

**"LESSONS LEARNED FROM THE
PRINCIPLES, PRACTICES AND PERSONALITIES
OF UTAH'S FIRST CHIEF FEDERAL JUDGE"**

**BRUCE S. JENKINS
U.S. SENIOR DISTRICT JUDGE,
DISTRICT OF UTAH**

**FEDERAL BAR ASSOCIATION SEMINAR
LITTLE AMERICA HOTEL, SALT LAKE CITY, UTAH
NOVEMBER 7, 2008**

**COPYRIGHT © 2008
Bruce S. Jenkins**

IN THE MID-SIXTIES, AN INCIDENT
OCCURRED ACROSS THE STREET FROM THE
FEDERAL COURTHOUSE AT THE MANHATTAN
CLUB. DURING THE FIFTIES AND SIXTIES,
PROMINENT UTAHNS WOULD FREQUENT THE
CLUB FOR LUNCH, A DRINK, CONVERSATION, OR
JUST TO PASS THE TIME WITH COMPATIBLE
PEOPLE. THE MAYOR, A GOVERNOR, A NATIONAL
GUARD GENERAL, A CITY COMMISSIONER, AND
THE VENERABLE JUDGE WILLIS W. RITTER.
SOMETIMES, AFTER TOO MUCH CONVERSATION
AND TOO MUCH WILD TURKEY, THE
CONVERSATION GREW HEATED. ONE AFTERNOON,
A CITY COMMISSIONER AND CHIEF JUDGE RITTER

BEGAN TO ARGUE AND QUARREL AND THE COMMISSIONER CHALLENGED WILLIS TO A DUEL. THE COMMISSIONER WAS A SMALL, SKINNY LITTLE GUY. WILLIS, WHILE SHORT, WAS SHAPED LIKE A MASSIVE PEAR. THEY BOTH STOOD TOE-TO-TOE ON THE POSTAGE-STAMP DANCE FLOOR AND THE CHIEF JUDGE ANSWERED THE COMMISSIONER'S CHALLENGE, "OKAY, PROTOCOL SAYS THAT I GET TO CHOOSE WEAPONS," AND THE COMMISSIONER SAID, "YES, THAT'S RIGHT." WILLIS SHOUTED, "THEN I CHOSE BELLIES," AND BUMPED THE COMMISSIONER WITH HIS MASSIVE BELLY AND LAID HIM OUT FLAT ON THE DANCE FLOOR.

WHILE FUNNY, AND BY THE WAY TRUE, NOW
IT SEEMS SO INCONGRUOUS THAT THE PRESIDING
OFFICER OF THE FEDERAL COURT WHO EACH DAY
HELPED PEOPLE SOLVE PROBLEMS IN A PEACEFUL
AND RATIONAL WAY AND A CITY COMMISSIONER
WHO PASSED ORDINANCES ON HOW CITIZENS
SHOULD TREAT ONE ANOTHER, IN A STRESSFUL
LIQUID MOMENT OF THEIR OWN, CHOSE THE MOST
PRIMITIVE OF WAYS TO SETTLE AN ARGUMENT.
THE SYMBOLISM SPEAKS VOLUMES.

IT HAS BEEN THIRTY YEARS SINCE CHIEF
JUDGE WILLIS W. RITTER DIED. ALDON ANDERSON
BECAME CHIEF JUDGE. I SUCCEEDED JUDGE
RITTER. I DIDN'T REPLACE HIM. NO ONE COULD.

FROM THE DISTANCE OF 30 YEARS, IN THE BRIEF TIME THAT I HAVE, I WANT TO TRY TO DO FOUR THINGS.

FIRST, I WANT TO PROVIDE A SHORT HISTORY OF THE UNITED STATES DISTRICT COURT PRE-RITTER TO PROVIDE BACKGROUND AND CONTEXT. SECOND, I WANT TO SKETCH RITTER'S EARLY LIFE, HIS APPOINTMENT AS JUDGE, AND HIS SUBSEQUENT ELEVATION TO CHIEF JUDGE. THIRD, I WANT TO RELATE IN VIGNETTE FORM A FEW INCIDENTS, PRACTICES, AND CASES FROM HIS THIRTY-YEAR TENURE TO GIVE YOU THE FLAVOR OF THE MAN. AND FOURTH, I WANT TO DISTILL A FEW LESSONS LEARNED FROM HIM ABOUT LAW

AND ABOUT LIFE.

