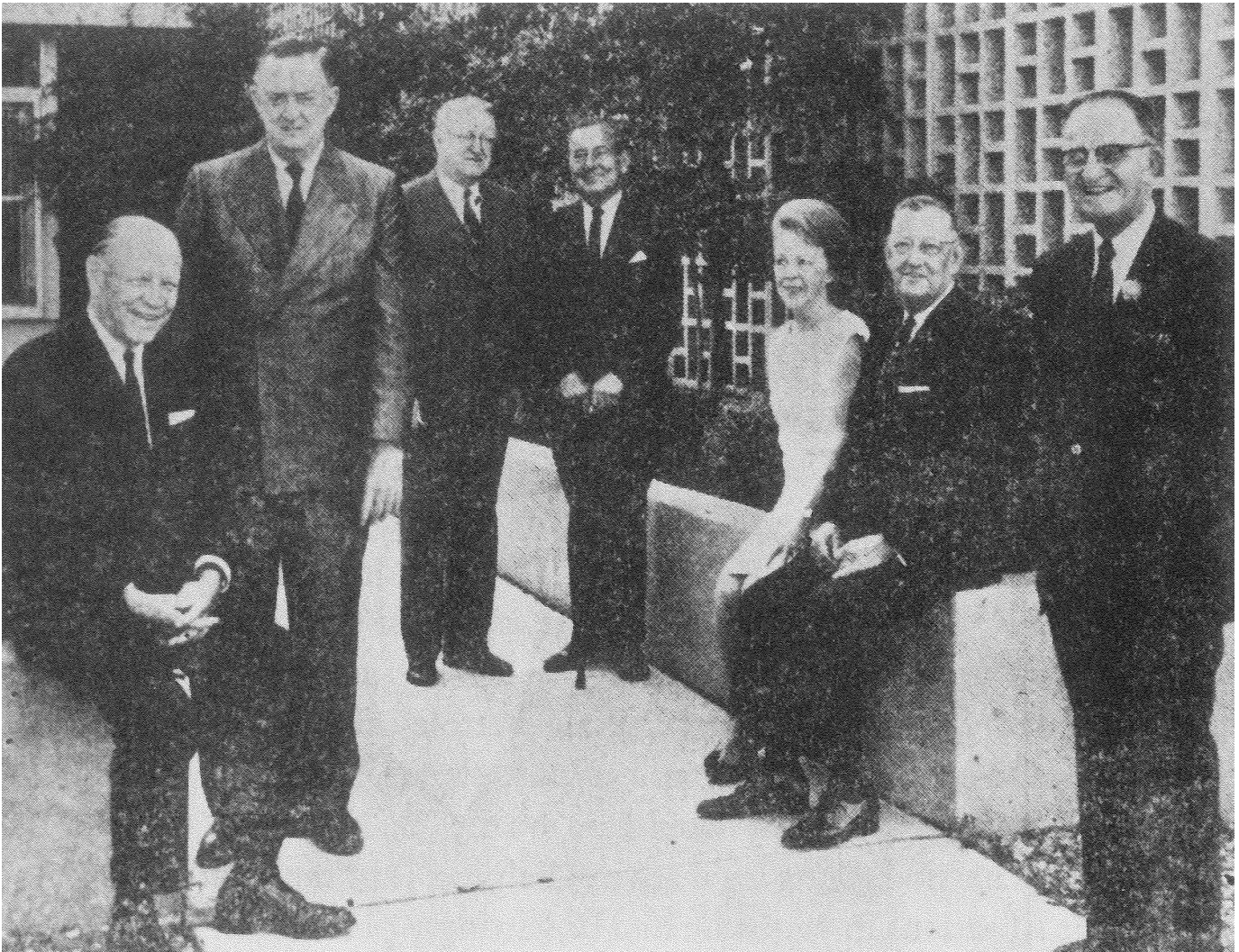
That is the way Claude Rosenstein came to represent H. P. Taubman who became a multi-millionaire and one of Tulsa's most active and most beloved philanthropists.

Herman P. Taubman had come to Tulsa in the early '20s and, like several others, prospered dealing in oil-field pipe and supplies. Before long, he owned his own company, Taubman Supply Corporation. He later sold that corporation to Bethlehem Supply, a wholly owned subsidiary of Bethlehem Steel Company, and made a substantial profit. With that profit he bought most of the stock in Buffalo Oil Company, and he also bought various producing properties and drilled some exploratory wells on other properties which he owned. He was

already very successful when he met and hired Claude, but their collaboration was to bring even greater rewards to them both.

Taubman and Claude became warm friends. Each trusted the other's style and skill. And Claude guided H. P.'s personal financial transactions as well as his business dealings. Claude represented Buffalo Oil Company in proceedings before the Corporation Commission, and later prepared the papers to sell Buffalo to Continental Oil Company for several million dollars. The complex legal papers establishing the Tulsa Psychiatric Foundation as the gift of H. P. Taubman were written and administered by Claude who was doubly pleased in being able to help fulfill a friend's dream and benefit the City of Tulsa.

Claude: H. P. Taubman had good luck in the properties that he bought and sold. But he was also knowledgeable, a shrewd businessman, and very generous. He was, moreover, a lawyer's best friend. Whenever I was preparing a bill for any major transactions, I always consulted H. P. as to what I should charge him. He would then ask me what I had in mind. I would tell him and he would say: "Well, I think that is a little on the low side. You had better raise it."



*The Board of the Tulsa Psychiatric Clinic in 1966 celebrating its 10th anniversary of service, as the Herman P. Taubman Memorial Building which houses the clinic marks its fifth anniversary. From left, Gerald H. Westby, a past chairman of the Tulsa Psychiatric Clinic Board, and six of the original Board members, Dan P. Homes, William J. Sherry, Raymond Kravis, Mr. E.H. McCullough, R.K. Lane and C.H. Rosenstein. (Tribune Photo)*

Herman Taubman was generous to his friends and business associates; he established funds and stock priorities for his faithful employees and he established a trust fund for each of his six children which was in excess of a million dollars. It was in the establishment and amending of the complex trusts for the Taubman family that Claude served his friend most wisely and well.

