

A photograph of a rocket launch over the ocean. The rocket is ascending vertically, leaving a thick, white plume of smoke and fire. In the background, there is a small, forested island with a sandy beach, surrounded by dark blue water. The overall scene is dynamic and captures a significant moment in space exploration.

Rockets, Riots, Politics & Practice

**A Dash of the Army,
A Dose of Politics &
A Life in the Law**

**by
William J. Bowe**

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A Dash of the Army, A Dose of Politics, and a Life in the Law

WILLIAM J. BOWE

Rockets, Riots, Politics and Practice

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Preface

This series of recollections came about because when the pandemic hit in early 2020, I feared my increased irritability during the ensuing lockdown could be a telltale sign I was descending rapidly into curmudgeonhood. Thinking this would be unfair to the dogs, not to mention my wife Cathy, I decided I needed a project to keep my head straight.

My answer was to learn how to build a website. I thought if I could figure out how to do this, I could upload lots of family genealogy information. My mother had done extensive research into both sides of her family in the 1960s and I had added to that effort over time. I thought that with any luck, perhaps I could entertain myself and at the same time create a useful bit of family history for my both near and distant relatives.

With good advice and help from family members, and a tutor who knew more about building websites than I did, within a year I had completed my first iteration of the website at www.wbowe.com. The effort had largely exhausted all the digital family content I had, but with the pandemic still crawling to a finish, the question became what to do next.

My quandary caused me to review the personal papers I had saved over my working life. What I hadn't thrown out or digitized before, I now scanned. Sorting through all this accumulated flotsam and jetsam reminded me of some of the fascinating individuals I'd met and events I had witnessed over the years. Given the extra time provided by the continuous stream of virus variants, I began writing down some of these memories. It turned out to be great fun bringing these people and events to life again in my mind. Fun for me anyway.

You might be in a different category. The great crime novelist Elmore Leonard's once summed up key precepts any writer should keep in mind. In his Rules for Writers, I was always impressed with his 10th maxim, "Try to leave out the part that readers tend to skip."

While it was interesting and enjoyable for me to look back at the people and times I was reminded of, you should proceed with caution. If you find yourself getting bored at any point, follow my newly established numero uno Rule for Readers, "If you're feeling bogged down while reading something tedious, skip over it."

William J. Bowe
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Northbrook, Illinois
January 21, 2023

Introduction

The month after Dr. Martin Luther King, Jr.'s assassination in 1968, I enlisted in the Army's Intelligence Branch for three years. President Lyndon Johnson had just sent the Regular Army simultaneously to Baltimore, Washington, D.C., and Chicago to help control the ensuing violence and riots that had overwhelmed police and National Guard. This was a very strange and violent time. We've been lucky the country has largely been free of this kind of large-scale mayhem and destruction until the recent looting and riots we saw during the pandemic in the summer of 2020.

After eight weeks Basic Training and 16 weeks Advanced Individual Training at its Intelligence Branch school in 1968, the Army put me in the middle of the race-related and antiwar violence of that earlier time. I was assigned to the Pentagon and almost immediately found myself tasked with providing estimates of civil disturbances likely to involve the Army.

Having learned something about the intelligence aspects of controlling civil disturbances when I was in the Army, I was asked to testify before Congress in 1974 on the subject of military surveillance. My testimony was before the U.S. Senate Judiciary Committee. [Testimony on Military Surveillance](#) In the course of preparing for the hearings on military surveillance, I met privately with Committee Chair Senator Sam Ervin (D-NC) and had a chance to discuss the issues with him in some depth. [Meeting with Sen. Ervin](#) For a person of such gravitas, he was as personable and down to earth as they come. Just the year before, I had been transfixed like most of the country watching Ervin chair the most important hearings of his career, the Senate Watergate hearings. His cross examination of John Dean and the other Watergate witnesses helped bring about President Nixon's resignation.

These reflections on my Army tour of duty between 1968 and 1971 not only touch on the broad civil disruption afoot at the time. They also provide a snapshot of what I saw of some of the era's advanced military technology at isolated atolls in the Pacific Ocean. The closest I got to Vietnam during my service was when I was asked to undertake a counterespionage and counter-sabotage threat assessment that took me to Johnston and Kwajalein Atolls in the Pacific.

If the Atomic Age can be said to have begun with the dropping of the atomic bomb on Hiroshima in 1945, the Space Age can be said to have begun with the Soviet Union launching the first Sputnik satellite in 1957. Sputnik was akin to a beeping medicine ball in that it was round, about two feet across, and chirped proof of its presence back to earth. Nobody was then thinking of shooting it down in 1957. By 1962, however, Nike-Zeus anti-ballistic missile rockets had already been tested on Kwajalein Atoll to see if they could perform an anti-satellite mission. The perceived threat was the U.S.S.R. orbiting satellites with nuclear weapons aboard. The Nike-Zeus rockets of the day literally fell short in this task. They couldn't fly high enough.

By 1969, when I stopped at Johnston Atoll in the Pacific on my way to Kwajalein, I saw recently modified Thor missiles that could kill satellites. The Thor-based anti-satellite system of the Defense Department's secret Project 437 was mothballed the year after my visit. Beyond budget constraints, tests showed the nuclear detonations it would use to eliminate hostile satellites would also destroy useful satellites. Among Program 437's unintended test victims was Telstar, the world's first telecommunications satellite. I had a chance to talk about some of these [Ballistic Missile and Satellite Defense](#) issues at [The Cliff Dwellers](#) right before the pandemic lockdown in early 2020.

Though I didn't appreciate it at the time, the development of offensive and defensive military satellite systems of the sort I saw and thought about in 1969 in a way marked the dawn of space emerging as a distinct and novel war theater. The evolution of warfare to a non-terrestrial platform has taken a while since then and was not formally recognized until 2019. That was the year the U.S. Space Force was created and given the primary missions of defending our cities from a space-based attack and protecting our military and navigation satellites from being attacked from space or earth.

In a postscript to this account of my Army days, when I was General Counsel of United Press International in 1985, I had the unlikely opportunity of having [Lunch with Gen. William Westmoreland \(USA Ret.\)](#), the then retired commander of U.S. troops in Vietnam and former Chief of Staff of the Army during my time in the Pentagon. He had just settled his \$120 million libel lawsuit against CBS. At the time, this was regarded as his throwing in the towel on a losing proposition. Our conversation proved Winston Churchill's adage right on target, "Generals always fight the last war."

Concurrently with my law practice in the 1970s, I had done volunteer work for Bill Singer and Dick Simpson, both liberal, non-machine aldermen of the 43rd and 44th lakefront wards on Chicago's north side. Bill Singer and I practiced law in the same law firms and we had overlapped briefly as brothers-in-law when we were married to sisters. I served as General Counsel and Research Director in Singer's campaign against Chicago Mayor Richard J. Daley in the Democratic primary election in 1975 and I later drafted ordinances for Simpson. I also carried over as Secretary of the 43rd Ward Aldermanic Office when Singer's successor Marty Oberman followed him into office. I had also taken an unsuccessful stab at being elected Democratic Committeeman of the 43rd Ward in Chicago in 1979.

During this period, I was also occasionally writing articles for local Chicago publications on business and political topics. This latter role threw me unexpectedly into the middle of a media-political storm that erupted in 1980 when Mayor Jane Byrne blew her stack and banned the *Chicago Tribune* from City Hall. The story was both bizarre and telling. It was bizarre because the whole affair was completely wacky and it was telling because it highlighted some of the Mayor's underlying flaws. These were the flaws that helped turn her into a one-term

Mayor. The tale I recall here was just one of the events that helped set the stage for the 1983 arrival of Chicago's first Black mayor, Harold Washington.

After several years in my first stint as the head of a company's law department, in the early 1980s I briefly returned to a law firm practice before being offered the job of Assistant General Counsel at the newswire service, United Press International. UPI had recently moved its headquarters to Brentwood, Tennessee, a Nashville suburb and my wife Cathy, son Andy, and I moved to Brentwood shortly thereafter.

UPI had competed with the larger Associated Press newspaper syndicate throughout the 20th century. When I joined it as Assistant General Counsel in 1984, it had recently been purchased by two young Nashville entrepreneurs. My engagement with UPI lasted only two years. In that period, I had a front row seat watching the company slide into bankruptcy. It was just emerging from bankruptcy when I left. In the course of UPI's denouement, I received a battlefield promotion from Assistant General Counsel to General Counsel.

The story of UPI in this period provides a cautionary lesson you can take to the bank. If a company is struggling financially, it's more likely to go down the tubes faster and for sure if it's owned and controlled by self-centered, inexperienced managers who are in way over their heads, and more full of themselves than full of cash.

Given the uncertainty facing UPI as it emerged from bankruptcy in 1985, it was fortuitous that I was approached by a headhunter looking for a new General Counsel for reference publisher Encyclopaedia Britannica back in Chicago. What followed was a 28-year run at Britannica that gave me a chance to move beyond a strictly legal role. This included serving as President of its subsidiary Encyclopaedia Britannica Educational Corporation and for a short period heading up the country's premier dictionary publisher, Merriam- Webster.

My time with EB also gave me a bird's-eye view of the revolution in intellectual property law wrought by the arrival of the internet in the 1990s. While I had long been conversant with trade secret, trademark, and copyright law adapting to the internet revolution, the emerging digital era gave me added expertise in software patents.

Beginning in the mid-1980s, EB had begun developing Compton's Interactive Encyclopedia, later Compton's Multimedia Encyclopedia, a digital version of its reference work for younger readers. For a multi-volume print encyclopedia publisher born in Edinburgh, Scotland in 1768, it seems counterintuitive to imagine that it would be on the cutting edge of a breakthrough invention in the computer age.

Yet, beginning with the Comptons Multimedia Encyclopedia, EB in this period made a massive research and development investment that resulted in a revolutionary advance in the evolution of the human/machine interface.

For decades, Doug Engelbart, Alan Kay, Ted Nelson, and many others had struggled to create a simple interface that would permit humans to easily interact with the computers of the day. Their pioneering efforts were constrained because the computer hardware of the times wasn't sufficiently advanced. The mouse and graphical user interface had been invented and content like text, graphics, video, and sound could all be digitized by this time. However, no one had yet cracked the nut of how to make substantive content in all these formats easily accessible on a computer in a unified and coherent form that was searchable.

I first filed a patent application for Britannica's multimedia search system invention in 1989. After a thorough investigation of its foundational uniqueness, the patent was duly issued by the U.S. Patent and Trademark Office in 1993. Because of its landmark nature, the publicity attendant to its issuance quickly created a political football for President Bill Clinton's administration. Representatives of the high-tech behemoths of the day didn't take kindly to an upstart of the 18th century horning in on the digital revenues they saw in the offing. Their representatives promptly met with Vice President Al Gore and Bruce Lehman, then Commissioner of Patents and Trademarks. They urged a fast revocation of the patent.

Bowing to the pressure, the Commissioner promptly ordered a rare patent reexamination. The procedure has been likened to giving the subordinate reexamination officer if not a direct order, a "license to revoke." In due course, and not surprisingly, the patent was then revoked. EB brought suit in the first of many subsequent court battles.

After a thorough and independent review of the patent's claims, the Federal District Court in the District of Columbia, on the recommendation of a Special Master, ordered the Patent Office to reconsider its revocation of the patent. The Patent Office duly reissued the patent in 2002, nine years after its original issuance. What continued on from there was surely was one of the great patent litigation sagas of our era. The end came nearly a quarter century after the original filing of the patent application when a different court finally ruled that the patent was invalid. The court concluded in a legal malpractice case that the patent shouldn't have been issued in the first place. Move along folks, not really an invention, old hat, been around for thousands of years, nothing to see here.

Oh well, such are the vagaries of patent law. What can't be denied is that this advance made by Britannica took computers beyond their limited presence in government and business and helped bring them into the home and everywhere else. We would not have arrived so quickly at today's level of immersion in the digital world had not the 1989 Britannica invention first led the way to giving even very young children the ability to easily search and navigate through content rich in text, pictures, video, and sound elements.

Back in 1971, decompressing from three years in the Army, I took a brief stab at trying to write about the unusual events I'd been involved in in my three Army years. If I'd ever finished such an account, it might have been titled, "A Spook Speaks." Instead, I filled the hiatus I had plugged into my schedule for this writing effort by travelling

to Europe and the Middle East. My vacation done, I returned to Chicago to restart my life as a lawyer.

I was 28 and still single when I emerged from the Army. Though I always had in mind the goal of marriage and a family, I was determined to remain single at that point. I didn't feel financially established enough to think of marriage and a family, and I was still content dating. At this time I was not thinking about any long-term commitment to anyone.

By 1974, my attitude on marriage had slowly come around and I had married Judy Arndt, the sister-in-law of my law firm partner Bill Singer. The marriage didn't last long, and around the same time, the two sisters had divorced the two Bills and all of us headed off in different directions.

With my personal life back on hold for a while, I threw myself into local politics while continuing to develop my professional skills as a corporate lawyer representing businesses.

While not so lucky in the way my personal life evolved, I got off to a good start in the law at Roan & Grossman law firm in the early 1970s. I found I enjoyed my clients and practicing law, and my clients seemed to appreciate having me as their lawyer. So as the years unfolded, I was growing in confidence professionally and maturing personally as well. I remarried in 1979 and Cathy Vanselow and I began family life sooner than expected with the premature birth of our son Andy the next year. I shifted course away from the private practice of law when I had an opportunity to become General Counsel of a Chicago-based collectibles company with substantial business overseas. This work gave me an exposure to international law and supplemented my development as a corporate lawyer with a specialty in intellectual property.