FROM 1896, STATEHOOD, UNTIL 1954, THE DISTRICT OF UTAH HAD ONE FEDERAL DISTRICT JUDGE. THE FIRST WAS JOHN MARSHALL, A CLEVELAND APPOINTEE AND DISTANT RELATIVE OF THE GREAT CHIEF JUSTICE. HE SERVED FROM 1896 UNTIL 1915. HE RESIGNED AFTER AN ALLEGED AFFAIR WITH A CLEANING LADY.

THE SECOND WAS TILLMAN JOHNSON, A SKINNY LITTLE ANIMATED SHOESTRING OF A MAN WHO WAS APPOINTED BY WOODROW WILSON IN 1915.

BOTH MARSHALL AND JOHNSON WERE NON-MORMON BY DESIGN. PRESIDENT WILSON MADE

IT AN EXPRESS CONDITION. EACH WAS BORN
OUTSIDE OF UTAH.

JOHNSON SERVED UNTIL 1949, WHEN IN JUNE
AT THE AGE OF 93 HE RETIRED. IN 1944 THE
ATTORNEY GENERAL OF THE UNITED STATES HAD
WRITTEN TO HIM SUGGESTING THAT IS MIGHT BE
TIME FOR HIM TO RETIRE. IT WAS EVEN THEN
RUMORED THAT RITTER WANTED TO REPLACE
HIM, INDEED AS EARLY AS 1944. RITTER HAD
CONFIDED TO A FRIEND THAT "TOMMY" (SENATOR
ELBERT D. THOMAS) HAD PROMISED HIM THAT
POSITION WHEN JOHNSON RETIRED. FEISTY
JOHNSON WROTE BACK TO THE ATTORNEY
GENERAL THAT IT WAS NONE OF HIS BUSINESS IF

OR WHEN HE RETIRED, POINTING OUT THAT HIS WAS A LIFETIME APPOINTMENT. HE DIDN'T REFER TO THE LAST CLAUSE IN THE PRESIDENTIAL COMMISSION WHICH SAYS THAT HIS LIFETIME TENURE WAS "DURING GOOD BEHAVIOR."

THE SAME CONDITION OF "GOOD BEHAVIOR" WAS IN THE COMMISSION OF THE THIRD U.S. DISTRICT JUDGE, WILLIS W. RITTER; RITTER, UNLIKE JOHNSON, WAS A NATIVE UTAHN, BORN JANUARY 24, 1899 IN SALT LAKE CITY, BUT LIKE MARSHALL AND JOHNSON, HE WAS A NON-MORMON.

AFTER A BRIEF STAY IN SALT LAKE, RITTER'S FAMILY MOVED TO TINTIC IN JUAB COUNTY

WHERE HIS FATHER WORKED IN THE MINES, AND HIS MOTHER WORKED AS A SOMETIME NURSE AND MID-WIFE. WHEN HE WAS ABOUT SEVEN, THE FAMILY AGAIN MOVED TO A RESORT HIS FATHER HAD INHERITED, THE HOT POTS NEAR HEBER, WHICH THE FAMILY RAN. A FEW YEARS LATER THE FAMILY MOVED TO PARK CITY WHERE HIS FATHER AGAIN ENGAGED IN HARD-ROCK MINING.

CONDITIONS WERE HARSH. MONEY SCARCE. MOTHER AND FATHER DIVORCED. MOTHER REMARRIED AND TOOK THREE YOUNGER CHILDREN WITH HER TO CALIFORNIA, AND LEFT RITTER WITH AN AUNT AND UNCLE. HE FELT ABANDONED.

HE ATTENDED PARK CITY HIGH SCHOOL. A CLASSMATE WAS ROGER TRAYNOR, WHO LATER GAINED FAME AS A HIGHLY RESPECTED CHIEF JUSTICE OF THE STATE OF CALIFORNIA. IN A CLASS OF 18, TRAYNOR STOOD FIRST AND WAS VALEDICTORIAN. RITTER WAS SECOND, AND WAS SALUTATORIAN. ROGER McDONOUGH, LATER TWICE CHIEF JUSTICE OF THE UTAH SUPREME COURT, WAS A PARK CITY SCHOOL TEACHER. HE TAUGHT BOTH. ALL THREE WERE SMART.