Taubman was concerned that too much money at an early age would ruin his children. He wanted them to build their own lives. He therefore initially established irrevocable trusts with the provision that there be no distribution to any of the beneficiaries until they reached the age of sixty.

Taubman's original concept was well intentioned but the needs and circumstances of family members change, sometimes radically, from year to year, and Taubman found that he needed Claude's expert knowledge of the intricacies of the law in order to keep up with a living, changing family. Claude requested a different interpretation of the trust agreement from the court, and from then on the trustees were able to make distributions to the Taubman children at their request and the trustees' discretion. Claude also devised a way to amend the irrevocable trust by bringing a lawsuit to establish H. P.'s right to amend the trust. Over a period of three to four years, in local courts and finally before the Supreme Court of Oklahoma, Claude was also concerned with litigation involving the "rights of unborn grandchildren," devising a maneuver at one point having the court serve one of the living grandchildren, and then getting the court to appoint that grandchild to represent the unborn as well as the born grandchildren as a class.

When H. P. Taubman died of a heart attack, shortly after he had sold Buffalo Oil to Continental Oil Company, he was still active, still building. He had organized a company called Buffalo Petroleum Corporation and was planning to develop it into a valuable asset so that the stock of his employees and friends in that company would be worth "real money." To the last, Claude was at his side giving legal advice, helping Taubman out of seemingly irrevocable situations in which he had unwittingly placed himself, and even cautioning his friend to "slow down."

### **Charles Chaplin, Paul Getty, Claude Rosenstein and that Barry Girl**

In Charlie Chaplin's *My Autobiography* (New York: Pocket Books, 1966, pp. 448-68), he speaks of Joan Barry (sometimes known as Joan Berry) as "a big handsome woman of twenty-two, well built, with upper regional domes immensely expansive and made alluring by an extremely low décolleté summer dress, which, on the drive home, evoked my libidinous curiosity."

Two years later Charlie Chaplin was indicted for violations of the Mann Act as a result of his association with Joan Barry, and Claude Rosenstein and millionaire industrialist Paul Getty were subpoenaed in Tulsa to appear in California to testify on Charlie's behalf. For a man whose serene law office contained all the world of excitement that he needed, Claude certainly found himself in some unusual legal wrangles and fascinating company.

The year was 1942. The United States was at war. "Paul Getty (George's son) who had been in the navy in the first World War, was an influential oil man by then and he went to the Secretary of the Navy and asked him if there was anything that he could do to promote the best interest of the United States in the present war. The Secretary told him that Spartan Aircraft in Tulsa, Oklahoma, was behind on their contracts to supply the Navy with certain types of airplanes. The Secretary suggested that Paul Getty go to Tulsa and take over the management of Spartan and get them up-to-date on their contracts. So Paul came to Tulsa and stayed for a year or more."

Paul had had a friend, with whom he had quarreled—Joan Barry. Joan, when she lived in New York, had lived in an apartment with her mother or in a suite at the Pierre Hotel, owned at that time by Paul Getty. After the quarrel, Joan had gone to Hollywood where she met Chaplin and others. She was sent to Max Reinhardt's school of acting by Chaplin, but began drinking heavily, smashed up cars, and finally got so obstreperous that she began calling Chaplin Studios and Charlie's home in the small hours, breaking windows, and making Chaplin's "existence a nightmare." He therefore readily agreed to pay her and her mother's fares back to New York and gave her \$5000— "glad to be rid of her."

At some point in this soap opera, Joan Barry came to Tulsa in search of Paul Getty. She registered at the Mayo Hotel, ran up a tremendous bill, and when she couldn't pay it, the hotel had her thrown in jail. Barry tried to contact Paul Getty to see if he would bail her out. He had had his experiences with her irrationality, and so he talked to her through an intermediary, found out how much she owed the hotel and then he called

Claude and asked him how he might give her enough money to get her back to New York without seeing her. (Claude had represented George Getty, Paul's father, and Minnehoma Oil Company, for many years.)

Claude bailed Joan Barry out of jail, and assigned a detective to watch her, and put her on a plane for New York.

Claude: But back in those days we didn't have any non-stop flights. She got to Kansas City, got off the plane, went into the best hotel there, and repeated her performance at the Mayo. Then she cashed the rest of the airline ticket, and spent part of it to purchase a return ticket to Tulsa.

We lived a block north of 25th and Norfolk at the time, and the Kravises lived just down the street. Helen and I had gone down to visit them one evening, and when we went home for some reason we went to the front door (we usually used the side door). Helen said, "There's somebody in that bush out there on the corner of our lot." I thought she was seeing things and so we went into the house. But we'd no sooner closed the door when the doorbell rang—and there she was.

This time I made more secure arrangements with the airline. I paid for Joan Barry to fly to New York, but didn't give her a ticket that she might later cash in.

Claude and Paul Getty didn't see Joan Barry again until Charlie Chaplin's trial. Charlie had not been so fortunate. "That Barry woman" had returned to California, harassed him, filed paternity charges against him, and ultimately became the government's cause célèbre as they tried to discredit a political opponent by proving alleged violations of the Mann Act.

An FBI agent came to see Getty and Claude before they were officially subpoenaed to appear at Chaplin's trial, and Claude said to him: "I thought the government's policy in the Mann Act was to enforce it only where it appeared there had been transportation of a woman from one state to another for purposes of prostitution. All Charlie did was try to get her back to New York, the way we did."

The FBI representative said that Claude was right about the Mann Act, but that they had had "a special directive to go after Charlie."

Claude Rosenstein and Paul Getty went to the Chaplin trial in California. Paul admitted to his friendship with Barry and admitted that he had also given her money and paid her fares. Charlie Chaplin was found not guilty of violations of the Mann Act and was also exonerated in a paternity suit which Barry had filed. Chaplin was acquitted on all counts, but the Barry case was referred to years later when the government decided to make it difficult for Chaplin to re-enter the United States.