The company's main business at the time was selling so-called limited edition collector's plates. They might have been mistaken for high-end dinnerware, but for the fact that the clay plate blanks had been fired in a kiln with decorative artwork on them. Most of them usually weren't dishwasher safe and you couldn't eat food on collector's plates due to the embedded toxicity of their paints and dyes.

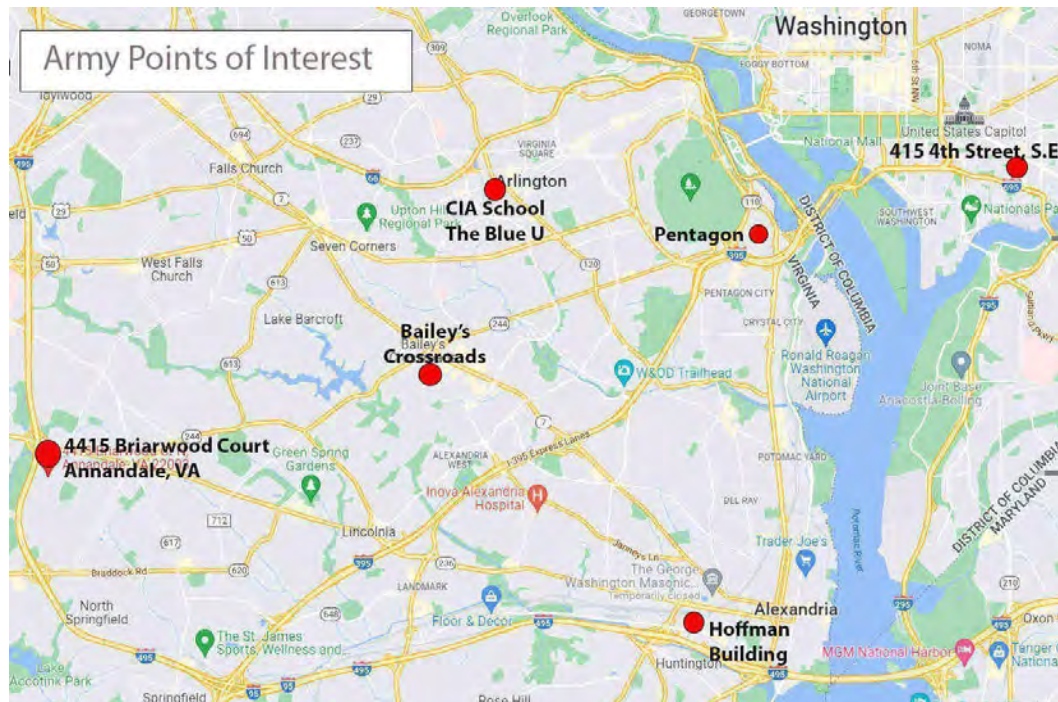
As you might imagine, the impetus in my taking the job did not have to do with the excitement and thrill of selling plates. For me, it had more to do with the fact that the business was owned by Rod MacArthur (J. Roderick MacArthur), the son of the recently deceased billionaire, John D. MacArthur. At his death, John D. MacArthur was reportedly the second richest American and he had left the bulk of his fortune not to his son Rod and daughter Virginia, but to the John D. and Catherine T. MacArthur Foundation. The MacArthur Foundation immediately became one of the nation's largest foundations.

Rod needed a lawyer for his growing collectibles business, and he also needed a lawyer to provide legal help and guidance as he carried out his increasingly acrimonious duties as a

director of the Foundation. Before his irritation with his fellow Foundation directors devolved into suing them, Rod creatively took the lead in developing the MacArthur Foundation's Fellows Program, popularly known as the "Genius" grants. Though on occasion Rod could be quirky and cantankerous, I got along fine with him and appreciated his offer to provide mail order expertise when in 1979 I decided to run against a Daley machine-backed candidate for 43rd Ward Democratic Committeeman. I left Rod MacArthur's company in the early 1980s when I headed again into uncharted waters as UPI's in-house counsel.

Rockets and Riots - Army Days (1968-1971)

Map of Washington, D.C. and Northern Virginia



After Army Intelligence School training at Fort Holabird in Baltimore, I was assigned to the 902nd Military Intelligence Group. Its headquarters occupied office space above stores in a Bailey's Crossroads, Virginia strip mall.

My Counterintelligence Analysis Division work in the 902nd was at first in converted warehouse space nearby in Bailey's Crossroads. Later I had office spaces in the Office of the Assistant Chief of Staff of the Pentagon, the newly built duplex war room called the Army Operations Center, and the Hoffman Building in Alexandria, Virginia. For several weeks in 1969, I attended a CIA school in a building in Arlington, Virginia then known as The Blue U.

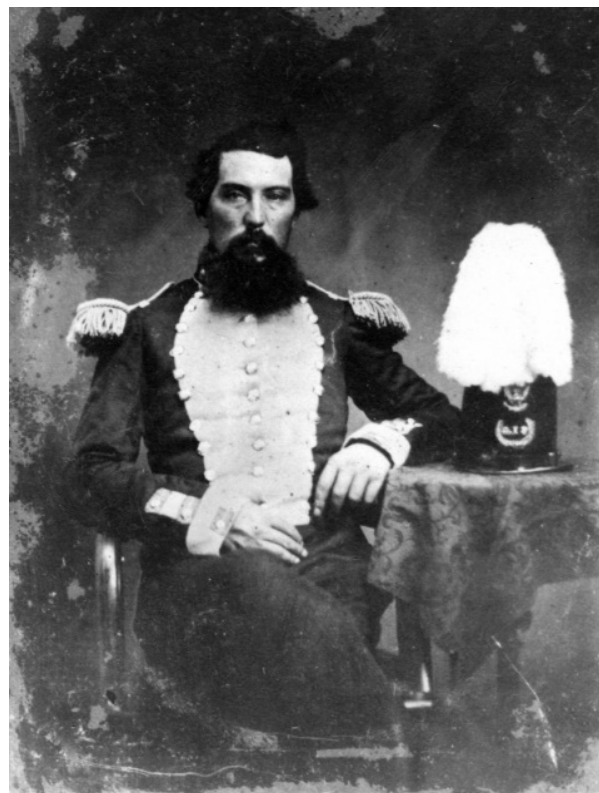
My living arrangements were first in an Annandale, Virginia apartment with two 902nd roommates, and then on my own in a Capitol Hill apartment in the District of Columbia. Throughout, I was technically assigned to Ft. Meyer, just to the north of the Pentagon.

Family in the Military

My enlisting in the Army during the Vietnam War years was in part influenced by my knowledge of other family members who had served in the military.

Both sides of my family had members in the military. My mother's grandfather, Richard Lawrence Gwinn, Sr. lived in Covington, Georgia and served in the Confederate Army during the Civil War. Among my mother's family memorabilia was a picture of him decked out in his uniformed regalia. [Family Army Pictures](#)

In my immediate family, my father, William John Bowe, Sr., enlisted as a part time soldier in the Illinois National Guard shortly after graduating from Loyola Law School in Chicago in 1915. He trained at Camp Grant, near Rockford, Illinois, before the U.S. entered World War I. In time he became a supply sergeant in the Quartermaster Corps . When President Woodrow Wilson called the National Guard into federal service to fight in World War I, a massive influx of draftees came into Camp Grant for training. The Camp exploded in size



**Richard L. Gwinn, Sr.
(4th Georgia Volunteers)**

and in short order my father went to France with the other doughboys. Not long after his arrival in France, while trying to board a moving troop train, he slipped and his left foot was run over by the train. The good news was that he never made it to the front, but the bad news was that he did make it to French hospitals in Blois and Orleans. The amputation of part of his foot required a long convalescence, and the war was over before he could get home.

The summer of 1967, right after my law school graduation, the young French hospital nurse who had cared for my father in Orleans, came to Chicago for a visit. She missed seeing her former patient, as my father had died in 1965. Nonetheless, my mother, my brother [Richard Bowe](#) and I had a pleasant moment as Mme. Marie Loisley reminisced about that time in the Great War.



**French nurse Marie Loisley
(in purple)**

inside the front hall closet. Perhaps it was because he was no longer out and about as much. But later in the 1950s, as I was going through high school, it certainly reflected the inexorable progress of his Alzheimer's disease and its accompanying dementia.

As a young child in the 1940s, I of course noticed his stump and the fact he was missing his toes on one foot. When I got older, I asked him about it. He answered in a matter-of-fact way and showed me the lead insert he wore in one of his high-topped laced shoes and explained its purpose. He also let me play with his cane without complaint.

In the early 1950s, as my father entered his sixties, his cane had fallen into disuse and largely remained in an umbrella stand



John D. Casey

When World War II came along, my Uncle [John Dominic](#)



Richard G. Bowe 1956

[Casey](#), recently married to my mother's sister [Martha Gwinn Casey](#), also served in the Army. As a child I remember visiting my Uncle John when he was recuperating from a broken leg at a military hospital in Chicago at 51st Street and the Lake. After the War, the building served as the 5th Army's Headquarters before the command was moved in 1963 to Ft. Sheridan just north of the city.

In the mid-1950s, my older brother Dick was in the Army's Reserve Officers Training Corps (R.O.T.C.) in high school and, like his father before him, later enlisted in the Illinois National Guard.

While my father had caught World War I, Dick was luckier. He was too late for the Korean War and too early for the Vietnam War. Between Dick and my father, it appeared to me that wars of one sort or another tended to engage American men each generation.

However, as I turned 18 and headed off to college in 1960, I thought it unlikely that I would have to follow in either Dick or my father's military footsteps.



**Bill Bowe, Sr. in World War I
Recuperating from foot amputation in a French hospital in Orleans**



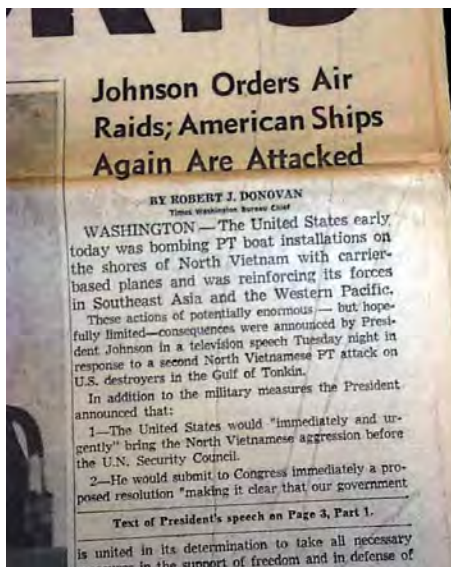
Bill Bowe, Sr. says goodbye to nurse Marie Loisley



Holding the reins in Winchester, Hampshire, England on his way home 1918

The Vietnam War Heats Up

As I started college in the fall of 1960, I just wasn't prescient enough to see that, like my father and brother, I also would indeed enter the military. While the Vietnam War ended with a bang with the fall of Saigon in April 1975 it had started with a whimper in spring of 1961, just as I was finishing my freshman year at Yale. That was when President John Kennedy ordered 400 Green Beret Army soldiers to South Vietnam as "advisors."



Then, in August 1964, after my Yale graduation, but before starting law school at the University of Chicago, Congress passed the Gulf of Tonkin Resolution. This came in the wake of an apparent attack on the USS Maddox off Vietnam. It authorized the president to "take all necessary measures, including the use of armed force" against any aggressor in the Vietnam conflict. Shortly thereafter, in February 1965, President Lyndon Johnson ordered the bombing of North Vietnam and the U.S. was in the War big time. I was just halfway through my first year of law school.

After World War II, the draft structure to meet the country's military needs had been left in place. Thus, it was ready to be employed in my era when volunteers no longer met the needs of the services. And indeed, the draft was increasingly relied upon as the U.S. deepened its involvement in Vietnam. But during the Vietnam War years between 1964 and

1973, the U.S. military drafted only 2.2 million men from a large pool of 27 million. With less than 10% of those eligible for the draft being called up, and the lottery mechanism to choose them not put in place until 1969, the question of who got drafted was left up to local draft boards and their use of an elaborate system of draft deferment categories.

Being in graduate school at the time automatically removed the risk I would be taken into the military involuntarily prior to my graduation. After graduation, I'd be single and only 25. Unless I married and had children before I reached the safe harbor of 26, there was a real possibility that I could be drafted.

What to do? I had no desire to marry at that time, and a similar desire not to be killed in Vietnam War. This wasn't an entirely irrational fear, as The Vietnam Veterans Memorial in Washington, D.C., lists more than 58,300 names of those killed or missing in action. Though my personal odds of being cut down might have been small, the threat did loom large in my thinking. The off chance of catching an errant bullet in an inhospitable place far from home was simply not on my young man's to do list.