AFTER HIGH SCHOOL, RITTER HAD A BRIEF STINT IN THE MINES, A BRIEF TIME IN THE ARMY, A YEAR AT THE UNIVERSITY OF UTAH, AND THEN GOT A LAW DEGREE FROM CHICAGO, *CUM LAUDE*,

AND IN 1926 BECAME A MEMBER OF THE ILLINOIS BAR. HE PRACTICED TAX LAW IN WASHINGTON D.C. FOR TWO YEARS, AND THEN WAS INVITED TO TEACH AT THE UNIVERSITY OF UTAH LAW SCHOOL. WHILE TEACHING, HE FINISHED HIS UNDERGRADUATE WORK AT THE UNIVERSITY, MADE *PHI BETA KAPPA*, AND LATER EARNED A MASTER'S DEGREE AT HARVARD.

WHILE TEACHING AT UTAH, HE BECAME A GREAT FRIEND OF ELBERT D. THOMAS, A YOUNG POLITICAL SCIENCE PROFESSOR, AND WAS ACTIVE WITH HIM IN THE FACULTY SENATE. THAT FRIENDSHIP FLOURISHED AND LASTED A LIFETIME. RITTER WAS AN INDIFFERENT

CATHOLIC, THOMAS AN ARDENT MORMON.

I LAY THIS BACKGROUND FOR A REASON. IN 1932 ELBERT D. THOMAS, “TOMMY” TO RITTER, RAN AGAINST MORMON APOSTLE REED SMOOT, AN INCUMBENT REPUBLICAN UNITED STATES SENATOR WHO HAD BEEN IN THE SENATE FOR MORE THAN 30 YEARS. SMOOT WAS AN ICON AND CONSIDERED UNBEATABLE. HE HAD FIRST BEEN APPOINTED BY THE UTAH LEGISLATURE AND CONTINUED AFTER DIRECT ELECTION BY THE PEOPLE CAME ABOUT. NOW REMEMBERED FOR THE SMOOT-HAWLEY TARIFF, HE WAS PERHAPS MORE FAMOUS AT THE TIME FOR HIS WAR ON PORNOGRAPHY. HE WAS IMMORTALIZED IN THE

POEM BY OGDEN NASH, “SENATOR SMOOT,
REPUBLICAN UTE, A MAN OF POWER AND PELF,
HE’LL SAVE OUR HOMES FROM EROTIC TOMES BY
READING THEM ALL HIMSELF.”

THOMAS BEAT SMOOT, HELPED BY THE
ROOSEVELT LAND-SLIDE, AND WAS TWICE RE-
ELECTED. THAT ENABLED HIM IN 1949 TO
SPONSOR AND RECOMMEND TO PRESIDENT
TRUMAN HIS FACULTY FRIEND, WILLIS W. RITTER
TO REPLACE TILLMAN JOHNSON, WHO HAD
FINALLY DECIDED TO RETIRE.

DESPITE ENORMOUS POLITICAL AND FAMILY
PRESSURE ON THOMAS, HE STUCK BY HIS OLD
FRIEND AND SENT HIS RECOMMENDATION TO

TRUMAN ASKING FOR HIS NOMINATION. BY THEN, RITTER HAD BEEN TEACHING LAW FOR MORE THAN TWENTY YEARS, AND HAD PRACTICED ON THE SIDE FOR PROMINENT CLIENTS. HIS SPECIALITIES WERE TAX, PROPERTY, TRUSTS AND ESTATES.

HE WAS A DEMANDING TEACHER. HE WAS SOCRATIC, HE WAS *THE PAPER CHASE* PERSONIFIED, AND ON OCCASION, DOWNRIGHT MEAN. AFTER A POOR RECITAL FROM A HESITANT STUDENT, HE SAID SLOWLY, “NOW MR. _____ I RECOMMEND THAT YOU TRANSFER TO THE SCHOOL OF ENGINEERING. OVER THERE THEY LEARN TO WORK WITH THEIR HANDS.”