Tulsa Tribune, March 1, 1944

# The Tulsa Tribune



**JOAN BARRY CONFERS WITH ATTORNEY** — Mrs. Gertrude Barry (left), her daughter Joan and Joseph Scott, Los Angeles attorney, confer on Joan's paternity suit against Charles Chaplin, scheduled today. Scott stepped into the case after the withdrawal of Attorney John J. Irwin, who explained he felt bound by a stipulation providing for dismissal of the action should a blood test indicate Chaplin was not the father of Joan's four-months-old daughter. The test proved Chaplin was not the father.

ARS

**News**

Joan Barry

**ROSENSTEIN & GORE**

ROSENSTEIN & GORE

By *[Signature]*

PAY TO THE ORDER OF

THIS CHECK IS IN FULL SETTLEMENT OF ACCOUNT AS SHOWN HEREON. ACCEPTANCE BY ENL

Miss Barry, who recently was disappointed in her effort to prove Chaplin the father of her child, was arrested on a bogus check charge while in Tulsa. The charge was dropped when a detective agency here reimbursed the complainants. A "prominent Tulsa industrialist" was rumored to have supplied the funds.

*Tulsa World, March 8, 1944*

# Getty Squelches Rumors After Chaplin Subpoena

By HAP HAGGARD  
Of The World Staff

Gossip that arose here Tuesday when J. Paul Getty, millionaire industrialist, was subpoenaed—with six other Tulsans—by Charlie Chaplin, movie comic fighting Mann act and paternity charges by Joan Berry, film actress, was promptly squelched Tuesday by the oil man himself.

Getty, disclosed as the Tulsan for whom Miss Berry told newsmen she was "carrying the torch" when jailed after some of her checks bounced here early last year, scotched what tongue-waggers had begun to interpret as a possible attempt by Chaplin to shift the blame to him.

"In the first place; that would be ridiculous," Getty told The World. "In the second place, it would be impossible. The calendar would be on my side if such an attempt were made."

Getty said he had not seen Miss Berry since November, 1942—and the red-haired actress' child is four months old. In her suit, filed last June in behalf of her unborn child, Miss Berry named white-haired Chaplin and declared she became pregnant by him in December, 1942.

The industrialist was one of seven Tulsans subpoenaed Tuesday. Others who were summoned by Chaplin were Claude Rosenstein, his attorney; F. N. Burns, private detective; Frank R. Bentley, assistant man-  
See GETTY on Page 7



J. PAUL GETTY  
Calendar's on His Side.



CHAPLIN LOSES ANOTHER ROUND—Attorney Jerry Giesler (right) explains a point of law to Charles Chaplin in federal court in Los Angeles, where the film comedian and six other defendants failed in an attempt to set aside indictments charging them with conspiracy to deprive Joan Barry of her civil rights.

## GETTY

Continued from Page One  
ager of the Hotel Mayo; O. C. Lassiter, assistant county attorney, and Detectives Al DeMoss and Riley Stuart of the Tulsa police department.

At least part of the group were expected to testify to their knowledge of a Mayo hotel party, that purportedly caused Miss Berry to be treated twice by a Tulsa physician, who declined to disclose the nature of his services. It was following the party that Miss Berry was jailed on the check charges, and did a short stretch before someone settled the cash aspects of the affair.

Checks and court costs were paid through Burns National Detective agency, which had been retained by Rosenstein. The attorney, however, said Tuesday that he "can't tell who I was representing," although it is reliably reported to have been a Tulsa merchant.

Rosenstein said that Getty was not in Tulsa at the time of the Mayo party.

Miss Berry told California newsmen she got off the train—as she was being "exiled" from California, according to U. S. attorneys who charge Chaplin with violating her civil rights—at Omaha, then came to Tulsa. There, she said, she "borrowed some money from the secretary of J. Paul Getty."

"I had known Mr. Getty for years," she said, "and through a round-about way it was through him that I met Charles. I first met Mr. Getty in Mexico City during President Avilo Camacho's inauguration."

Getty said Miss Berry's statement "is just about right."

"About all I can say is that I helped her financially," he said. "I thought she was worthy of help, and I always help anyone I believe to be worthy."

The Tulsa industrialist said he had no idea just why Chaplin should subpoenae him, as he "didn't have any particular knowledge of the case."

"I imagine that what he wants to develop is that I made Miss Berry some loans," Getty said, "although I don't know what particular bearing that has on it."

A reporter then reminded Getty that during Miss Berry's short—but dramatic—stay in the city jail, she confided to newsmen that she had "gone overboard" for a Tulsa industrialist and had come to see him.

"I wasn't even in town then," Getty observed.

*Tulsa Tribune*  
3-14-44

District Court of the United States

THE UNITED STATES

vs.

CHARLES SPENCER CHAPLIN

No. 16617

*Served  
March 10 - 1944*

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To CLAUDE H. ROSENSTEIN, Attorney  
Room 504, Atlas Building, Tulsa, Oklahoma

YOU ARE HEREBY COMMANDED to appear in the DISTRICT COURT  
STATES for the Southern District of California  
city of \_\_\_\_\_, in said District, on the 21st

*March 8, 1944*  
**J. Paul Getty  
Subpoenaed in  
Chaplin Case**

J. Paul Getty, millionaire president of Spartan Aircraft Co., and seven other Tulsans have been subpoenaed by Charles Chaplin in his fight against Joan Barry's Mann act and paternity charges.

Others are Claude Rosenstein, Getty's attorney; F. N. Burns, private detective; Frank R. Bentley, assistant manager of the Mayo hotel; O. C. Lassiter, assistant county attorney, and Detectives Al DeMoss and Riley Stuart of the Tulsa police department. The police officials were summoned several weeks ago.

Part of the witnesses are expected to tell of a Mayo hotel party early last year that reportedly caused Miss Barry to be treated twice by a Tulsa physician. Following this Miss Barry was jailed on bogus check charges and spent a short time behind bars before some one came through with the cash.

**Subpoena Records of Joan Barry**  
Nine Tulsans subpoenaed to appear in the Joan Barry-Charlie Chaplin trial in Los Angeles March 21 will leave here Monday or Tuesday, it was revealed today. They are J. Paul Getty, president of the Spartan Aircraft Co.; and Ike Fisher of the police department and Mrs. Ollie Evans, police matron; Attorney C. H. Rosenstein, F. N. Burns, detective agency manager, Assistant County Attorney O. C. Lassiter, and Frank Bentley, assistant manager of the Mayo hotel.