Vietnam Draft Statistics

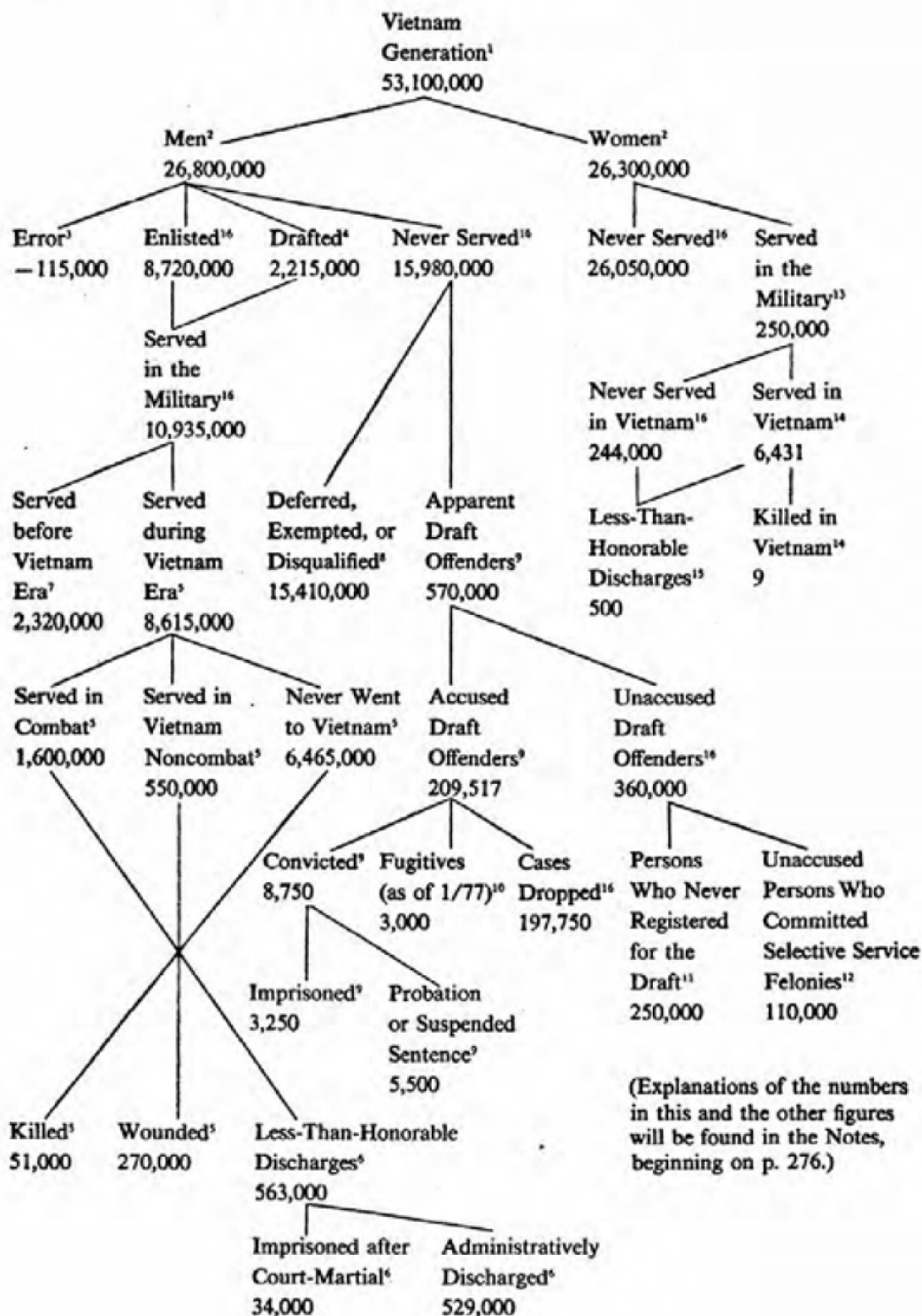
A comprehensive analysis of the draft's impact during the Vietnam War can be found in the 1978 book, *Chance and Circumstance*, by Lawrence M. Baskir and William A. Strauss.

The study notes that in the pre-lottery, pre-volunteer army years, the social inequities of the draft were stark. At the end of World War II, Blacks constituted 12% of all combat troops. This had grown to 31% by the start of the Vietnam War. The book notes that due to a concerted effort by the Defense Department to reduce the minorities' share of the fighting, this figure was reduced for all the services to under 9% by 1970.

I had met with one of the book's authors, Larry Baskir, in 1974, when I was asked to testify in the Hearings on Military Surveillance, held by the U.S. Senate Judiciary Committee's Subcommittee on Constitutional Rights. At the time, Baskir was the Committee's General Counsel under its Chairman, Sen. Sam Ervin of North Carolina. Baskir later served as Chief Executive Officer and General Counsel of President Gerald Ford's Presidential Clemency Board, set up to help deal with the question of what to do with the many young Americans who had broken the law by evading the military draft.

The analysis in Figure 1 in Baskir's book details the effect of the draft on those who came of draft age in that period.

FIGURE 1: VIETNAM GENERATION



The Decision to Enlist

While I had no desire to be drafted, I was not adverse to military service. Both my father and brother had entered the military as volunteers. They both seemed proud to have stepped up in the service of their country. I also thought if I wasn't killed, I might enjoy the military or at least gain valuable experience of some sort. Having watched my uncle Augustine Bowe enter public life as a judge late in life and seem to enjoy it, I also thought Army service such as my father's or Dick's couldn't hurt if I later wanted to pursue that path in some fashion. In my third year of law school, I had unsuccessfully applied for a direct commission as an Army officer. As I had waited for that process to run its course, the Army Reserve and National Guard openings for enlisted men grew far and few between. These half-in, half-out alternatives were not remotely appealing choices for me.

With the draft and these military service options off the table for one reason or another, I graduated from law school in June 1967 at the age of 25 and started working at a downtown Chicago law firm. Among other clients, the firm represented the Northwestern Railroad and various gas and electric utilities. The mid-sized Ross, Hardies, O'Keefe, Babcock, McDugald & Parsons had its offices in a National Register of Historic Places classic. The building was architect Daniel Burnham's 21-story, 1911 Beaux-Arts building at 122 South Michigan Avenue, just across the street from the Art Institute of Chicago.

During law school I had bypassed living in Hyde Park near the University of Chicago to help my mother care for my father in his declining health. He had died halfway through my time in law school, so after graduation I left my then widowed mother and moved into the Hyde Park apartment of my college and law school friend Bob Nichols. I traveled to my new lawyering job on the Illinois Central commuter train from the 56th Street Station in Hyde Park to the Van Buren Street Station by the Loop. That left me a short walk to the Ross, Hardies office.

The main military option that still seemed open to me, other than the draft, was to enlist in the military in a way that might improve my odds of living long enough to get discharged. If I didn't enlist in the military in the ensuing year, and got drafted as a result, it would be most likely mean service in the Army's infantry and I'd be out of the military in only two years. A big negative of the draft was that I be out even earlier if I was killed in Vietnam.

Of course, why didn't I think of it sooner! Forget joining the military the way my father and Dick did. Instead of the Army or National Guard, join the Navy or Air Force. Or better yet, join the Army, Navy, or Air Force as a lawyer. I was pretty sure those folks weren't getting killed much in Vietnam. With a law degree and admission to the Illinois bar in hand, I could enter the Judge Advocate General branches as an officer and gain directly pertinent experience for my chosen profession.

The unappealing part of this choice for me was the time commitment. With demand high to stay out of the infantry, these slots typically required a minimum four-year commitment. The other problem I had with being a military lawyer was the great danger I saw of being bored. The possibility of being assigned to spend several years of my life defending or prosecuting AWOLs, handling damage claims brought about by tanks taking too wide a turn, or otherwise spending my time in mind-numbing tasks, was completely abhorrent to me. My solution to this quandary, six weeks before I turned 26, was to enlist for three years in the Army Intelligence Branch on May 13, 1968.

Fort Holabird and Intelligence Training

One of the first things I noticed once I had stepped out of civilian life was that I had stepped into a world of acronyms I never knew existed.

After two months of Basic Combat Training (BCT) at Fort Leonard Wood, in western Missouri, I was assigned to Fort Holabird in my mother's hometown of Baltimore, Maryland. There I did my Advanced Individual Training (AIT) at the United States Army Intelligence School (USAINTS). At Fort Holabird I would complete a 16-week course in my Military Occupational Specialty (MOS) and become an Army Counterintelligence Agent (97 Bravo).

At Fort Holabird I was taught the general difference between what an intelligence agent did and what a counterintelligence agent did. I learned the job of an intelligence agent is to find out an enemy's secrets, often through espionage. The job can also include disrupting an enemy through sabotage or psychological warfare. The job of a counterintelligence agent is to prevent an enemy from finding out your secrets, and to secure critical assets from attack or degradation. It's a spy, counterspy, sabotage, counter-sabotage kind of thing.

All of us at the Intelligence School knew that wherever the Army might have troops stationed around the world, the bulk of our graduating class of 97 Bravos would be headed to Vietnam, Germany, or South Korea. Most others would likely be assigned to one of the U.S. Army areas in what the Army called CONUS (Continental United States). Being assigned to duty in the U.S. usually meant spending most of your Army days doing what all counterintelligence agents coming out of USAINTS were trained to do. That meant conducting background investigations of Army personnel being considered for a security clearance. Since I had been investigated this way for my enlistment into the Intelligence Branch, if I ended up assigned to do this kind of work, I feared I would have a safe, but terribly boring, circular trip in the Army.

Towards the end of my time at Intelligence School, a major assigned to the Office of the Assistant Chief of Staff for Intelligence at the Pentagon addressed our class. His job was to describe

the organization of the Army's Intelligence Branch worldwide and the nature of available counterintelligence assignments.

When the major wound up his tour d'horizon of the Intelligence Branch realm, he closed by saying that if anyone needed to know anything further, he'd be happy to talk to them after he returned to his Pentagon office. I'm sure he thought nobody would ever actually pick up telephone and try to take him up on his offer. However, I was so unnerved by the prospect of terminal boredom for the better part of the next three years that several days later I called his office from a Fort Holabird pay phone. The phone was answered by a sergeant in the major's office. I explained that I was a student soon to graduate from the Intelligence School and that I was taking up the major's offer to personally discuss my assignment options. I was no doubt the first student that ever tried to take the major up on his offer, because the sergeant was clearly taken aback. However, he couldn't very well tell me the major had made a mistake and now couldn't be bothered seeing me.

The upshot was that when I hung up the phone, I thought that I had secured an appointment with the major in the Office of the Assistant Chief of Staff for Intelligence the next week. I also thought it was going to be easy getting there, as the major's Pentagon office was relatively convenient and only an hour down the turnpike from Baltimore. However, I still needed permission from my Fort Holabird superiors to absent myself from class and leave the fort. Up the chain of command I went with my request for a temporary leave. It turned out to be one hurdle after another. There were probably four or more levels that had to clear this and it went all the way up to the fort commander himself.

It was a struggle at each level. Normally, they all would have instinctively squashed my request just because it was unusual, and hence out of bounds. Didn't I know there was a war on? However, every approval step ultimately caved. I had been careful to note the Pentagon major's promise in my request for a temporary leave of absence, so, like the sergeant, they all grudgingly acceded to the request rather than buck their own higher ups.

Needless to say, with my fate in the immediate years ahead completely up in the air, I allowed plenty of time to drive my second-hand 1964 Volkswagen bug down the Baltimore-Washington turnpike to the Pentagon. The last thing I wanted to do was be late for my appointment. Unfortunately, I hadn't given thought to how and where I might park when I got there. There is no street parking at the Pentagon, which is encircled by intersecting and confusing freeways. To accommodate members of the 26,000 Pentagon workforce that drive their cars to work, the building is surrounded by massive parking lots on several of its five sides. As I quickly discovered, almost all of this parking was clearly marked as reserved for those with parking permits, and it took a long time for me to finally find that there were only two or so aisles reserved for visitors. To make things worse, there was a long queue of cars in line waiting for the occasional space to open up. With the clock ticking and eating away at my time cushion, I got in line and began to inch forward.

It seemed like forever, but I finally got to the head of the line of cars waiting their turn to pull into the visitors' aisle. As another car finally left and I began turning into the aisle to park in its space, a car driving by in the opposite direction on the lot's perimeter rudely swung in front of me and attempted to jump the line. As I rolled down my window to yell at the selfishly mean, thoughtless twit, I recognized the driver. It was my good friend from graduate school days at the University of Chicago, [Jan Grayson](#). My anger quickly dissipated as we both pondered the oddness of our meeting. He told me he was in the Army Reserves in a biological warfare unit that had a meeting at the Pentagon. Under the circumstances, I decided to forgive him when I understood he knew even less than I did about the parking challenges at the Pentagon. I took him at his word when he promised to never cut me off in the visitors' parking lot again. Further proof of my charitable nature came when I asked him years later to be my son Pat's godfather.

When I finally got inside the Pentagon for my meeting, the sergeant said something had come up and the major was tied up. He told me he would be meeting with me in his stead. My argument to the sergeant was simple. I told him I was older than almost all of the Intelligence School trainees and had college, law school and a year of private law practice under my belt. I said it might benefit both me and the Army if there was an assignment for me that could make use of this specialized training. He pulled my class roster tacked to a bulletin board behind him and found my name on the list. Then he gave me the bad news. He said all the assignments were pretty much computer driven and there was really no way my ultimate assignment could be predicted at that point. He politely thanked me for driving down to chat and told me to drive safely on my return to Fort Holabird.

While I was disappointed that I had been left still swimming in a sea of uncertainty, I did have the satisfaction of having at least taken a shot at influencing the nature of my next two and a half years in the Army.

[Assignment to the 902nd Military Intelligence Group](#)

Before long assignment day arrived. Next to my name on the class roster was "902nd MI Group." All I could find out about the 902nd was that it was an organization attached to the Office of the Assistant Chief of Staff for Intelligence of the Army and was located at Baily's Crossroads in Virginia, just west of the Pentagon. I found out it was also a stabilized tour. I then knew I would be working in the Washington, D.C. area until I left the Army and that I would wear civilian clothes to work each day. Being in mufti instead of a uniform was an unexpected perk.