HIS NOMINATION TO THE BENCH BESTIRRED CONTROVERSY AND OPPOSITION. IN THE SENATE, ARTHUR V. WATKINS ASKED FOR PUBLIC HEARINGS, CITING LETTERS OF CRITICISM HE HAD RECEIVED. ALTHOUGH THE SUBCOMMITTEE OF THE JUDICIARY COMMITTEE RECOMMENDED HIS CONFIRMATION, THAT RECOMMENDATION WAS NOT CONSIDERED BY THE FULL JUDICIARY COMMITTEE BEFORE CONGRESS ADJOURNED FOR THE YEAR.

IN OCTOBER, 1949, TRUMAN MADE A RECESS, OR INTERIM APPOINTMENT. UTAH NEEDED A JUDGE, BUT AS *TIME* MAGAZINE POINTED OUT, IT WASN'T UNTIL AFTER ALMOST A YEAR OF

“WRANGLING, SECRET HEARINGS [IN SPITE OF SENATOR WATKINS’ REQUEST FOR PUBLIC HEARINGS], REPUBLICAN PROTESTS, AND DISAPPROVAL BY THE AMERICAN BAR ASSOCIATION’S . . . COMMITTEE” THAT HE WAS CONFIRMED. RITTER HAD SURVIVED AN EXTENSIVE AND BITTER CONFIRMATION FIGHT WITH CROSS-CURRENTS ARISING FROM AMBITIOUS COMPETITORS, THE MORMON DESIRE FOR A MORMON JUDGE, AND REPUBLICAN DESIRE TO WAIT TRUMAN OUT AND HAVE AN APPOINTMENT OF THEIR OWN. RITTER’S NOMINATION WAS RENEWED BY TRUMAN AND WITH THE “ADVICE AND CONSENT OF THE

SENATE” HE WAS APPOINTED TO HIS LIFETIME POSITION ON JULY 7, 1950.

A FORMAL SWEARING-IN TOOK PLACE ON AUGUST 1, 1950, PRESIDED OVER BY THE CIRCUIT CHIEF ORIE PHILLIPS WHO CAME FROM DENVER TO ADMINISTER THE OATH. JUDGE JOHNSON, RETIRED, OPENED COURT.

THE PRESIDENT OF THE BAR, DAVID L. STINE FROM OGDEN PRESENTED THE JUDGE TO THE COURT AND JUDGE PHILLIPS ADMINISTERED THE OATH. COMPLIMENTARY AND IDEALISTIC SPEECHES WERE OFFERED. RITTER’S LONG-TIME AMBITION WAS REALIZED.

NOT BAD FOR A PARK CITY KID FROM A

BROKEN HOME. BUT, SADLY, THE CONFIRMATION PROCESS WHICH RAISED QUESTIONS OF LOYALTY TO THE UNITED STATES, PHILANDERING, HIS ARBITRARY AND TYRANICAL BEHAVIOR, AND HIS SOBRIETY, COLORED HIS TENURE UNTIL THE DAY THAT HE DIED. HE NEVER GOT OVER IT.

EMOTIONALLY IT WAS LIKE A CANCER THAT METASTASIZED OVER THE NEXT TWENTY-EIGHT YEARS, AND AFFECTED ALMOST EVERY ACTION.

IN SPITE OF THE CONDITION THAT HE WAS TO OCCUPY THE POSITION “DURING GOOD BEHAVIOR,” HE DIDN’T ALWAYS BEHAVE VERY WELL.

PERHAPS BECAUSE OF THAT, IN 1954 THE

EISENHOWER ADMINISTRATION – WITH THE PRODDING OF SENATOR WATKINS, A VOCAL RITTER CRITIC – PASSED LEGISLATION WHICH CREATED A SECOND JUDGESHIP: A TEMPORARY POSITION WHICH WOULD MORPH INTO A PERMANENT POSITION AND A. SHERMAN CHRISTENSEN WAS SPONSORED BY SENATOR ARTHUR V. WATKINS AND APPOINTED BY PRESIDENT EISENHOWER.

UNTIL 1954, THERE WERE NO INDIANS AND THUS NO CHIEFS. IT WAS IN 1954, UPON THE ASCENDENCY OF SHERM CHRISTENSEN, THAT WILLIS RITTER BECAME THE FIRST CHIEF JUDGE OF A TWO-JUDGE COURT.