They may travel any way they like—plane, train, bus or auto—if possible. They will be allowed 5 cents a mile travel expenses and will be paid \$3 a day. Langley Coffey, former Tulsan now with the War Labor Board in Dallas, will be among defense counsel. His father, W. L. Coffey, is representing Chaplin here.

Rosenstein today received his second subpoenae. He was summoned to present in court all available records on the headed actress' transactions on the early last year. Specifically demanded are a receipt dated April 16, 1943, for \$700 signed by Miss Barry; and a mortgage for \$900 on a fur coat, dated Jan. 29, 1943, and signed by her.

The checks and court costs were reported paid through the Burns National Detective agency, which had been retained by Rosenstein. The Tulsa attorney today had no statement to make concerning who he represented when he ordered Burns to pay off Miss Barry's accounts.  
"I don't know what Chaplin is trying to prove," he said. "I don't have anything to do with the case. As far as I know Chaplin's attorneys have never talked with any of the witnesses they subpoenaed. I never knew of the party at the Mayo until I read about it in the paper." Rosenstein said he would attempt to be released from the subpoenae.

\_\_\_\_\_  
District Judge of the United

[SEAL]

A. D. 1944, and in the \_\_\_\_\_

States of America.

JERRY GIESLER

*H.S. Attorney*

Attorney for Defendant





## MAN OF THE BOOK: COUNSEL FOR THE TULSA COUNTY SCHOOL BOARD

Claude: The Board of Education of the City of Tulsa was experiencing some dissatisfaction with its legal representation. Bill Eagleton, who was on the Board at the time, asked me if I would take the job. I told him I would—for awhile, until they straightened out. They never could get straightened out. Now David Fist is representing the Board; he took over from me.

For forty years, beginning in 1932, Claude Rosenstein represented the Tulsa Board of Education in litigation involving everything from taxation to desegregation. It was a position well-suited to a man like Claude who always upheld the book and unfailingly demonstrated the power of well chosen words.

Helen recalls that "when Claude was first appointed counsel to the School Board, the position was primarily thought of as honorary and temporary. The honor and the burden of the task was passed around every year or two to another prominent attorney and it paid practically nothing. But Claude took the position seriously. The other attorneys had just signed contracts—things like that. Now they had an attorney who came to every Board meeting. They couldn't believe it; he made himself an active part of the school system—an expert on school law."

Claude kept a *notebook* which contained a listing and brief notation of opinions affecting the Board of Education. The notebook, its black leather cover peeling down to brown, its pages yellowed with age and use, is memorable not only for its range of topics—*Annexed Territory, Building Fund, Court of Tax Review, Cafeteria Law, Flag, Salute to, Filling Vacancies*—but because it provides documentation of Claude's respect for a chang-ing, living body of law and for precedent from the past.

Any one page might begin with a neatly typed summary or a major opinion affecting an issue pertaining to the Board. What follows are handwritten notes, often in different colored ink, inserted apparently at different times and with varying degrees of enthusiasm. As the years advanced the hand became shaky. The writing,



The Tulsa County School Board 1961-1962, from the left: Dr. Charles Mason, Mrs. Virgil O. Wood, Fenelon Boesche, Bud Barnett, Bill Butler, Mrs. J. Littleton Daniel, Carl Beesley, Villard Martin, Jr., C.H. Rosenstein.

FROM C. H. ROSENSTEIN'S LARGE BLACK NOTEBOOK:

ILLEGAL TRANSFER

Illegal transfers, no reserve for delinquency proper when no ad valorem levy is made, judgments, refunding issues in Con. No. 1, etc. Sinclair Prairie P L Co. v. Exc. Bd. Tulsa Co., 49 Pac.(2d) 114.

Integration  
 (See Separate Schools - p. 39)  
 98 Fed 873  
Brown case ---  
Thompson v County Schl. Bd of Arlington County, Va.  
 204 Fed. Supp. 620

Mapp v Bd of Ed. (C.A. - 6th) 319 F(2) 571

Lowndes v Bd of Ed of K.C. (Kans) (C.A. - 10th)  
 336 F2d 988. - Cert. denied 380 U.S. 914.

School children may be assigned on basis of intelligence, achievement or other aptitudes upon a uniformly administered program, provided race is not a factor in making assignment. Preference should not be given negro applicants over white applicants for employment as teachers. Stell v Savannah - Chatham County Bd of Ed 255 F. Supp. 83.

Faculty desegregation - Bradley v School Board of Richmond  
 15 Fed 187-

Failure to renew a teachers contract because of civil rights activities, violates teacher's constitutional rights.  
Johnson v Branch (CA 4th) 364 F2d 177 = Chambers v Hendersonville City Board of Education (CA 4th) 364 F2d 189

Discrimination in employment of teachers, because of race, is violation of constitutional rights and constitutes an unconstitutional selection process.  
Smith v Bd of Ed of Merittton Schl Dist  
 365 F2d 770 (C.A. - 8th - 1966)

Integration: Freedom of Choice, is only acceptable if it brings about desegregation and burden is on school officials to make work whatever plan of desegregation is adopted  
Kemp v. Beasley (Colorado Ark schools) 389 F2d 178 (1968-CA 8th)

Desegregation of faculty required: - Jackson v. Marvel School Dist 389 F2d 740 (Ark - C.A. 8)

Freedom of Choice plans are not necessarily the answer to integration. School Board must adopt new integration plans that will work. -

Wheeler v. County School Bd of New Kent County, Virginia

20 Fed 716

Raney v. Bd of Ed of Gaud School Dist. (Arkansas)

20 Fed 727

Monroe v. Bd of Comm of Jackson, Tennessee

20 Fed 733

Puckering v. Bd of Ed of H.S. Dist No 205, Will County, Ill

20 Fed 2811 - ~~states with~~ holds that teacher cannot be discharged for writing a letter to local newspaper criticizing the way Bd of Ed + Supt. had handled past proposals to raise new revenue for schools - protected by Constitutional right of free speech.