Not long before graduation at USAINTS, I drove down to Baily's Crossroads to where I was told the 902nd's offices were. All I could find there was a small L-shaped suburban strip mall at a crossroads. I was certain I'd been given bum instructions either accidentally or on purpose as a ruse. After graduation I got a better address for the 902nd Headquarters where I

was to report. Strangely, it was the same L- shaped strip mall I'd been directed to earlier. This time I noticed there was a second story to the building on the mall's west side with unusual antennas on the roof.

I also noticed that there was one nondescript entrance on the lower level with a glass door, but no store behind it. Instead, there was a narrow staircase leading up to who knows what on the odd second story. I passed multiple surveillance cameras as I climbed the stairs. At the top I found a Mr. Parkinson. He was a Department of the Army civilian, and the administrative chief of the office. I was welcomed and told I would be technically attached to nearby Fort Meyer, assigned to the Counterintelligence Analysis Division of the 902nd, have an office elsewhere, and could rent an apartment with two other 902nd enlisted men anywhere we chose within commuting distance. This was my introduction to the world of Army spook.

CIAD in the CD of OACSI at DA in DC

In November 1968, the Counterintelligence Analysis Division (CIAD) of the Counterintelligence Division (CD) of the Office of the Assistant Chief of Staff for Intelligence (OACSI) of the Department of the Army (DA) in the District of Columbia (DC) was located in an obscure warehouse building off the beaten path of Baily's Crossroads. The adjacent space was taken up by a Northern Virginia Community College automotive repair training workshop. A traditional mission of the 902nd MI Group, of which CIAD was a part, was maintaining security at the Pentagon. This had taken on greater importance following the October 21, 1967, antiwar march on the Pentagon. The march had followed a rally on the Mall by the National Mobilization Committee to End the War in Vietnam. This large demonstration against the Vietnam War was immediately chronicled when Harper's Magazine published Norman Mailer's 25,000-word article "The Steps of the Pentagon" in March 1968. This piece later appeared as the epilog to Mailer's Pulitzer Prize winning antiwar book of New Journalism, "The Armies of the Night."

Apart from physical security issues, since the Pentagon was the center of the nation's military establishment, the building always housed a motherload of military secrets the Soviet Union and other bad actors of the day were always targeting. As a result, part of the 902nd was colloquially referred to as "the night crawlers."

This group was largely made up of enlisted men who spent their nights patrolling the Pentagon corridors and offices looking for security violations such as filing cabinets left unlocked. This was the kind of boring drudgery I mostly escaped at CIAD. However, I did get assigned once to one of these nightcrawler details. As soon as the day workers at the Pentagon departed, I began the rounds of a section of deserted offices looking for filing cabinets left unlocked and collecting the large special paper trash bags filled with all the classified documents people had thrown out during the day. That was the night I learned the way to the Pentagon's municipal grade furnace for daily classified document disposal.

The Counterintelligence Analysis Division, as the name suggests, didn't directly run any spies. It was instead in the business of digesting the production of pertinent intelligence gathered primarily by other Army and service intelligence units, the Defense Intelligence Agency, the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation. The goal was to sift through this production and cull out what pertained directly to performing the Army's designated counterintelligence missions.

A number of CIAD analysts were assigned to read and evaluate counterintelligence reports from Vietnam. During my time there, a young analyst with this job had the time to put two and two together in a way that wasn't possible for his time-pressed counterparts in Saigon. Though the details of his breakthrough were as usual kept under "need to know" wraps, the CIAD chief organized a small party to celebrate and honor my colleague. Thanks to his careful analysis of the counterintelligence traffic crossing his desk, he had pretty much single-handedly caused a North Vietnamese spy ring in Saigon to be rolled up.

Some parts of the 902nd's duties, like Pentagon security, never changed much. But race riots, which had racked the country in 1919 and 1943, were recently back on the Army's agenda. In the summer of 1967, right before the march on the Pentagon, Detroit had been the scene of a race riot that had grown beyond the control of local police and the Michigan National Guard. The Regular Army had been called in by the Michigan Governor and the President to help quell the violence.

After the Detroit riot and the march on the Pentagon, the recent takeaway for the Army was that it needed to be much better prepared for a continuing period of civil and racial unrest.

[The Vance Report](#)

Following the Detroit riot, former Secretary of the Army Cyrus Vance (then serving as Special Assistant to the Secretary of Defense Concerning the Detroit Riots), prepared a study to reassess the Army's preparedness for this new role.

The Vance Report had concluded that the use of the Army to help control antiwar demonstrations and racial disturbances wasn't an isolated, one-off mission, and the requirement wasn't going away any time soon.

An abstract of the Report's lessons learned reads:

Based on the experiences in Detroit, where rioting and lawlessness were intense, it appears that rumors are rampant and tend to grow as exhaustion sets in at the time of rioting. Thus, authoritative sources of information must be identified quickly and maintained. Regular formal contact with the press should be augmented by frequent background briefings for community leaders. To be

able to make sound decisions, particularly in the initial phases of riots, a method of identifying the volume of riot- connected activity, the trends in such activity, the critical areas, and the deviations from normal patterns must be established. Because the Detroit disorders developed a typical pattern (violence rising then falling off), it is important to assemble and analyze data with respect to activity patterns. Fatigue factors need more analysis, and the qualifications and performance of all Army and Air National Guard should be reviewed to ensure that officers are qualified (National Guard troops in Detroit were below par in appearance, behavior, and discipline, at least initially). The guard should recruit more blacks (most of the Detroit rioters were black), and cooperation among the military, the police, and firefighting personnel needs to be enhanced. Instructions regarding rules of engagement and degree of force during civil disturbances require clarification and change to provide more latitude and flexibility. Illumination must be provided for all areas in which rioting is occurring, and the use of tear gas should be considered. Coordination at the Federal level to handle riots is emphasized. Appendixes include a chronology of major riots, memos, a Detroit police incident summary, police maps of Detroit, and related material.

Secretary Vance's Report came out in early 1968, just before race riots had exploded in Black neighborhoods in many cities after the assassination of Dr. Martin Luther King, Jr. on April 4. Many states called up their National Guard troops to join police in bringing the rioting and looting under control. Simultaneously Regular Army troops had to be flown or trucked into Baltimore, Washington, D.C., and Chicago from various Army bases. In all cases, they had to back up overwhelmed police and National Guard security forces. In the middle of the Vietnam War, this was not a mission for which the Army was neither structured or prepared for.

I was familiar with the problem of the Army, since right before I enlisted, I had watched Chicago's west side erupt in flames from my Loop office window, and later directly witnessed some of the rioting firsthand with my brother Dick, who worked for the City's Human Relations Commission. I also had monitored bail and other court proceedings involving rioters at the Criminal Courts building at 26th Street and California Avenue.

During this period, Regular Army troops were bivouacked near the Museum of Science and Industry in Chicago's Jackson Park. The next month I was in the Army, and six months after that I was again engaged with civil disturbances. In this interim during the summer of 1968, Chicago remained in turmoil.

Though Regular Army troops had left and returned to their barracks, violent anti-war demonstrations continued to wreak havoc on the city. Rampaging groups of demonstrators before the Democratic National Convention that August brought out the Chicago police in full force as well as the Illinois National Guard.

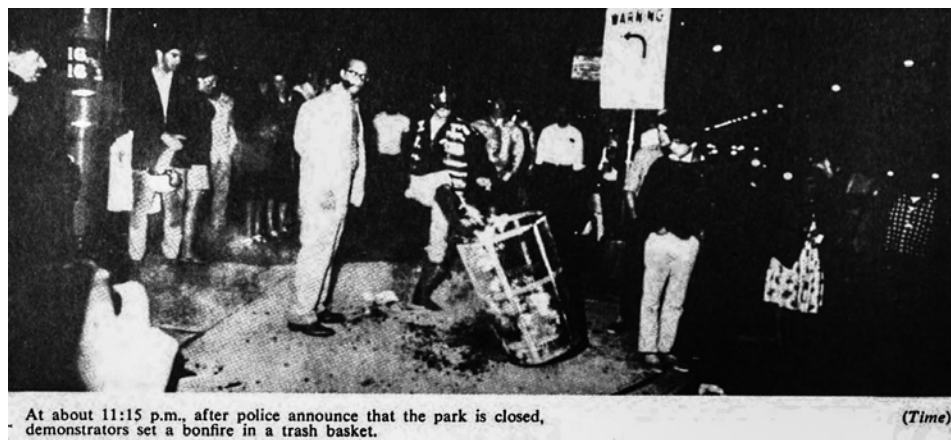
My brother Dick in his work remained in the middle of this activity. His [Report to the Director of the Chicago Human Relations Commission](#) provided a detailed account of the Students for a Democratic Society (SDS) “Days of Rage” he witnessed between August 24 and 28, 1968. The Report gives a street level view of the disturbances in both Lincoln and Grant Parks. The final confrontation between the demonstrators and police and National Guard in front of the Hilton Hotel took place during the Democratic Convention’s proceedings and provided a violent backdrop to its nomination of Hubert Humphrey to run against Richard Nixon that fall.

I recently discussed my brother’s [Report Regarding the Students for a Democratic Society’s Days of Rage](#) in some detail in an interview with my cousin Tony Bowe.

From 1965 to 1968, there had been race-related riots in the Watts neighborhood of Los Angeles, Detroit, Newark, Baltimore, Washington, and Chicago. Now, with the nationally televised violence directly in the political realm at the Democratic Convention, President Lyndon Johnson created the National Commission on the Causes and Prevention of Violence. The Commission had delegated to Daniel Walker, later Illinois governor, the job of undertaking a study of the violence surrounding the Convention.

The *Walker Report* (formally *Rights in Conflict: The Violent Confrontation of Demonstrators and Police in the Parks and Streets of Chicago During the Week of the Democratic National Convention of 1968*), found there had been a “police riot” in addition to violence on the part of anti-war demonstrators.

On page 205 of the *Walker Report*, you will find a picture of my brother Dick Bowe about to remove a burning trash basket blocking traffic in the middle of LaSalle Drive at the south end of Lincoln Park. If not for Dick’s ever-present pipe sticking out of his mouth, I might not have recognized him or taken him to be one of the demonstrators, rather than an observer from Chicago’s Commission on Human Relations.



Richard Bowe , Days of Rage, Chicago, IL 1968

Department of Civil Disturbance Planning and Operations

One of Vance's recommendations after Detroit was to create a joint service command unit to oversee the mission of controlling civil disturbances when the Army was called to deploy troops by a Governor and the President. Thus was born the Department of Defense's Department of Civil Disturbance Planning and Operations. DCDPO had an Army Lieutenant General in command, with an Air Force Major General as his Deputy. Immediately prior to my arriving at CIAD, the then classified [Department of the Army, Civil Disturbance Plan \(Code Name- Garden Plot\)](#), was published on September 10, 1968.

When I began my work at CIAD in November 1968, I was given the task of reviewing domestic intelligence relating to the likelihood of the Army being asked to again deploy troops to American cities. With this background in mind, I was assigned to provide intelligence needed by DCDPO for both planning and operational purposes. My reading diet for this task included classified government documents which were primarily and voluminously produced by the FBI, and to a lesser extent the Army. I found open source, non-classified material was usually of more utility than the classified sources in making judgements about whether and when Regular Army troops needed to be alerted for possible deployment.

By the mid-1970s I was back in civilian life, and the country had become considerably calmer. I imagine DCDPO withered away with the changing times, and a half-century would have to pass before the country again saw the widespread civil unrest of the early 2020s.

The Army Operations Center (AOC)

The 1967 emergency deployment to Detroit had caught the Army by surprise, and Secretary Vance had also recommended that a new war room in the Pentagon be built to coordinate up to 25 simultaneous deployments of Regular Army troops to American cities. And so was built the new Army Operations Center (AOC).

I remember being on duty in the new AOC in January 1969 when President Richard Nixon was being sworn in. With the country on edge in the aftermath of the riotous Democratic Party convention in Chicago the preceding fall, the seat of the federal government was a constant target for antiwar demonstrators, and the frequency and size of their gatherings in Washington were increasing. The AOC was in a subbasement Pentagon space. Built as a duplex war room with ancillary offices, its entrance was guarded day and night and restricted to those with proper security clearances. On one side of the two-story war room atrium was a glassed-in command balcony where civilian and military decision makers sat. From this perch they could look down upon the military worker bees at their desks on the floor below or they could look straight across the atrium at the wall opposite.

This wall was filled with several large projection screens showing maps and troop positions. Other screens could display any live television coverage of ongoing demonstrations.

In standard military fashion, operational briefings in the AOC began with a uniformed Air Force officer giving the weather report. Addressed always as Mr. Bowe, with no indication of rank, I would follow in civilian dress with the intelligence report. As you might expect, the most useful intelligence had to do with the expected size and likely activity of demonstrators. For this purpose, widely available, non-classified newspaper and other common publications were a primary source I used to build my estimates.

The Air Force weather officer and I would precede the operations portion of an AOC briefing. All speakers would deliver their remarks from glass briefing booths on either end of the upper level of the AOC. The briefers were visible to the adjacent command balcony, and, because the pulpit-like booths jutted out a bit over the lower level, briefers were also visible to the joint service officers coordinating information on the lower level. The only thing I had seen before that was anything like this was the isolation booth Charles Van Doren was in when he answered questions on the rigged *Twenty-One* television quiz show in the late 1950s, and the bulletproof glass cage where Nazi Adolph Eichmann stood when he was on trial for war crimes in Israel in 1961. While the AOC was a state of the art war room for 1968, later decades made it in retrospect look like a modest starter home compared with the McMansion war rooms that became all rage.