THE LAW WAS THEN IN A TWO-JUDGE COURT, IF THE JUDGES COULDN'T AGREE ON COURT POLICY, RULE, OR PERSONNEL, THAT THE CHIEF MADE THE DECISION. IN JUDGE RITTER'S VIEW, NOT MUCH HAD CHANGED. HE THOUGHT THERE WAS NO NEED FOR A SECOND JUDGE, SO FOR ALL INTENTS AND PURPOSES THE SECOND JUDGE DIDN'T EXIST. WHAT CONVERSATION OCCURRED BETWEEN THE TWO JUDGES OCCURRED THROUGH THE NEWSPAPER. OTHER THAN CHAMBERS PERSONNEL, ALL DECISIONS WERE THOSE OF THE CHIEF JUDGE. THE CLERK'S OFFICE, THE PROBATION DEPARTMENT, THE COMMISSIONERS (PREDECESSORS OF THE MAGISTRATES) AND THE

THEN-REFEREE IN BANKRUPTCY – THERE WAS ONLY ONE THEN – WERE JUDGE RITTER’S CHOICES.

COURTROOM DEPUTIES WERE HIS CHOICES AS WELL. CASE ASSIGNMENT BECAME A MATTER OF CONTROVERSY WHICH FINALLY, IN 1958, HAD TO BE SETTLED BY THE CIRCUIT.

HE ENJOYED THE STATUS OF CHIEF JUDGE UNTIL HE DIED IN 1978, WITH HIS YEARS OF SERVICE ENMESHED IN CONTROVERSY. IN 1977, SOLICITOR GENERAL OF THE UNITED STATES WADE MCCREE AND THE U.S. ATTORNEY FOR UTAH, RAMON CHILD, HAD FILED A PETITION IN EXCESS OF 800 PAGES ASKING THAT THE CIRCUIT

REMOVE HIM FROM EVERY CASE IN WHICH THE UNITED STATES WAS A PARTY. THIS WAS SPARKED BY HIS ERRATIC USE OF A TRAILING CALENDAR WHERE A MULTITUDE OF CASES WERE SET THE SAME DAY, SAME TIME, “WAIT YOUR TURN.”

RITTER WAS NOT A TALL MAN. HE WAS A BIG MAN, ABOUT 5 FOOT 7 INCHES, LARGE HEAD WITH STOCK OF GREY HAIR, WHEN FIRST APPOINTED, WHICH QUICKLY TURNED WHITE. HIS COMPLEXION WAS FLORID, WHICH CONTRASTED GREATLY WITH HIS WHITE, WHITE HAIR. HE WAS SHAPED LIKE A PEAR – SOME PREFERRED TO SAY A POUTER PIGEON – WITH A VERY LARGE CHEST

AND AN ABUNDANT BELLY.

HE BROUGHT TO THE BENCH THE DEMANDS OF
A TEACHER, SYMPATHY FOR THE UNDERDOG
BORN OF HIS DAYS AS A HARD ROCK MINER, A
SHORT FUSE WHEN HE THOUGHT SOMEONE WAS
UNPREPARED, A GROWING PASSION FOR WILD
TURKEY BOURBON WHISKEY, AN ANIMUS
TOWARDS THOSE WHO OBJECTED TO HIS
APPOINTMENT, PARTICULARLY THOSE
AFFILIATED WITH THE MORMON CHURCH, AND, IN
MY OPINION, A SUBSURFACE NEED FOR PRAISE
AND ACCEPTANCE.

HE WAS A COMPLEX MAN OF MANY PARTS.
HE COLLECTED INDIAN WEAVINGS, EARLY UTAH

PAINTINGS, OLD COINS AND BOUGHT A RANCH IN IDAHO TO WHICH HE VISITED OFTEN. HE WAS HIMSELF A LITIGIOUS PERSON AND SUED AND WAS SUED OVER WATER RIGHTS AND MINING CLAIMS.

IN SHORT, HE WAS A WALKING CIVIL WAR – GOOD GUY, BAD GUY, WITH AN UNREQUITED FEELING FOR THE UNDERDOG. HIS BAD GUY, EMOTIONALLY TRIGGERED, WOULD TOO OFTEN WIN THE INTERNAL WAR.