New Construction cases U.S. v Bd of Public Instruction of Polk County, Florida 395 F2d 66 (C.A. 5th - 1968) Adv. sheet of 8-17-68; see also - Franklin v Quitman County Board of Ed. et al 288 Fed. Supp 509 (D.C. N.D. Miss.) Adv. sheet of 11-4-68;

Faculty assignments, etc.: Montgomery Cty Bd of Ed v Carr (Ala) 400 F2d 1. (Adv. sheet 11-4-68) - affirmed 23 Fed 263.

New Construction at all negro school would tend to promote desegregation and should not be carried out. Lee v Macon Cty Bd of Ed 289 F. Supp. 975 (D.C. Md Alabama - 1968)

Failure to renew a teacher's contract because of  
civil rights activities, violates Teacher's constitutional  
rights: Rockley v Sch. Dist. No 5 = 258 Fed. Supp. 676 (S. C.: 1966)

Little Rock - 1966 case. re integration (8th Circuit)  
369 F2d 661.

Neighborhood school system is not per se  
unconstitutional. Broussard v Houston Independent  
School District 262 F. Supp. 266.

Re discharge of negro teachers:

Franklin v County Sch. Bd. Giles Cty.

360 F2d 325 (4th C.A.)

Law imposes absolute duty to desegregate, that is  
disestablish segregation, and absolute duty to  
integrate - as to students, staff, facilities, programs  
and activities. U.S. v Jefferson County Bd of Ed. et al  
372 F2d 836 (C.A. - 5th. Alabama)

Faculty desegregation required, majority to minority  
transfers; consolidation of attendance areas, etc.  
ordered by Court. Bd of Ed of O.C. v Dowell  
375 F2d 158 (C.A. - 10) - Cert denied.

State and local authorities are under affirmative  
Constitutional duty to provide equal educational  
opportunities for all children by ceasing to discriminate  
on basis of race and cannot operate segregated  
and integrated systems, giving choice between two - or  
go out of business of operating schools in some  
districts. Lee v Macon County Bd of Ed 267 Fed Supp. 458

See United States v Jefferson County Board of  
Education 372 F2d 836 (1966 - 5th Circuit)

Faculty integration required, etc.

Freedom of Choice Plan and requirements  
in connection therewith: Stell v Bd of Ed of  
Savannah 387 F2d 486 (CA - 5th)  
District of Columbia case. - Hansen v Hansen  
269 F. Supp. 461.

marred by quavering patterns of tiny waves, stands on a facing page to notations made in a firm hand, in bold dark ink. Yet each stroke of the pen vibrates with the intensity of a keen mind in a fire of concentration.

At one time, Lee Taylor, local counsel for the federal government in its desegregation proceedings, was trying to tell the Tulsa School Board how to conduct its business. At an informal meeting, he made an off-hand comment that "All you have to do is close Washington High School." Opal Carlson and several other Board members reacted strongly to that suggestion. There were no further discussions with Mr. Taylor.

Claude Rosenstein, however, did not make simplistic or peremptory suggestions. Only after studying and making notations on more than seventy-six cases throughout the country concerning desegregation of schools did he feel ready to effectively participate in the complexities of the issues surrounding the trials and the creation of one of the most imaginative and successful school desegregation plans in the country. The implementation of that plan began in the early 1970s, the desegregation trials took place in 1968.

"Claude sat in court—very quiet, very attentive." The government lawyer, Lee Taylor, who had graduated from TU just about a year and a half before he was given the desegregation case, was confident. The federal government had never lost a desegregation case. He kept saying, "We never lose these things; we just don't lose." That didn't bother Rosenstein. He went about his business and had the case thrown out.

"The tenth circuit reversed that decision and said that Judge Daugherty had to retain some supervisory control. But I watched bits and pieces of that trial and it was an education to watch, fun to watch," reports Gene Mor-tensen. That was the last case that Claude tried. He had begun having a good deal of trouble with his voice in 1968, but his interest in school policies and problems remained strong as he continued to counsel his successors.

For it had been more than thirty years before, in 1932, that Claude had begun representing the school district in its history of complex litigation involving all phases of School Board activity and responsibility: In 1932, the Board of Education got into a "political row" with Bill Murray who was the elected Governor of the State of Oklahoma. The Board had come out publicly against certain measures taken by Murray and Murray was not pleased.

Claude: At that time the members of the Tulsa School Board were elected in the manner prescribed by a city ordinance rather than by state statute. Murray contested the authority of the Tulsa Board saying that their election according to the manner prescribed by city ordinance was unconstitutional. He hoped to oust the entire Board and in that event he would replace them with his appointees. The thing was so hot politically that the existing district judges for Tulsa County at that time decided to hear the case in banc— no one judge would decide this case. Tom Lyons, one of the district judges, disqualified himself saying that at one time his firm had represented the school district in the preparation of a contract with Shell Oil Company. The case was therefore tried before the three remaining district judges. This district court with three judges presiding found, by unanimous decision, in favor of the school district. No appeal was taken in this civil case.

But "Alfalfa Bill Murray" was determined to get rid of the then seated Tulsa County School Board. In his next attempt he questioned the legality of the manner in which the board was spending money from the district. Murray requested the County Attorney (now District Attorney) to file criminal charges against the Board, but he refused. Murray therefore instructed the Attorney General to file charges for the State accusing the Board of criminal misconduct.

Claude: The Attorney General, acting through Randall Cobb, one of his assistants, filed the requested criminal proceeding. I made bond, without any difficulty.

Five hundred dollars bond apiece gave the school board members freedom of action until the impending trial. But "the criminal case was never tried." It was dismissed after the expiration of Murray's term as Governor. At that time the Governor could not succeed himself; he could only serve one term without a term intervening. When Murray's term expired, the motion to dismiss which Claude had filed and which had been pending for a long time, was sustained. The Board stood once more as duly elected according to a Tulsa City Ordinance.

Over the years, most of the litigation that Claude handled for the School Board involved questions of taxation which would substantially effect the amount of money the schools had to spend on education, buildings and maintenance.