I always thought Van Doren and I did better than Eichmann after we left our respective glass booths. Eichmann of course got the noose, but both Van Doren and I later in life worked Greek language publishing project that Van Doren had initiated shortly before he retired and I arrived. When he came to Chicago in 2001 for his mentor Mortimer Adler's funeral, I mentioned to him that I had inherited this last project of his.

The AOC could be a strange place at times. In December 1968, I saw accused mass murderer Lieutenant William "Rusty" Calley, Jr. in the AOC. I had my desk at the time in the AOC and one day after lunch, as I came in past the security desk at the entrance and entered the complex, I happened to glance to my left into the anteroom. There looking very much alone, sitting by himself at a small table, was Calley. I recognized him immediately. His time in Vietnam had landed him on the cover of both Time and Newsweek that week. With the tragic My Lai Massacre all over the press, he had been sequestered for interrogation by the Army in the safest out of the way spot it could find for him, the AOC.

Sometime in 1969, before I got my office in the AOC, CIAD had moved from our windowless quarters next to the Northern Virginia Community College's automobile shop to more upscale quarters in the Hoffman Building office complex in Alexandria, Virginia. This building had plenty of light, was near the beltway, and was close to the Wilson Bridge over

the Potomac. While I had a desk there for the duration, I was spending most of my time in either the AOC or another Pentagon office.

Another space at the Pentagon that I rotated through daily was entered through a nondescript door on a busy corridor on one of the Pentagon's outer rings. I was moving up in the world. Having started in OACSI's lowly assignment office, I had moved up to a first-class basement duplex with the AOC. Now I had been promoted part of the day to an above ground cubby hole in one of the prestigious outer rings.

In this easily overlooked spot in a highly trafficked hall, one indistinctive door led to a small reception area. I regularly had on a neck chain my Army dog tags, my Pentagon ID, my Hoffman Building ID, my AOC ID, and an ID for this area. Behind the door's guard was an inner sanctum of windowless offices. This space was where highly compartmentalized, secret intelligence information collected by various foreign and domestic intelligence agencies could be viewed. It was interesting stuff to plough through daily, but rarely bore directly on my main job of preparing and delivering written and oral briefings on the likelihood of demonstrations or civil disturbances

[The Blue U and CIA Training](#)

In June 1969, just as I turned 27, I was selected to join a dozen other Army counterintelligence agents at a special school conducted by the Central Intelligence Agency's Office of Training. The focus of the two-week course was a survey of worldwide communist party doctrine and organization. Being designed for counterintelligence agents, the [Survey](#) explored both open and underground tactics used to expand communist power and influence. I had been a political science major in college, concentrating on international relations in the 20th century, so some of the curriculum was more entry level than not from my point of view. The most interesting of the topics covered for me was the examination of Soviet and Chinese intelligence agency organizations and tactics.

As was true for the Safeguard Anti-Ballistic Missile System Security Group I later joined, this activity took place in an Arlington, Virginia office building. Now long gone, the building then was known colloquially as The Blue U for its unusual color and shape.

I found that my first day of school at The Blue U was a lot like my first day trying to find the 902nd MI Group headquarters. I had general directions to get there, but no idea of what I'd find when I actually set foot in the place. The CIA training activity was under what was called "light cover" inside the Blue U. It seemed from the lobby directory that the building housed a variety of routine, unclassified defense department activities. There were Army and other service functions listed in the lobby directory, but nowhere did I see the CIA school listed.

That's because it was operating under an innocuous and forgettable pseudonym like "Joint Military Operations Planning Office."

I got in the elevator with a handful of others dressed in both uniforms and civilian clothes and pushed the button for my floor. At each floor the elevator stopped, and people got off as normal. However, when we got to my floor, those left on the elevator with me immediately pulled out previously hidden identification cards. The result was that when the elevator door next opened, and an armed guard immediately confronted us, everyone else already had their ID out. They were the regulars and I was obviously the newbie.

The office had lots of closed doors on both sides of narrow corridors. None of the doors had names or any indication of what functions lay within, so it was more than a little spooky.

It turns out another member of my extended family also spent time in The Blue U. Years later, I was visiting my cousin John Bowe and his wife Kathie at their summer home in Cape Porpoise, Maine. Kathie Bowe's brother Allan joined us for dinner one day, and before long we found out we had both done time at The Blue U. While I was a student employed by the Army, he had been a teacher there employed by you know who.

The Safeguard Anti-Ballistic Missile System

Though large antiwar demonstrations and racial disturbances were a common part of the American scene when I was in the Army between 1968 and 1971, they weren't demanding all my time by any means. One project that I devoted a lot of time to in 1969 was a counterintelligence study related to the Army's Safeguard anti-ballistic missile (ABM) system then under development. I was appointed to a working group in downtown Arlington, Virginia, tasked with understanding the counterintelligence issues associated with the Army's new Safeguard ABM system. Safeguard was a successor to earlier Nike missile systems.

Nike had been designed to intercept Soviet nuclear bombers. Safeguard was to defend against intercontinental ballistic missiles (ICBMs). My contribution to the group's work was to make a detailed analysis of the possible espionage and sabotage threats to the Safeguard system's functionality.

Huntsville, Alabama and the Army Missile Command

As I thought about what it would take to do the counterintelligence study correctly, it quickly became apparent that I needed to get out of the Pentagon and talk firsthand to the people who were or would be designing, building, testing and operating the Army's new high-tech weapons system then under development. This meant I had to travel first to the Redstone Arsenal in Huntsville, Alabama, at the time the headquarters of the Army Missile Command.

Next I needed to go to the North American Air Defense Command (NORAD) in Cheyenne Mountain, near Colorado Springs, Colorado. The NORAD part of the trip was key for me to understand how the system was designed to operate in wartime conditions. Finally, I needed to travel to Kwajalein Atoll. What was then known as the western terminus of the U.S. Pacific Missile Test Range is today called The Ronald Reagan Ballistic Missile Test Site. In 1969, the Safeguard ABM system was being tested.

As expected, I learned a great deal at my first stop at the Redstone Arsenal in Huntsville.

NORAD and Cheyenne Mountain

My following visit to Cheyenne Mountain and NORAD's Headquarters wasn't just interesting and useful. It turned out to be absolutely fascinating as well. NORAD was a joint U.S.-Canadian command that had begun in the 1950s with its backbone being the Distant Early Warning (DEW) line of radars across the Canadian tundra. By 1969, when I received the unclassified part of my [NORAD Mission Briefing](#), it was already tracking space junk, and reorienting its mission from defending against the earlier era's nuclear armed Soviet bombers, to defending against Soviet nuclear-tipped ICBMs. Today, NORAD describes its missions this way:

Aerospace warning, aerospace control and maritime warning for North America. Aerospace warning includes the detection, validation, and warning of attack against North America whether by aircraft, missiles, or space vehicles, through mutual support arrangements with other commands.

You entered the NORAD complex by being driven deep into a tunnel under all granite Cheyenne Mountain, just outside of Colorado Springs, Colorado. Getting out of the vehicle, you had to pass through two enormous blast doors. They were designed to keep those inside the doors safe from the radiation and blast effects brought about by nuclear warheads hitting the mountain.

Through the blast doors, a short tunnel took you into an enormous cave-like chamber. In it were multi-story prefabricated offices rising to the cave ceiling many stories above. These office structures sat on large I-beams on the cave floor. All the communication, water and power utilities fed into the office structures through giant spring connections on the I-beams. The whole design was to permit the structures to ride out a nuclear attack on the mountain complex without its functionality being knocked out.

In James Bond parlance, this was to make sure that, in the event of a nuclear attack on NORAD's mountain headquarters, those working within would be stirred, but not shaken.

My early education here regarding space related defenses was a preview of what we would all come to see in later years. Today, space is doctrinally and organizationally recognized as its own theater of war. But official recognition of this evolution didn't occur until recently, a

full 50 years after my visit to Cheyenne Mountain. It was only in 2019 that the President and Congress shifted the mission of ballistic missile and satellite defense to our newly created U.S. Space Force.

Johnston Atoll and the Origins of Space Warfare

I knew Kwajalein was going to be a strange place, but I didn't understand that getting there would be strange too. Northwest Airlines, with its distinctive fleet of red-tailed passenger jets, had a contract with the government to fly military personnel and civilian contractors and their families from Hickam Air Force Base in Honolulu, Hawaii, west to Kwajalein Atoll in the Marshall Islands. I knew how long the non-stop flight to Kwajalein was going to take, so I was surprised when we suddenly began descending well short of our destination. There was no engine malfunction, so why land in the middle of the Pacific if you didn't have to? I had no desire to emulate Amelia Earhart, so I was increasingly nervous with what might be an unexpected descent into oblivion.

My anxiety was relieved when the pilot came on the squawk box to say we should buckle up for our landing to refuel at Johnston Atoll. The runway at Johnston seemed only about as long as the atoll itself, leaving no room for error on the pilot's part. I stared out the airplane window in awe as we decelerated, finally rolled to a stop, and then taxied back to the other end of the runway to deplane. In each direction we had passed large metal sheds on both sides of the runway. There seemed to be train tracks going by and into each shed. The mystery of what was going on only increased for me when I saw two men in front of one of the sheds. They were working on the innards of a large horizontal missile that had obviously been rolled out of the open doors of the shed on rails for maintenance.

During the refueling we had been ushered past a no-nonsense MP with his weapon drawn into a small, single-story air-conditioned space. As we sat on plain benches waiting for the refueling to finish, it was hard not to notice the storage cubby holes on each wall and the multiple black hoses hanging down from the strange piping in the ceiling. Nothing was said by anyone about all this and in short order we reboarded our airplane and proceeded to Kwajalein uneventfully.

Only many years later did I understand what I had seen. At the peak of the Cold War, there was a basis for military planners being worried about the Soviet Union stationing nuclear weapons on orbiting satellites. Satellites fitted with nuclear weapons would be able to launch warheads on a trajectory to American cities at any time of the Soviet Union's choosing. To meet this threat, President Johnson had authorized some of our Thor missiles to be adapted for anti-satellite warfare. The Johnston anti-satellite Thor missiles I saw gave the U.S. a way to take such Soviet weapons out of the game if the need arose.

That only left the mystery of the cubby holes, ceiling pipes, and hoses. Similarly, it was years later that I learned that Johnston Atoll's unique position in the western Pacific Ocean made it a useful place for CIA SR-71 Blackbird reconnaissance aircraft to refuel on their missions

over Vietnam and elsewhere in Asia in the 1960s and '70s. The Blackbirds could travel over 2,000 miles per hour and held an altitude record for flying over 85,000 feet. Their high-altitude flights required early versions of the space suits and helmets the astronauts later wore. Hence, the cubby hole storage cabinets. The ceiling pipes and related hoses were also a necessity in the Johnston ready room. They were there to feed the SR-71 pilots' oxygen in the acclimating runup to their departure.

Kwajalein Atoll – The Ronald Reagan Missile Test Site

Kwajalein Atoll was then the western terminus of the Pacific Missile Test Range. Then and now, Kwajalein's functions as a critical facility that tests the accuracy of U.S. ICBM missiles and their Multiple Independent Reentry Vehicle (MIRV) nuclear warheads. For more than half a century it has also been testing the efficacy of anti-ballistic missile missiles designed to track, intercept, and vaporize hostile incoming ICBM nuclear warheads. That so-called exercise of "hitting a bullet with a bullet," was hard to do 50 years ago, and it hasn't gotten any easier since with the recent Chinese and Russian development of hypersonic missiles.

Our plane landed on Kwajalein Island, the largest and southernmost island in the Kwajalein Atoll. Kwajalein is due north of New Zealand in the south-central Pacific and due east of the southern part of The Philippines. In short, it's in the middle of nowhere. The atoll is made up of about 100 islands in a coral chain 50- miles in length, stretching from Kwajalein Island in the south to Roi-Namur in the north. Kwajalein Island is only three quarters of a mile wide and three and a half miles long. The whole of the atoll's coral land is only 5.6 miles square. The atoll is about 80 miles wide, which gives it one of the largest lagoons in the world.

The people I most needed to talk to on Kwajalein were the senior MIT scientists and Raytheon engineers most familiar with both the stage of the Safeguard missile development (both the short-range Sprint Missile and the exo-atmospheric Spartan Missile). I also need to learn more about the functioning of the Phased Array Radar (PAR) central to Safeguard's ability to track, and intercept incoming warheads, before vaporizing them with X-rays from a nuclear detonation.

My interviews on Kwajalein Island and Roi-Namur were delayed due to my being bumped by a Congressional Staff visit that happened to conflict with mine. Recent glitches in the Safeguard testing had apparently triggered a closer Congressional look at the state of the program and its related budgeting problems.

To have something to do in the meantime, my Army host, who also served as the base recreation officer, took me out to golf. What a course! It lay on either side of Kwajalein Island's single runway. The narrow greensward where you could play was studded with radars used in the Island's missile testing work. The so-called fairways had a picket fence on their ocean side that served as a no-go reminder. Should your golf ball go over the fence and

plop down in front of one of the munitions storage bunkers there, you might have to kiss it goodbye. However, by the fences were long poles with a circular ring on the end. If it would reach your miss-hit ball, you could retrieve it. If the pole couldn't reach your ball, you were SOL.