TOWARDS THE END OF HIS TENURE, HE HIT THE NATIONAL NEWS BECAUSE OF, AMONG OTHER THINGS, HIS CONFISCATION OF A KSL CAMERA TAKING HIS PICTURE AS HE WALKED FROM THE

HOTEL NEWHOUSE, HIS THEN RESIDENCE ACROSS THE STREET, TO THE COURTHOUSE. HE WAS VISITED BY MIKE WALLACE OF *SIXTY MINUTES* FAME WHO WANTED TO INTERVIEW HIM ON CAMERA, WHICH RITTER ROUTINELY REFUSED. WALLACE SAID, “AH JUDGE, I COULD MAKE YOU A CELEBRITY.” RITTER REPLIED, “MIKE, I AM ALREADY A CELEBRITY.” NO INTERVIEW TOOK PLACE.

ONE OF HIS CLERKS WAS GIVEN A CHECK TO CROSS THE STREET TO THE LIQUOR AGENCY IN THE NEWHOUSE HOTEL. HE WAS TO GET THREE BOTTLES OF WILD TURKEY. THE CLERK AT THE OUTLET SAID, “WE DON’T TAKE CHECKS.” THE

JUDICIAL CLERK SAID, “YOU WILL TAKE THIS ONE.” HE LOOKED AND ACCEPTED THE CHECK OF THE 11TH FLOOR TENANT.

EARLY ON IN HIS CAREER HE WAS HANDLING THE CRIMINAL CALENDAR. IT WAS HIS STYLE TO HEAR ORALLY FROM THE PROBATION OFFICER AT THE TIME OF SENTENCING. BERNIE RHODES, THEN A NEWCOMER TO PROBATION, WAS THERE WITH A YOUNG MAN CONVICTED OF A DRUG OFFENSE. BERNIE TRIED TO SAY “LSD,” BUT IT CAME OUT “LDS.” [LDS IS SHORT FOR LATTER-DAY-SAINTS, ANOTHER NAME FOR THE MORMON CHURCH.] HE TRIED AGAIN WITH THE SAME ERROR. RITTER LOOKED DOWN FROM THE BENCH AND SAID, “I

KNOW WHAT YOU MEAN, MR. RHODES. HOWEVER BRIEF THE EXPOSURE WITH LSD OR LDS, THEY BOTH RESULT IN HALLUCINATIONS.”

IN THOSE DAYS IT WAS THE PRACTICE OF RITTER TO APPOINT COUNSEL FOR CRIMINAL DEFENDANTS. HE WAS A PIONEER IN SO DOING, HE ANTICIPATED *GIDEON*. HIS METHOD WAS TO TAKE THE BAR LIST AND HAVE HIS CLERK CALL THE ATTORNEY AND TELL HIM HE HAD BEEN APPOINTED. REFUSAL WAS NOT AN OPTION. PAYMENT WAS NIL. ONE NEWLY-MINTED ATTORNEY WITH SUCH AN APPOINTMENT, DRESSED IN HIS BEST COURT ATTIRE, SHOES POLISHED, DARK SUIT, WHITE SHIRT,

CONSERVATIVE TIE, INTERVIEWED HIS CLIENT, AND PREPARED REMARKS FOR THE COURT. HIS CLIENT WAS IN CUSTODY AND IN COURT WAS DRESSED IN PRISON GARB, LONG HAIR, BEARD GROWING. BOTH STOOD BEFORE THE BAR AND RITTER LOOKED DOWN AND SAID, “NOW WHICH OF YOU IS THE DEFENDANT?” ADOPTING A PATTERN USED BY JOHNSON.

WHEN SHERM CHRISTENSEN CAME ON BOARD, THE SYSTEM USED FOR CASE ASSIGNMENT, BEFORE THE CIRCUIT IN 1958 FORCED A RANDOM DRAW, WAS TO TAKE CASES ALTERNATIVELY IN THE ORDER WHICH THEY WERE FILED. IT TOOK PRACTITIONERS NOT TOO LONG TO KNOW HOW TO

CON THE SYSTEM. THEY FILED TWO IDENTICAL CASES AND THEN DISMISSED ONE. IT WASN'T ALL IN ONE DIRECTION. ONE PROMINENT LAWYER ONCE SAID TO ME, "I WOULD RATHER HAVE THE CHIEF FULL OF WILD TURKEY THAN THAT OTHER GUY SOBER."