An Oklahoma City attorney, Mastin Geschwind, a tax expert representing various utilities corporations including the Public Service Company of Oklahoma, attacked, from time to time, the validity of tax assessments of the Tulsa School District. On one occasion Public Service Company and the other plaintiffs were contending for an interpretation of the tax statutes that would reduce the tax receipts to the school district. Most cases of this kind were disposed of by action of the Oklahoma Court of Tax Review. On this occasion, however, the plaintiffs, unsatisfied with the decision of the Oklahoma courts, sought to have the case reviewed by the United States Supreme Court and filed application seeking to obtain a review on the Oklahoma Court's opinion. The Supreme Court of the United States denied certiorari and the decision of the Oklahoma Court was upheld.

Claude: The Excise Board was always another bone of contention. They got the crazy idea that since they levy local taxes based on budgets prepared by the various local branches of government, including the school district, they could also tell us what to do with the money allotted to us. The School District made up a budget of its needs for maintenance for the next fiscal year. We felt that so long as the budget did not exceed the available taxes and did not seek taxation for any illegal purposes, the Excise Board had no jurisdiction over the purposes for which the school board taxes were levied. This difference of opinion between the school district and the Excise Board resulted in considerable litigation over the claim of the Excise Board to examine the school district's budget and make any changes that they thought were appropriate. This litigation was handled by me on behalf of the district and resulted most often in judgments adverse to the contentions of the Excise Board.

One time we had an informal hearing. At issue was the School Board's refusal to disclose the salaries of specific teachers. The Excise Board was told that the School District is spending "this much" for salaries but not the specifics. One of the members of the Excise Board at this informal hearing asked Bill Eagleton, Sr., why he refused to give them a list identifying each teacher's salary. Bill said: "It's none of your damn business!" And later, at a formal trial, that is what the court held.

All of the Tulsa County School Board's business was Claude Rosenstein's business and that undisputed fact is what friends of education in Oklahoma still affirm to this day.

TULSA PUBLIC SCHOOLS  
TULSA, OKLAHOMA

August 23, 1982

CHARLES C. MASON  
SUPERINTENDENT EMERITUS  
1123 SOUTH EVANSTON  
TULSA, OKLAHOMA 74104

Dear Claude:


A mutual friend has advised me that you are about to observe your 89th Birthday. Congratulations!

As I sit here, reminiscing, I am reminded that well over fifty years have elapsed since it was my good fortune to meet a person, who not only became a very dear friend of mine, but whose counsel and advice added security and well-being to the years of service we both were privileged to devote to the Tulsa Public Schools.

In your many years of service and devotion to the law, you have, not only as a person, but as a lawyer, become a legend unto yourself. To say that "you know Claude Rosenstein" and the distinguished firm of associates you guided so successfully, is to establish for yourself a credential of personal respect. Few ever attain the admiration, respect and affection in which you are held.

So, on this occasion, I wish for you many more years of peace and contentment.

Sincerest of best wishes, always!

  
Charles C. Mason

Mr. Claude Rosenstein  
525 South Main  
Tulsa, Oklahoma



## THE SYNDICATE

syndicate — a group or council of syndics.

syndic—Gr. *syndikos*, helping in a court of justice; hence, defendant's advocate, judge (*syn*—together + *dike*, justice).

*Webster's New World Dictionary of the American Language*

Almost everyone in the legal profession knew about *The Syndicate* within just a few years of its founding more than thirty years ago. They knew about the *Syndicate* and clamored to be permitted entry to its sacred rites. A syndicate is a group or council of syndics, judges or helpers in the court of justice. But it was the popularized notion of a syndicate, the ironic and playful naming of a group of serious minded men, that tantalized outsiders and insiders alike to want to "belong." These judges and lawyers loved and respected good-fellowship, good fun and good conversation. The *Syndicate*, composed of Claude Rosenstein, Floyd Rheam, Jerry Klein, and Ellis Gable began as a social group and became a legend.

Floyd Rheam tells the story best:

Rheam: Membership in the *Syndicate* was closed. But we did issue fellowships and when you were made a fellow of the *Syndicate* that was as close as you would ever come to being a "fellowdelphia lawyer." Judge Alfred P. Murrah was the first fellow of the *Syndicate*. One day Murrah came to Jerry Klein, Ellis Gable and myself and said that Earl Warren had just been appointed to the Supreme Court. Judge Murrah suggested that we might like to make Warren an honorary member of the *Syndicate*. When Claude arrived the next day I said, "Claude, in your absence we had a meeting and decided to appoint Earl Warren as an honorary member of the *Syndicate*." Claude said, "Well, that's all right. I know of no rule in the *Syndicate* that requires you to be a lawyer to be a member."

I think that's terrifically funny! And that's what the *Syndicate* was — a fun group. We even had a crest, and exchanged presents with the crest embossed on them. When the *Syndicate* had a meeting everyone knew it was going to be a relaxing time, time to have a drink, open your collar, and have serious but informal discussion about the law.

Judge Royce Savage thinks back on the *Syndicate* and its members and fellows as being on the one hand frivolous and on the other "a brotherhood of dedicated men. It commenced," says Savage, "as a small cocktail party at a Bar Association meeting and was finally seized upon by the Chief Judge of the Circuit as a basis for providing a function for everybody who attended the conference. It became well-known nationwide, because it is not unusual to have two or three Judges of the Supreme Court of the United States present for the Tenth Circuit Judicial Conference where the *Syndicate* prevailed."

The *Syndicate* started quite by chance. Rheam, Rosenstein, Klein and Gable had gone to the Judicial Conference of the Tenth Circuit Court of Appeals in Denver. The Conference was meeting in the Federal Building and the four had three rooms in the Cosmopolitan Hotel in Denver. As Floyd Rheam reminds us:

Rheam: We were up in the mountains where there were lots of snakes. Someone suggested that perhaps we ought to have a little snakebite remedy. Somebody else suggested that we might as well get a case, being from dry Oklahoma.