There was not the same problem at Kwajalein's golf driving range. There was no way you could lose your golf ball there. That's because the range had repurposed an enormous and abandoned circular radar structure. The radar's construction had created a giant circular steel mesh so tall, and with such a large diameter, that no matter how hard you might hit a golf ball from the radar's perimeter, you couldn't knock it out of the enclosed space. This was no doubt the most expensive golf driving range ever built by mankind.

When the Congressional folks hit the road, I caught the first available twin engine commuter flight up to nearby Meck Island on the atoll. Here was Safeguard's recently constructed Phased Array Radar that I needed to understand better. The large radar had a fixed and circular slanted face that permitted it to scan incoming missiles launched from Vandenberg Air Force Base in California. Air Force crews, plucked at random from Montana or other ICBM installations, would be trucked with their Minuteman missiles to Vandenberg. At Vandenberg, their proficiency would be tested as the missiles were topped off with instrument packages instead of warheads and launched at a predetermined point in Kwajalein's lagoon.

As the Meck manager took me into the outsized computer room that formed the base of the large radar, he smiled, and, in a voice similar to that of a proud father talking about a child bringing home a good report card, he said that there was more computing power in that room than existed on the entire planet in 1955. As I digested the meaning of that, the thought occurred to me that he might in fact be telling me the truth.

From Meck, I flew up the Roi-Namur Island on the north end of the atoll. There were more radars and instrumentation I needed to learn about there as well. With my field work complete I was ready to go home to Washington, D.C. and write my report. I quickly caught the last commuter flight of the day at Roi-Namur and flew the 50 miles south back to my Bachelor Officers Quarters (BOQ) accommodations on Kwajalein Island. Without delay, I was on the next red-tail Northwest jet that came through Kwajalein to shortly began a week's leave from the Army in Honolulu visiting a college classmate and his family.

A Half Century of Ballistic Missile & Satellite Defense

This is the announcement of The Cliff Dwellers talk:

Bill Bowe, a former President of The Cliff Dwellers and Executive Vice President of Encyclopaedia Britannica, begins with a lighthearted look at a subject he's been following since the 1950's. Though hard to believe today, Nike missiles with nuclear warheads were once ready to be launched from 22 sites around Chicago, including Belmont Harbor and Jackson Park on the lakefront. These nuclear-tipped Nike missiles were part of a nation-wide system of Army sites built at the time to defend against an attack by the Soviet Union's long range nuclear bombers. He also discusses Nike's successor, the ill-fated Safeguard Anti-Ballistic Missile System. Bill worked on Safeguard counterespionage and counter-sabotage issues while in the Army in the late 1960's. Bill also touches on Ronald Reagan's "Star Wars" of the 1980's, the end of the Cold War in the 1990's, and the missile and satellite threats emerging after the turn of the 21st Century. He reviews how these current missile and satellite threats have pushed the envelope of strategic war planning and brought about the creation of the new Space Force and Space Command. Finally, Bill closes with a few thoughts about how the Doomsday Clock may be ticking between now and 2045, when a full century since Hiroshima will have passed. Bill illustrates his At The Cliff Dwellers talk with unusual photos taken by him and others at the then clandestine ICBM missile research sites at Johnston and Kwajalein Atolls in the Pacific. He also includes pictures and graphics showing the strange nature of the near-space war theater.

Kent State University and the Aftermath

My single worst intelligence assessment was in underestimating the future extensive campus demonstrations against the war that came in the wake of the events that unfolded in May 1970, at Kent State University in Ohio. The violence attendant to the Democratic National Convention in September 1968 had not gone down well with many people and the Democratic candidate Sen. Hubert Humphrey had been defeated by Richard Nixon in the November election. During 1969, Nixon gradually came to conclude that the best strategy to end the War would be "Vietnamization." By this he meant the phased withdrawal of American troops concomitant with the strengthening of the South Vietnamese Army. Nixon announced this plan to the American people in a nationally televised speech in November 1969. Opposition to the war had continued to grow throughout 1969, with bigger and more widespread antiwar demonstrations taking place across the country.

On April 20, 1970, Nixon announced that 115,500 American troops had left Vietnam and another 150,000 would depart by the end of 1971. To many it looked as if his Vietnamization strategy might be working. However, just 10 days later, on April 30, 1970, he announced that U.S. and South Vietnamese troops had entered Cambodia to attack the safe haven there that had been a refuge for North Vietnamese forces.

Many colleges and universities across the country were convulsed and promptly gave witness to both peaceful and violent demonstrations protesting the Cambodian expansion of the war. One such school was Kent State University in Kent, Ohio, some 30 miles southeast of Cleveland, with a campus of 20,000 students. On the day after Nixon's announcement of the Cambodian bombing, Friday, May 1, violence in the streets of downtown Kent resulted in the Governor calling up the National Guard for duty. The next night, Saturday, May 2, protestors set the Reserve Officers Training Corps (ROTC) building on fire. Elements of the Ohio National Guard arrived, using tear gas and bayonets to clear the area.

The next day, Sunday, May 3, 1970, there were 1,200 Guardsmen on the Kent Campus to confront the student demonstrators. In the ensuing standoff, some of the Guardsmen fired their M-1 rifles into the crowd. When the shooting stopped there were four dead students and nine were wounded.

My job every Monday at the time was to drive to the Pentagon in the early morning hours before dawn and read the FBI teletype and Army spot reports that had come in over the weekend. My focus was on incidents of violence that might engage, or had engaged, National Guard forces. This level of violence would always be a prerequisite of any later call for Regular Army troops. When I had gone through the traffic and made my assessment, my job was to go up from the basement location of the AOC to the Office of the Under Secretary of the Army and brief his military aide on what if anything was going on.

The Under Secretary was the civilian point person managing the Army's civil disturbance mission, and he and his office wanted to keep close tabs on anything that might evolve into a crisis engaging Army troops.

In 1969, David McGiffert had served as Under Secretary and had learned enough to conclude that the Army had drifted into collecting some information domestically through its U.S. counterintelligence units it shouldn't be collecting. He had further concluded that it could embarrass the Army if it continued unchecked. Though he was clearly on record in this regard, civilian leadership in the Nixon administration and the Department of Justice did not concur. As a result, various local Army counterintelligence units continued to funnel reports of demonstrations being planned or occurring that were not strictly necessary to carrying out the Regular Army's limited civil disturbance mission.

I had been correct in the technical assessment that I gave the Under Secretary's aide that the Kent State student deaths and the other mayhem over the weekend would not lead to any engagement of the Regular Army. That was a no brainer.

But I was about as wrong as you could get in my collateral observation that the outbursts would have a short life and that the campuses would settle down in the ensuing week.

The next week instead saw demonstrations of more than 150,000 in San Francisco and 100,000 in Washington, DC. And on different colleges and universities, National Guards were deployed in 16 states on 21 campuses, 30 ROTC buildings were bombed or burned, and there were reportedly more than a million students participating in strikes on at least 883 campuses.

Yale, The Black Panthers, and the Army

Also in May 1970, at the same time as Kent State was becoming a symbol of the country's extreme division over the Vietnam War, a different kind of seminal event of both racial and student unrest was about to unfold in New Haven, Connecticut, at my alma mater, Yale University.

A strange and rare mix of factors did put Regular Army soldiers on the move there. Just a year earlier, on May 22, 1969, the body of a member of the New Haven chapter of the radical Black Panther Party was discovered in woods outside New Haven. Before being shot to death in the woods, he had first been tortured at the Party's New Haven headquarters. He was suspected of being a police informant. Several members of the local Black Panthers chapter had since confessed to the crime. At least one person implicated Bobby Seale, the National Chairman of the Black Panthers, in the crime. Seale was a founder of the original Black Panther chapter in Oakland, California, and had visited the New Haven chapter at the time when the victim was being held. Seale was scheduled to go on trial for murder the next year in May 1970.

Coincident with the Kent State May Day protests in 1970, a National May Day rally was held on the New Haven Green to protest both the expansion of the war into Cambodia and to support the Panthers charged in the local murder trial.

Activists of all denominations turned up together with Yale students at the rally. Yale's chaplain, William Sloane Coffin was quoted as calling the upcoming trial "Panther repression," and said, "All of us conspired to bring on this tragedy by law enforcement agencies by their illegal acts against the Panthers, and the rest of us by our immoral silence in front of these acts." Kingman Brewster, Yale's President, said he was, "skeptical of the ability of black revolutionaries to achieve a fair trial anywhere in the United States." He went on to say, "in large measure, the atmosphere has been created by police actions and prosecutions against the Panthers in many parts of the country."

In the aftermath of the Kent State event and the consequent student strikes at colleges and universities across the country, I had followed the New Haven events closely. Beyond a casual interest in my old school of course, my job was to provide intelligence support to DCDPO by periodically assessing the likelihood of riots getting out of hand. That meant I was also watching the New Haven situation unfold from a purely professional perspective.

There had been a growing tendency in the charged atmosphere of the 1960s to think that antiwar student protests and demonstrations were somehow akin to the racial disturbances in cities that had required intervention by the Regular Army during the First and Second World Wars and now the Vietnam War. However, from a military planning standpoint, the thought that New Haven in the current context needed the Regular Army forces seemed to me completely unnecessary. Nonetheless, Connecticut's Governor and President Richard Nixon arrived at a different conclusion.

Through memory's haze, I seem to recall a newspaper story that John Dean, then a Department of Justice functionary under Nixon's Attorney General John Mitchell, had met Connecticut's Governor in Hartford, and that the Governor promptly thereafter issued a statement that the situation in New Haven was beyond the State's ability to control. The Governor's declaration legally permitted Nixon to commit federal troops if he chose to.

The situation in New Haven was coming to a head, and I soon found myself accompanying DCDPO's Deputy Director, an Air Force Major General, up to the offices of the Army's Vice Chief of Staff, General Bruce Palmer. Palmer was taking the meeting in the absence of then Chief of Staff, Gen. William Westmoreland. Palmer had commanded the Army troops President Lyndon Johnson had sent to Santo Domingo in the Dominican Republic not too long before. He began to size up the matter with a few incisive questions, and once he had a detailed grasp of the tactical situation, he asked me what my opinion was. Did I think regular Army troops would be required? I told him that I was familiar with the New Haven community, having graduated from college there only a few years before, and said I didn't think there was a military requirement for deploying Regular Army troops then.

General Palmer scratched his head and said he didn't think it made much sense to send troops either. At this point my Air Force friend coughed and interrupted. He informed General Palmer, and me, that it was a passed point. Following presidential orders, the first airstream of airborne troops had just departed from Fort Bragg, North Carolina, headed north.

As it turned out, there was no cataclysm in New Haven at the commencement of the murder trial and questions about whether Bobby Seale could get a fair trial went away when he was acquitted. My recollection is that the Connecticut National Guard provided sufficient backup to the New Haven police. The Regular Army troops got no closer to New Haven than Hartford and Rhode Island, where they bivouacked for a short period before being flown home.

During the New Haven affair, I provided my usual round of briefings to civilian and military managers at the Pentagon. I was supported as always by the graphics department at OACSI. The illustration I remember best was a map of New Haven, no doubt dug out of the DCDPO files. It was centered on George and Harry's restaurant, across from my old room at Silliman College. Superimposed on this choice piece of real estate was a freehand black and

white drawing of a long-haired, screaming student wearing a toga. The out-of-control youth seemed to be holding a scrolled diploma overhead in a clenched fist, looking much like a banana republic revolutionary holding a rifle.

In the years since, I often thought about the toga-clad students who came after me at Yale. Who would have guessed their style of dress and extracurricular interests would have been so different from mine only a few years before? When I got out of class, I typically put on jeans, walked across the street, and grabbed a beer at George and Harry's. When they got out of class, at least in the Army artist's mind, the animals put on dresses, stormed into the street, and hoisted high school diplomas over their heads pretending they were AK-47 Kalashnikovs.

The Secretary of the Army's Special Task Force

In January 1970, Christopher Pyle, a former captain in Army intelligence, wrote an article in the Washington Monthly magazine criticizing the Army for going beyond proper bounds in collecting information on civilians.

Pyle's article prompted inquiries to Secretary of the Army Stanley R. Resor from various members of Congress, including Senator Sam Ervin, the North Carolina Democrat who chaired the Senate Subcommittee on Constitutional Rights.

The responsibility fell to the Army's Assistant Chief of Staff for Intelligence, Gen. Joseph A. McChristian, to gather the necessary information internally for the Secretary to respond to the detailed questions being raised. McChristian in turn asked the head of his OACSI's Directorate of Counterintelligence, Col. John Downie to take on the task. Since CIAD was under the head of the Directorate of Counterintelligence, I had recently begun to work more closely with Downie than I had up to that point. I had come to like and respect him enormously and thought him a strong and principled leader.

Five years later, following his retirement, Downie was interviewed about this period at his home in Easton, Pennsylvania by Loch K. Johnson. At the time Johnson was a Congressional investigator for the

U.S. Senate Committee popularly known as the Church Committee, named such after its chairman, Sen. Frank Church of Idaho.

Johnson was looking into the origins of the so-called Huston Plan to ramp up domestic intelligence operations by the FBI and the military. It had been approved for implementation by President Nixon and then immediately curtailed by the Nixon White House.

In Johnson's later 1989 book, *America's Secret Power, The CIA in a Democratic Society*, Johnson explains that the Huston Plan was a crash effort to analyze how to expand domestic

surveillance of internal intelligence targets quickly and substantially, particularly student radicals and their foreign connections.

Johnson writes that Col. Downie represented the Army at critical meetings in June 1970, to review the Plan. The group met at CIA headquarters and was attended by FBI, DOJ, NSA and other representatives of the pertinent civilian and military agencies who were tasked to respond to The White House directive.