YOU MAY BE TOO YOUNG TO REMEMBER THE ORDER ENTERED BY RITTER TO STOP THE EXECUTION OF GARY GILMORE. THE JUDGE ENTERED THE ORDER AND THE STATE OF UTAH TOOK A STATE PLANE, FLEW AT NIGHT, AND CARRIED THE ATTORNEY GENERAL, AS WELL AS SOME MEMBERS OF THE CIRCUIT COURT, TO DENVER TO HAVE A PANEL DEAL WITH IT

PEREMPTORILY, WHICH THEY DID IN THE EARLY MORNING HOURS OF JANUARY 17, 1977. THEY VACATED THE STAY, AND THE EXECUTION TOOK PLACE. THE FIRST IN THE COUNTRY IN MANY YEARS.

RITTER'S RESPONSE WAS "THAT LAWLESS BUNCH." HE SAID THAT OFTEN. HE WAS REVERSED OFTEN. SOME SAY 40% CRIMINAL, 80% CIVIL.

FIRST, AS I'VE PREVIOUSLY SUGGESTED, THE BRAASCH AND SULLIVAN MURDER CASE. HE GRANTED A HABEAS PETITION BECAUSE OF THE ABSENCE OF COMPETENT COUNSEL AT THEIR STATE MURDER TRIAL. HIS ACTION FORESAW THE

LATER SUPREME COURT CASE OF *GIDEON* ON THE RIGHT TO COUNSEL IN CRIMINAL CASES.

SECOND, THE INDIAN PONY CASES, WHERE HE HELD FOR PLAINTIFFS AGAINST THE UNITED STATES FOR THE DESTRUCTION OF INDIAN HORSES WHICH WERE ROUNDED-UP BY THE BUREAU OF LAND MANAGEMENT AND SOLD FOR 3 CENTS A POUND. HE TRIED IT, FOUND LIABILITY AND DAMAGES OF \$100,000, WAS REVERSED BY THE CIRCUIT, WHICH WAS IN TURN REVERSED BY THE SUPREMES ON LIABILITY, BUT THEY LAMENTED THE LACK OF RECORD ON DAMAGES. HE TRIED IT AGAIN ON DAMAGES AND MADE EXTENSIVE FINDINGS AND FOUND DAMAGES OF

\$186,000, WAS REVERSED AGAIN BY THE COURT OF APPEALS, WHO REASSIGNED THE CASE TO JUDGE KERR OF WYOMING. THE COURT OF APPEALS IN EFFECT FOUND HE WAS TOO EMOTIONALLY INVOLVED IN THE CASE. IT WAS LATER SETTLED FOR \$45,000.

THE THIRD CASE IS THAT OF EL PASO NATURAL GAS, A DIVESTITURE CASE WHICH ULTIMATELY WAS UP AND DOWN THE APPEAL LADDER, AND EVENTUALLY CAUSED THE SUPREME COURT TO REMOVE HIM FROM THE CASE ENTIRELY.

HIS STRONG SUIT WAS HIS VIGOROUS ANALYTICAL MIND. HE DID BEST IN THE

COURTROOM CHALLENGED BY A PROBLEM OR A PROPOSITION THAT INTERESTED HIM. HE COULD, IF HE WANTED TO MAKE THE EFFORT, FOCUS QUICKLY ON THE CRITICAL QUESTION AND RULE THEN AND THERE. THUS MANY OF HIS CASES WERE NOT APPEALED, BUT QUICKLY RESOLVED. HE WAS HANDICAPPED BY HIS UNCONTROLLABLE EMOTIONS AND A PENCHANT FOR INTRUDING IN THE TRIAL OF A CASE.

HE COULD BE CHARMING, SOLICITOUS, ATTENTIVE, COMPASSIONATE, INTERESTED, AND A GRACIOUS HOST, INDEED THE EPITOME OF A SOPHISTICATED GENTLEMAN.

A FORMER CLIENT, A BRILLIANT

BUSINESSMAN HIMSELF TRAINED AS A LAWYER
CALLED HIM AN AMERICAN TRAGEDY – HUGE
POTENTIAL THAT WAS WASTED.