We returned to our rooms and that night by happenstance, between the hours of 5:00 p.m. and 7:00 p.m., 80 people by actual count went through our suite and became wiser men. Many of the lawyers and judges came up to us and offered to pay their tab. We said:



"No, you can't give anything to us, because it doesn't cost us anything. The *Syndicate* pays for everything."

The name, The *Syndicate*, just "popped up," says Claude, and the members played upon both its derivations, this group of dedicated syndics and fun-loving men. Though over the years all the judges of the Court of Appeals for the Tenth Circuit were fellows in the *Syndicate* and about four or five members of the Supreme Court of the United States, as well, Earl Warren, though invited, would not have anything to do with the group because of the pejorative connotation of its name.

Not satisfied with informal gatherings, the *Syndicate* also organized Bishop's Law School in Bishop's, a downtown restaurant and "hang-out" for students, businessmen, and, of course, lawyers. The school was founded in 1946 after the state legislature passed the Community Property Act.

Every Friday morning, Tulsa's top notch lawyers including the four members of the *Syndicate* and its fellows, met at Bishop's, ate breakfast, and studied the complexities of the new property law. "That project," says Rheam, "took two years. First the class went through a textbook on the subject, then a book of important cases deciding the issues. By that time, each student was well informed on community property decisions, but the class had picked up momentum and didn't want to quit. So it was decided to investigate other phases of real property law."

Classes started with breakfast. They also started and continued with friendly insults and jibes hurled back and forth across the table. After the serious business of learning the law, at the end of each session, the air was once again filled with jokes and good fellowship. It was not surprising, therefore, that in 1958, after ten years of operation, Bishop's decided to hold a "commencement" awarding menu diplomas to 40 lawyers. Each graduate received "the awesome degree of Doctoris Speculations." One special award for merit, "Alpha and Omega of the law of future interests," was given to G. Ellis Gable, who attended only the first and last lectures. Commencement speaker was the late Jack N. Hayes, then president of the Tulsa County Bar Association. The *Syndicate* knew how to stretch the imagination and have fun.



*At the Bishop's Law School commencement, from left, G. Ellis Gable, Joe Morris, Floyd Rheam and the honoree, Claude H. Rosenstein, 1974.*

Floyd Rheam tells about the time Joe Morris came to Bishop's Law School to teach a class in future interests and later to award the commencement diplomas to all but one of the graduates.

Rheam: Joe, of course, became the Dean of the University of Tulsa Law School, a federal judge and then retired and went to Houston as head of the legal department and Vice President for Shell Oil. We had a graduation ceremony planned for those who had successfully completed Joe's class. A diploma was printed on the inside of a Bishop's menu and there was supposed to be one for each lawyer who had participated.

Just before the ceremony I found out that we didn't have a diploma for one of the lawyers and he would have been hurt and griped to high heaven, so I took Claude's name out of one of the diplomas and put this lawyer's in. Of course, we had no choice then but to flunk Claude. A lawyer's lawyer, never shirking his responsibilities to the Bar, well prepared for each case in the law and the facts, with a natural bent for psychology— Claude accepted this turn of fate with grace.

Years later, in 1974, Claude Rosenstein, who had by that time practiced law in Tulsa for 60 years, was awarded his diploma from Bishop 's Law School. The scene of this ceremony was the home of Mr. and Mrs. Floyd L. Rheam. According to an article in the *Tulsalite*: "There to approve granting of the diploma were G. Ellis Gable, chairman of the state board of regents, and Joe Morris, dean of the law school at the University of Tulsa who in former years served with Mr. Rheam as 'co-dean' of Bishop's."

The commencement was, of course, an excuse for a party. It was also an opportunity for a popular colleague to be honored by his peers.

## A JUDICIAL OPINION

Claude Rosenstein's life in the law has been composed of a set of practices so consistently human, intelligent and fair minded as to be considered heroic in this age of compromise and shifting values.

He has written documents and wrestled with opinions, prepared briefs, created trusts, and untangled wills. But his fondest memories are of his days in court. Claude prepared for his days in court with dedication and diligence, and argued each case, whether on the trial or appellate level, in state or federal court, with his characteristic patience, a rare blend of intensity balanced with fairness and good sense. The cases he tried ranged from disputes over taxes to oil leases, from issues of fair trial procedure to fair labor practices—and from 1932 on there was, as we have seen, the Board of Education and its many days in court with Claude Rosenstein handling its panoply of litigation.

In 1943, Claude argued a case before the United States Supreme Court involving an interpretation of the Fair Labor Standards Act. Southland Gasoline Company, Claude's client, was seeking an interpretation of the scope of the five year old Fair Labor Standards Act. At issue was the provision of the FLSA which gave time-and-a-half wages for work over 40 hours. Southland Gasoline felt that this provision was unfair to their industry whose employees were well compensated and protected under the Motor Carriers Act. The Supreme Court was asked to resolve a conflict between two circuit courts of appeal over certain provisions of the FLSA. One circuit court held that the FLSA applied to employees of companies using private carriers; the other circuit asserted that an exemption from the FLSA existed for employees of companies using "private carriers" due to the possibility of regulation under the Motor Carriers Act. The Supreme Court held for Claude's client and stated that employees of "private motor carriers" are not within the purview of the FLSA. Mr. Justice Reed, delivering the opinion of the Court, stated that "a literal reading of the exemption section of the FLSA and the delegation of power section of the MCA" would not resolve the issues between the two circuits. He reaffirmed the principle that the "particular language" of one section of a statutory scheme should be considered in the light of the entire legislation in which it is contained and should be construed also in the light of the purposes which led to the enactment. Mr. Justice Reed, in adopting Claude's argument, concluded that the employees of private motors were exempted from the provisions of the FLSA since their activities were regulated under the provisions of the MCA and that they should not be regulated by two agencies. In holding for Claude's client, the Supreme Court overturned the decision of the Eighth Circuit Court of Appeals and rejected the arguments of the United States Solicitor General who had entered the case at the appellate level as a friend of the Court.

Fair practices enter once again into Claude's involvement on many levels and in several cases evolving from an interpretation of the "prudent operator rule." As developed by the Oklahoma courts, that rule was designed to prevent a disadvantage to the lessor of an oil property from his land not being developed by the lessee within a reasonable period of time. "A prudent operator may not act only for self-interest. Where there has been an unrea-sonable delay in developing a lease, the burden is upon the lessee to prove that the delay was that which a prudent operator may have" (*Sparks v. Midstates Oil Corporation*).