While Johnson says that there was some enthusiasm for expanded efforts by representatives of the CIA, NSA, and most of the FBI representatives, he quotes Col. Downie as making clear that the Army wanted, “to keep the hell out” of any such effort.

Contemporaneously with this, Col. Downie had tasked me to review the Army’s legal authorities for domestic engagement. I had reviewed with him the particulars of the Posse Comitatus Act, originally passed in 1878. This one sentence law today reads:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.

Since its passage, the law and its offspring have been bulwarks against permitting the military to meddle in what are essentially civilian law enforcement matters.

When Col. Downie had asked me to undertake this research, he had made no specific mention per se that the Huston Plan was afoot. However, it was clear something big was up and being treated as an emergency. I also was aware Col Downie indeed had firm ideas on keeping the Army out of this kind of engagement. Furthermore, with the Army at the time facing Senate Hearings on allegations of the military surveillance of civilians, the last thing it needed was a thoughtless push to apply its resources into what was by tradition and law a purely civilian responsibility.

With the first round of military surveillance hearings in the offing in early 1971, my immediate work area of the AOC was rearranged. My desk was in the same place, but it had turned 90 degrees. This struck me as a symbolic reflection of the Army’s own change of course in the intelligence gathering at this time. I was also given an elaborate new title that I didn’t know I had at the time: Staff Researcher and Allegations Analyst, Allegations Branch, Office of the Assistant Chief of Staff for Intelligence, and Department of the Army Special Task Force.

What Under Secretary of the Army McGiffert had tried and failed to do in 1969, now got done. Secretary Resor told Gen. Westmoreland on March 6, 1970, to make sure no computerized

data banks on civilians should be instituted anywhere in the Army without the approval of both the Secretary of the Army and the Chief of Staff. The new Under Secretary of the Army, Thaddeus R. Beal, wrote Sen. Ervin on March 20 that the spot reports on violence created by the Army should be kept for only 60 days. Later directives flatly banned the use of computers to store proscribed information on civilians.

Pyle wrote a second article with additional allegations in a July 1970 Washington Monthly article on military surveillance, and I went back to work with my fact gathering. Then at the end of the 1970s, a whole new batch of allegations of Army spying on civilians appeared and received wide media attention. John M. O'Brien, a former Staff Sergeant with the 113th Military Intelligence Group in Chicago, told Sen Ervin that prominent elected officials had been spied on by the Army, including Sen. Adlai Stevenson, III, Rep. Abner Mikva, and former Illinois Governor Otto Kerner.

In the wake of all these allegations, the first Senate hearings on military surveillance took place on March 2, 1971. Fred Buzhardt, General Counsel of the Department of Defense, must have thought the hearings went well for the Army, as he sent a letter to the Army Chief of Staff, Gen. Westmoreland, complimenting him on the materials used to prepare for the hearings. Westmoreland in turn complimented Gen. Joseph McChristian, his Chief of Staff for Intelligence. McChristian, who had also been Westmoreland's intelligence chief when Westmoreland was commander of the forces in Vietnam earlier, in turn thanked the head of his Counterintelligence Directorate, Col. Downie. And Col. Downie kept the ball rolling by sending me an attaboy to round things out.

It meant something to me at the time, because I had come to know Col. Downie well in my time at the Pentagon and I admired him as a decent, straightforward officer who had devoted his life in the honorable service of his country.

When I first began working with Col. Downie at the Pentagon, I had been introduced to the heart and institutional memory of the Counterintelligence Directorate of OACSI. I don't remember her last name, but Millie had served as the CD's indispensable secretary for several decades. When I learned about her tenure, I asked her if she'd ever run across a now retired counterintelligence officer in Chicago I knew, Col. Minor K. Wilson.

Did she know him! She nearly fell off her chair that I knew him too. When she was a young secretary new in the Directorate, Col. Wilson was ending his Army career in the same job Col. Downie now held.

Small world indeed, as after my father's death in 1965, Col. Wilson, a friend of my father's brother Gus, sat at my father's desk for a time in the Bowe & Bowe law offices at 7 South Dearborn Street in Chicago. Soon elected a judge, he gave up my father's chair for a seat on the bench.

Getting Short – The 1971 Stop the Government Protests

My three-year enlistment was coming up in the spring of 1971, with my last day of active duty being May 12. In Army parlance, I was “getting short.”

Given the times in Washington, I was also going out with a bang, not a whimper. The violent Weather Underground faction of the radical Students for a Democratic Society was being publicly led at the time by my former University of Chicago Law School classmate, [Bernardine Dohrn](#)). This SDS faction took credit for setting off a bomb in the early morning hours of March 1 underneath the U.S. Senate Chamber of the Capitol Building. The bombing had been preceded by an anonymous telephone call to the Capitol’s telephone operator saying, “Evacuate the building immediately. This is in retaliation for the Laos decision.” The next month thousands of Vietnam Veterans Against the War poured into the city to throw their medals away on the Capitol steps. John Kerry, later the Democratic nominee for President in 2004, spoke on their behalf in his testimony before the Senate Foreign Relations Committee on April 24th, 1971. Said Kerry,

The country doesn’t know it yet, but it has created a monster, a monster in the form of millions of men who have been taught to deal and to trade in violence, and who are given the chance to die for the biggest nothing in history; men who have returned with a sense of anger and a sense of betrayal which no one has yet grasped.

The Washington Post reported that more than 175,000 protestors were outside the Capitol that day. Several thousand of the veterans stayed and camped out in tents on the Mall in a modern-day reminder of the Bonus Army’s camp on Anacostia Flats during the Depression.

Militant groups had long been planning to make this May Day crowd large enough to fundamentally disrupt the normal functioning of the government. The organizing slogan was, “If the government won’t stop the war, we’ll stop the government.” The goal of the May Day protests was to shut down the beltway around the capital with abandoned vehicles and keep commuting government workers out of the District. There were also 21 prime intersections within the District selected as high value targets for traffic blockages. Detailed plans to barricade normal access to government buildings had also been made and widely circulated. The District of Columbia Mayor and police were not amused and revoked previously issued permits.

Thousands of protesters began arriving in the District in late April and began to set up camp in West Potomac Park, not far from the Mall. As with the Veterans camped out earlier, bonfires lit the night there, with marijuana, acid and other drugs helping set the mood.

The demonstrations began on May 1 and continued daily thereafter. In due course, thousands of protestors finally took to the streets the morning of Monday, May 3, with the intent to shut down the government as best they could. As the New York Times reported on May 4:

The protesters ... did succeed in disrupting the city's normal functioning by impeding traffic and harassing government employees on their way to work, using as weapons trash, tree limbs, stones, bottles, bricks, lumber, nails, tires, rubbish bins and parked cars. ... At the height of the disturbances, tear gas fumes filled the air over some of the city's most famous monuments, streets, and grassy flowered parks. Garbage cans, trash, abandoned automobiles and other obstacles littered some chief arteries.

During all this mayhem I was putting in long hours in the AOC. When I wasn't in the glass briefing booth, I was assessing the very public tactics demonstration organizers were widely disseminating in their pamphlets and publications. I was particularly focused on trying to get a handle on the number of protestors arriving in Washington. The numbers in my estimates kept going up and up. The count of buses making their way into the District on Interstate 95 was of a magnitude no one had ever seen before.

The surreal moment for me in the AOC came when watching the local television coverage on the AOC's screens. At one point, on the Ellipse by the Washington Monument, several helicopters landed, and a small number of troops disembarked. There seemed to be nothing for them to do there, as their commanding officers eventually figured out. To me and everyone else, helicopters disgorging troops had been a constant staple of the evening news in the preceding years. But all those scenes had taken place in Vietnam, not the nation's capital. To see the same thing underway with the Washington Monument as the backdrop was not only bizarre, but also seemed to be militarily unnecessary. When the boots got on the ground this time, and there was nothing there for them to do, they were marched off in good order and last seen headed up Constitution Avenue towards the Capitol. They may have ended up in the courtyard of the Department of Justice, where other troops were held out of sight, but in reserve.

The whole spectacle made me think of Walt Kelley's popular comic strip of the day, when he famously had his swamp character Pogo say, "We have met the enemy, and he is us." Originally intended as a comment on environmental consciousness raising after the first Earth Day rallies the year before, it seemed equally to fit the conflicts in America a year later. When the day ended, 12,000 federal troops had been stationed in the Pentagon's internal courtyard and other strategic points in the District. These were all locations from which they could be easily deployed to hot spots if needed. Except for resecuring the already secure Washington Monument, the front lines had been manned not by the Regular Army or Marines, but by 5,100 District police and 1,500 National Guardsmen. The New York Times had estimated the crowd of protestors as between 12,000 and 15,000 people. About 7,000 of them were arrested May 3 and another 5,000 or so in the immediate days before and after.

When May 3, 1971, finally ended for me, and I headed home to my apartment in the Capital Hill neighborhood, I left the AOC and climbed the stairs to the ground level. To get to my parked car on the other side of the Pentagon, I took my usual short cut through the building's inner courtyard. As I walked across the large yard, I saw for the first time that Army troops were also being held here in reserve. By the time I got to the other side of the courtyard, I noticed I had a few tears in my eyes. I thought that was odd. Although I was tired, I was not at all emotionally upset. I thought no more about it until the next day. That's when I learned that one of the troops in the Pentagon courtyard had set off a tear gas cannister by accident. I had just caught a whiff of the gas at the tail end of its presence in the courtyard. Again, Pogo's words came to mind.

Veterans who served in the military during the Vietnam War years were often subject to disrespect when they returned to civilian life. I don't recall catching any of this guff, but I know many others did.

1974 Congressional Hearings on Military Surveillance

After I left the Army on May 12, 1971, Sen. Sam Ervin had continued to work on making sure the military stayed out of the business of collecting intelligence on civilians. I had kept up with these developments and was opinionated about the legislation Ervin had introduced to deal with the subject. Chicago Sun-Times reporter Roger Simon interviewed me in 1973 in an article on the subject. [Computer Use in Social Forecasts](#) By the time new hearings on military surveillance of civilians by Ervin's Judiciary Committee's Subcommittee on Constitutional Rights got under way in March 1974, Col. Downie had retired near State College, Pennsylvania.

Christopher Pyle, the author of the Washington Monthly articles was working as a consultant for Ervin's Committee. Having earlier met him, he contacted me to see what I thought about Col. Downie testifying. Downie had spent his entire professional career in counterintelligence, and I knew he and I saw eye to eye on its proper role in regard to its rare civil disturbance mission. As it happened, he was interested in sharing his perspective, so I drove from Chicago to his home in Pennsylvania, picked him up, and then drove down with him to Washington for the hearings.

We both had our say on Ervin's proposed legislation, with Col. Downie bringing to bear his wealth of practical experience. I had more lawyerly suggestions for amending Ervin's bill to try to correct some problems I foresaw if it became law. [William J. Bowe Testimony before the U.S. Senate Judiciary Committee on Military Surveillance](#) Sen. Ervin was having none of my advice on how to rewrite his bill and made sure that he created a record in the hearings that dealt with my points in the event a court ever had to interpret the statute. During the course of Sen. Ervin's work on the military surveillance hearings, I had the chance to privately chat informally with him in his Senate office. At the time, I don't think I'd ever been so struck by

a person. I came away feeling I had not only met a friendly, serious and fair-minded man of purpose, but one with an outsized intellect and an even greater quotient of common sense.

Later in 1974, the Senate Watergate hearings Ervin had chaired the year before finally bore fruit. While Sen. Ervin's proposed bill regulating surveillance by the military never became law, his adroit conduct of the Watergate hearings ultimately gave him and the country a great victory. Fatally damaged by facts revealed in the Watergate hearings, and facing imminent impeachment and conviction by the Congress, Richard Nixon resigned as President on August 9, 1974.

Also in 1974, Lawrence Baskir, who served as Chief Counsel and Staff Director for the Senate Judiciary Committee's Subcommittee on Constitutional Rights, published an article detailing the way in which the Senate hearings on military surveillance had unfolded. Baskir, Lawrence M. (1974) "[*Reflections on the Senate Investigation of Army Surveillance*](#)," Indiana Law Journal: Vol. 49 : Iss. 4 , Article 3. This comprehensive account of the hearings provides a sophisticated look at the work in the Senate. It also provides another reason beyond his performance in the Watergate Affair to admire the decency, legislative skills, and political acumen of Sen. Sam Ervin.

Lunch with Gen. William Westmoreland (USA Ret.)

In June 1968, while I was in basic training, Gen. William Westmoreland, had been kicked upstairs by President Johnson. He was promoted out of his job as commander of our troops in Vietnam, and into the job of heading up the Army as its Chief of Staff. I was once in a meeting with him and others at the Pentagon when it was thought a question might be asked about the Safeguard Anti-Ballistic Missile System.

I was off the hook and the only topic I remember being discussed that day was the M16 rifle. At Fort Leonard Wood, I had been trained to use the M14, though the more modern M16 had been in use in Vietnam for some years by that time. All I remember of the discussion among Westmoreland and the others present was what an advance it was to put a handle on the M16 to make it easier to carry than the M14. This topic of the day may have related to the official designation in 1969 of the M16A to replace the M14 as the U.S. military's standard service rifle.