A FORMER CLERK CALLED HIM A
SHAKESPEAREAN TRAGEDY – LONGED FOR
POSITION GAINED FOR WHICH HE WAS ILL-SUITED.

SHORTLY AFTER RITTER DIED, I RAN INTO HIS
DAUGHTER, NANCY. PRESIDENT KIMBALL AND
THE MORMON CHURCH HAD JUST ANNOUNCED
THE REVELATION ON BLACKS AND THE
PRIESTHOOD – AND ITS AVAILABILITY TO ALL
QUALIFIED MALES.

NANCY POINTED TO THE HEAVENS AND SAID,
“I GUESS THE OLD BOY STIRRED THEM UP.”

IN HIS LATER DAYS, HE WAS CHARACTERIZED
IN A BRUTAL CARTOON ON THE FRONT OF A
LOCAL MAGAZINE. MICK DUNCAN TOLD ME HE
ASKED MICKEY TO DRIVE HIM TO GET A COPY. HE
DID AND WHEN HE HANDED THE CHIEF THE
MAGAZINE, THE CHIEF WEPT.

LESSONS LEARNED:

1. DON'T DUEL WITH A FEDERAL JUDGE
WHEN HE CHOOSES WEAPONS, BUT DON'T
HESITATE IF THE WEAPONS ARE RULES,
DISPUTES AND FACTS.
2. BE PREPARED AS IF YOU WERE TO RECITE
IN CLASS. PERHAPS THE JUDGE IS
WILLING TO LEARN.

3. HAVE THE COURAGE TO STATE AND DEFEND YOUR POSITION. BE SURE YOU HAVE A POSITION TO DEFEND.
4. KNOW THE LOCAL RULES, BUT, JUST AS IMPORTANT, KNOW AND UNDERSTAND THE JUDGE, AND RECOGNIZE THAT RESOLVING HUMAN PROBLEMS IS COMPLEX AND A VERY HUMAN ENTERPRISE.

IT IS FUN TO SPECULATE AS TO THE TURNING POINTS OF HISTORY. HAD TWO YOUNG FACULTY MEMBERS NOT BECOME FRIENDS, HAD THOMAS NOT BEATEN THE UNBEATABLE APOSTLE REED SMOOT, AND BEEN RE-ELECTED TWICE MORE, AND

HAD TILLMAN JOHNSON NOT FINALLY DECIDED TO RETIRE, AND HAD TRUMAN NOT BEATEN TOM DEWEY, THEN WILLIS W. RITTER WOULD HAVE ENDED A CAREER IN THE LAW AS A PAPER-CHASE LAW PROFESSOR AT THE UNIVERSITY OF UTAH LAW SCHOOL, AND THE PEOPLE OF THE PLACID STATE OF UTAH WOULD HAVE NOT HAD THE OPPORTUNITY TO OBSERVE, DECRY, APPLAUD AND WONDER ABOUT THE NEW U.S. DISTRICT JUDGE AND TO DO SO FOR A COLORFUL AND CHAOTIC TWENTY-NINE YEARS.

Application of Sullivan, 126 F. Supp. 564 (D.Utah 1954), *reversed sub nom. State of Utah v. Sullivan*, 227 F.2d 511 (10th Cir. 1955), *cert. denied sub nom. Braasch v. State of Utah*, 350 U.S. 973 (1956).

United States v. El Paso Natural Gas Co., Civil No. 143-57 (D. Utah decided Nov. 20, 1962) (unpublished disposition), *reversed and remanded*, 376 U.S. 651 (1964), *on remand, United States v. El Paso Natural Gas Co.*, 60 P.U.R.3d 9, 37 F.R.D. 330 (D.Utah 1965), *reversed and remanded with instructions, Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129 (1967).

United States v. Hatahley, 220 F.2d 666 (10th Cir. 1955), *reversed, Hatahley v. United States*, 351 U.S. 173 (1956), *on appeal after remand, United States v. Hatahley*, 257 F.2d 920, 79 A.L.R.2d 668 (10 Cir.), *cert. denied*, 358 U.S. 899 (1958), *further proceedings sub nom. United States v. Ritter*, 273 F.2d 30 (10th Cir. 1959), *cert. denied*, 362 U.S. 950 (1960).