Claude's client, the lessee in this situation, drilled six wells into the shallow formations on six 10 acre tracts. At issue was a deeper formation at Well No. 3 and a remaining ten acre tract which the lessor contended had not been developed within a reasonable period of time. The lessor in this case was found justified in cancelling the lease on a few tracts which the evidence indicated had not been prudently operated, but Claude's presentation of the full and complex treatment of the variety of sites and conditions encompassed by this litigation resulted in a fair result for his client.

Fairness and good sense were always a firm guide for C. H. Rosenstein—in court and out. On July 1, 1964, Claude, along with Floyd Rheam, defended Stephen S. Chandler, United States District Judge for the Western District of Oklahoma, for alleged malicious prosecution, libel and slander. The plaintiff sought \$5,000,000 in actual damages, and a second \$5,000,000 as punitive damages. The plaintiff alleged that Judge Chandler had gone to the grand jury room at the request of the grand jury and delivered remarks in which he mentioned the plaintiff by name against whom an indictment was thereafter returned. Rosenstein's position on the law: "Judges," he stated, "have long been exempt from civil liability for acts done by them in the exercise of their judicial function." The court agreed with Claude's argument holding that while Judge Chandler's conduct may have been "unusual," it was "a far cry from the absence of jurisdiction" argued by the plaintiff. Accordingly, the plaintiff's case against Judge Chandler was dismissed.

Claude, thinking back over this case, likes to quote from an opinion of Judge Learned Hand involving two conflicting considerations or policies: the protection of the individual citizen against pecuniary damage caused by oppressive or malicious action on the part of officials of the Federal Government, and the protection of the public interest by shielding responsible governmental officers against the harassment and inevitable hazards of vindictive or ill-founded damage suits brought on account of action taken in the exercise of their official responsibilities. Judge Learned Hand stated: "As is so often the case, the answer must be found in a balance between the evils inevitable in either alternative." In some instances, it has been thought in the end "better to leave unredressed the wrongs done [even] by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation." With these considerations in mind, and with the weight of the evidence suggesting that Judge Chandler had committed only a "technical irregularity in the proceeding," the cause was properly dismissed.

Claude Rosenstein, along with Floyd Rheam, had his day in court, and won the case for Judge Chandler. Sometimes, however, the cases which remain clearest in Claude's memory, and the cases about which he takes the greatest pride, are those cases which he lost but fought well.

On December 27, 1968, the United States District Court for the Eastern District of Oklahoma issued its decision with regard to the claims of Isom Beams and Sam Anderson, the administrators of the estate of Jackson Barnett, a full-blood Creek Indian, then deceased. The action was brought by Claude on behalf of Beams and Anderson for recovery of income taxes from the United States government which were collected on income earned by investment of oil and gas royalties from restricted lands allotted to a full-blood Creek Indian.

Previous law had held that income received from restricted lands allotted to full-blood Creek Indians was not taxable but that reinvestment income of restricted Indians was taxable. A statute, however, had provided for recovery of income taxes erroneously collected from restricted Indians and Claude contended that a section within that statute provided for the refund of taxes paid on reinvestment income as well. The judgment of the court, however, was to deny Claude's petition and to reaffirm that "reinvestment income is taxable." This was affirmed by the Tenth Circuit Court of Appeals.

You win some, you lose some. You do your homework and you fight fair—Claude would agree with all these platitudes which are also sound values. Though the Barnett case did not result in a favorable decision, many other taxation cases which Claude handled reaped substantial benefits for his client and once again underlined Rosenstein's determination to affirm the law and reestablish equity.

As discussed earlier, Claude and his firm have represented the Tulsa Public Schools since 1932. Today his firm represents over 60 school districts in Oklahoma. School districts are frequently involved in disputes with county assessors in an attempt by the school districts to obtain fair valuation on the tax rolls of property within the school district. If property is valued at less than its true market value then schools receive less property tax revenue, all to the detriment of the school children who attend schools in the district.

Douglas Mann explains that in 1962, Claude became involved in a case which, although unrelated to schools, became an important precedent as to how property is to be valued by county assessors in Oklahoma. Ironically, Claude was trying to have the valuation of his client's property reduced by two-thirds. In *Bliss Hotel Company v. Thompson*, the Tulsa County Assessor assessed the Bliss Hotel at \$601,366. Claude argued that the true value was \$205,000 based on a previous bona fide offer of purchase. In a case of first impression the Oklahoma Supreme Court ruled in favor of Claude's client and held that real property is to be valued for taxation purposes at its fair market value. The Court defined "fair market value" to mean the amount of money which a purchaser willing but not obliged to buy the property would pay to an owner willing but not obliged to sell it, taking into consideration all uses to which the land was adapted and might in reason be applied. This rule of law not only prevented arbitrary overassessments such as occurred to Claude's client but provided a framework for fair valuation of all properties in order to insure fair taxation and sufficient tax revenues for school districts.

There were many, many other cases, of course. Cases handled in court and those settled out of court; settled in the manner involving what Claude remembers fondly as that special communication between men of the law, men of good will, men of good common sense and lively, inquisitive minds.

But this is a book about a man, not a series of law cases, a man entwined in the "thickets of the law," whose greatest pleasure was to unravel, reshape and stand upright in the great forests planted thick "from

coast to coast" — with law.

In addressing the law, Claude Rosenstein's total immersion in his subject, his delight in the study and practice of the law for the sake of the thing itself, as well as for the sake of those people for whom those laws are written, makes possible once again an apprehension of timeless values and unique possibilities.



Rosenstein, Fist & Ringold (1984), first row (from the left): Gene Mortensen, A.F. Ringold, Claude Rosenstein, David Fist, Coleman Robison; second row (from the left): Jim Tilly, Jerry Zimmerman, Tom Mann, John Howland, Doug Mann, Louis Papas, John Moyer, John O'Conner, Lloyd Markind, Keith Ward.