M-14 and M-16

It wasn't until both Westmoreland and I had retired from the Army that I ran across him again. In 1985, I was General Counsel of United Press International. UPI had just moved its headquarters to Washington, D.C. from Nashville, but I was commuting frequently from our home in Nashville to the nation's capital. This commute was the product of UPI filing for bankruptcy in the District's Prettyman federal courthouse. On one of my trips to Washington for UPI, I arranged to have lunch at the Hilton downtown with a newspaper reporter friend from Chicago, Eleanor Randolph. She had left the Chicago Tribune and was then working for the Washington Post. We had started our lunch in the Hilton's dining room, when I noticed Gen. Westmoreland come into the room by himself. He was waiting to be seated by the maître d'. Eleanor immediately said she was going to ask him to join us.

I thought that more than a little presumptuous on her part, but as she got up to retrieve him, she mentioned that she knew him because she had covered his recently concluded libel trial against CBS in New York.

In 1982, CBS had run a documentary, *The Uncounted Enemy: A Vietnam Deception*. Westmoreland had sued CBS for \$120 million for libeling him. His claim was that CBS had falsely said that he had misrepresented to his superiors intelligence estimates of enemy strength for political reasons. Like many others, I had been following the trial and was aware that the lawsuit had just been settled. Gen. Westmoreland had decided abruptly to end the case after 18 weeks, immediately before it was to go to the jury. I was also aware of the fact one of the key witnesses against him had been his former intelligence chief in Vietnam, Gen. Joseph A. McChristian. This was the same Joseph McChristian whom I worked under when he served as Westmoreland's intelligence chief at the Pentagon. They may have worked closely together for years, but I'm sure there was no lost love between them as a result of McChristian's damaging trial testimony.

All and all, it was certainly the most interesting lunch conversation I had in all my time at UPI. We discussed current events, the trial and Army matters. It appeared to me that Westmoreland must have thought he had gotten fair treatment from the stories Eleanor had filed from New York for the Washington Post. From their engagement, an onlooker might even have thought they were real friends, instead of former business acquaintances who were friendly, but still somewhat wary of one other.

As for me, I didn't miss the opportunity to mention to Westmoreland that I had worked under McChristian. Given the obvious touchiness of the subject, however, I saw no reason to probe into the details of their relationship over the years, as much as it would have interested me to hear his answers. Westmoreland died 20 years after that lunch, in 2005, and Eleanor moved on from the Washington Post to the New York Times, serving for a time on its Editorial Board.

Jane Byrne Burned – Chicago Politics in the 1970s



Jane Byrne, Elected Chicago's 1st Woman Mayor April 3, 1979

The Tribune is Booted from City Hall

In June 1980, as Jane Byrne was starting her second year as Chicago's first woman mayor, a strange media brouhaha briefly transfixed the city. She had become enraged at a *Chicago Tribune* story and in a fit of anger had banned the paper's City Hall reporter from occupying space in the building's press room.

The article that triggered her wrath disclosed the details of a transition report she herself had commissioned after she had beaten the remnants of the late Mayor Richard J. Daley's fabled political machine and secured the nomination of the Democratic Party for mayor in the February 1979 Democratic primary election.



Chicago Tribune

Sunday, June 22, 1980

Final
Edition

Tribune barred from City Hall: Byrne

WITHIN HOURS of a published report critical of the way the city was run prior to her administration, Mayor Byrne called The Tribune city desk Saturday evening and said she would throw the paper's reporters out of City Hall Monday morning.

"Today's paper was the last straw," she said. "Your paper will not have privileges at the City Hall press room. Never again will I respond to inquiries in the Chicago Tribune."

The mayor angrily denounced the report of a secret evaluation of the city prepared for her by a hand-picked team of advisers and later shelved by her administration, that found widespread waste and incompetence in the city government she inherited.

THE MAYOR responded that the report was done by "some college professors and a bunch of college kids." (The report was prepared by a transition team headed by Louis Masotti, then on leave as director of Northwestern University's Center for Urban Affairs. Masotti was appointed by Mrs. Byrne to head the transition team. Former AM: Dick Simpson (left) wrote "to 80 per cent" of the report, Simpson said Saturday.)

The Tribune management had a "negative reaction" against her and had "covered for the Tribune administration," Mrs. Byrne did not elaborate on what or how. The Tribune had con-

ced for the administration of former Mayor Michael Bilandic.

Accused The Tribune by its coverage of her administration of encouraging Chicago businesses to flee to the Southwest. "All they have to do is the Sun Belt is hold up a copy of your paper (to encourage business to leave Chicago)," she said.

An exclusive Tribune report about aides to Mrs. Byrne interfering in Police Department affairs on behalf of the mayor was "in front of the city."

The paper was resentful for not mentioning that she had hired Hay and Associates, a consulting firm, to analyze the city government. "No one mentions that we've hired the finest firm in the country, Hay and Associates."

"I KNOW WHAT'S going on over there; I don't mind your personal attacks, but your paper has damaged the city."

Continued on page 2, col. 1

Secret city study cites wast ipetence

Byrne repo. crisis in con.

By George de Lama
and Lynn Emmerman

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A SECRET evaluation of the City of Chicago prepared for Mayor Byrne last spring at her request by a hand-picked team of advisers and later shelved by her administration, found widespread waste and incompetence in the city government she inherited.

The secret report, obtained Saturday by The Tribune, was apparently to

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THE MEDIA
Lerner, Sun-Times

BY JOHN KINZIE JR.

His work was done last night in the Chicago Tribune story that Mayor Jane Byrne said she was going to be shelved of city hall.

The mayor's transition report was obtained by the Tribune, which was written by William J. Lerner, 40, who worked for Mayor Richard Daley. Lerner turned it over to the Tribune.

Traditionally, the report was given in great detail and was 15 by the Lerner.



ALL HERE

The background

THE REPORT evaluating Chicago's city government, portions of which The Tribune has published in the Sunday and Monday editions, was prepared by the mayor's hand-picked transition team, which helped her prepare to take office in April, 1979.

One of the recommendations in the report urged that an executive order be issued to assure public access of city records.

The Tribune was given a copy early Saturday by attorney William Rowe, who said he made an analysis of the report at Warden's request, as well as writing a section of the transition report.

The evaluation, completed on April 27, 1979, contains analyses of nearly every major city department and lists more than 100 policy recommendations.

While she had received the transition report shortly after she had won the general election the following April, she and her staff had subsequently kept a lid on it. The front-page story reporting on the details of the transition report that appeared in the *Chicago Tribune*, Sunday, June 22, 1980, revealed me to be an author of part of the previously secret report, as well as the immediate source of its startling revelations.

How the report came to light, and my part in it, was a combination of highly unlikely circumstances. However, for all the ensuing media Sturm und Drang of the day, any telling of the story will always seem akin to some like Shakespeare's *Macbeth*, just a tale "full of sound and fury, signifying nothing." In retrospect, perhaps its only lasting effect was to reinforce the public perception of Jane Byrne as trouble prone, often due to her own devices.

I would never have ended up in the middle of this particular to-do without the political engagements I had earlier in the 1970s after I left the Army. My involvement in the media train wreck relating to release of the report naturally grew out of my work in the 1970s with two liberal, non-machine politicians on Chicago's north side, Dick Simpson, and Bill Singer.

Daley was in a race for a sixth term in 1975. Fortunately for him, Singer was not the only candidate running against him. Helping split the anti-machine vote was the first African American ever on a Chicago mayoral ballot, State Senator Richard Newhouse. Also, in the race was former State's Attorney Edward Hanrahan. Hanrahan was attempting a political comeback following the killing of Black Panther leader Fred Hampton by police under his control and Hanrahan's consequent failure to be reelected.

The Machine Weakens after Daley's Death



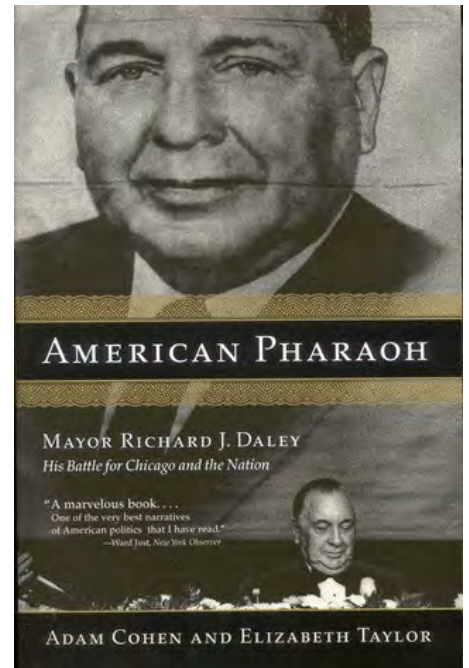
With the anti-Daley vote thus split, Daley was reelected in the Democratic primary election in February 1975 with 58% of the vote. Singer came in second with 29%, Newhouse with 8%, and Hanrahan 5%. In a striking change to the usual playing field, Daley's share of the vote was much smaller than in his earlier races for mayor. And this time, he also won less than half of the African American vote. This portended the fundamental shift that finally occurred when Harold Washington spoiled Jane Byrne's shot at a second mayoral term and was elected Chicago's first African American mayor in 1983.

Shortly following Daley's death mourners had an opportunity to pay their respects by passing his casket as it lay in state at the Nativity of Our Lord Catholic Church in Daley's home ward. The tote added up to an estimated 100,000 who came to this church in Daley's Bridgeport neighborhood. The mourners included political supporters such as Vice President Nelson Rockefeller, President-elect Jimmy Carter and U.S. Senators Edward Kennedy and George McGovern. Those paying their respects also included political opponents. Both myself and my then brother-in-law Bill Singer stood in the cold in the long line waiting access to the church that day.

Daley's death was followed by a six-month interregnum during which a number of City Council aldermen jockeyed for supremacy. The upshot was that Michael Bilandic, the 11th Ward Alderman of Daley's home ward, was elected later in 1977 to fill out the remainder of Daley's term of office.

Although Bilandic had inherited Jane Byrne from Daley as the city's Commissioner of Consumer Affairs, she didn't last long. When Bilandic supported an increase in taxi fares, Byrne not only refused to say it was a needed adjustment, but she also denounced it as a harmful "backroom deal" that Bilandic had "greased."

That was it for Jane Byrne, who was promptly fired from her job by Bilandic in November 1977. When Byrne announced four months later that she would run for mayor against Bilandic, almost no one took her as a serious threat to his upcoming reelection bid in the February 1979 Democratic primary.



Dick Simpson



The transition report had been undertaken at Byrne's request shortly after she defeated sitting Mayor Michael Bilandic in the Democratic primary election in early 1979. A prominent member of her transition team was longtime independent City Council Alderman Dick Simpson. Simpson had graduated from the University of Texas in 1963 and then pursued a doctorate degree with research in Africa. He started a teaching career as a

political science professor at the University of Illinois at Chicago in 1967, the same year I graduated from the University of Chicago's Law School.

Off the teaching clock, Simpson became a cofounder of Chicago's Independent Precinct Organization (IPO) and served as its executive director. The IPO was a body of lakefront liberals focused on good government. In its case, this almost always meant serving as a not very heavy counterweight to the dominant machine politics of Mayor Richard J. Daley, head of the Regular Democratic Organization in Chicago's Cook County. I had gotten to know Simpson from my political work with a fellow lawyer, Bill Singer.

Health had been a minor issue in Daley's 1975 mayoral campaign and, the year after his reelection as mayor, the 74-year-old suffered a heart attack in his doctor's office and died on December 20, 1976.



My work on the Singer mayoral campaign had permitted me to get to know Dick Simpson better and, just before Daley died, Simpson told me he was interested in promoting the idea of greater citizen involvement in ward zoning decisions.

He explained how he envisioned community zoning boards might work and asked me to draft an ordinance that would detail their creation, structure, and operation. While I had written plenty of speeches and press releases by that time, I had never taken on the task of drafting a piece of legislation of this complexity. It struck me as an interesting technical challenge and I told Simpson I'd give it a shot.

This was notwithstanding my own serious doubts about the wisdom of such a radical decentralization of land use regulation in the city. Then and now, the existing primacy of aldermanic prerogatives in zoning gave aldermen what amounted to a practical veto over many zoning decisions and had engendered widespread aldermanic corruption.

However, it wasn't clear whether Simpson's idea was likely to fix that problem or make it worse by encouraging more parochial NIMBY (Not In My Back Yard) decisions that shorted the best interests of the city as a whole.

Simpson was pleased with my handiwork and introduced my draft of his ordinance for consideration by the full City Council in early 1977. As was usual with any initiative of one of the independent Democratic aldermen, it was never seriously considered.

Bill Singer



I had first met Singer in the summer of 1966 after my second year of law school. I was serving then as a summer clerk at the Ross, Hardies, O’Keefe, Babcock, McDugald & Parsons law firm in Chicago. He had already started there as a new associate lawyer recently graduated from Columbia Law School. After my law school graduation in June 1967, I passed the bar exam and joined Singer as a full- time associate attorney at the firm until I entered the Army in May 1968.

Then in late 1968, when Bill learned I was going to be stationed at the Pentagon in Washington, he suggested I look up his wife Connie’s sister, Judy Arndt, then working on one of the Congressional staffs. I took him up on his suggestion. As fate would have it, a few years later Bill and I were briefly conjoined as brothers- in-law. This temporary state soon ended as the two sisters divorced the two Bills and all of us headed off in different directions.

During my time in the Army from 1968 to 1971, Bill had started a successful political career while continuing to practice law. In 1969, as I was settling into my Army work dealing with its newly created civil disturbance mission, Dick Simpson was managing Bill’s winning campaign to be elected an independent Democratic alderman of the 44th Ward in Chicago’s Lincoln Park neighborhood.

Later in the decade of the 1970s, the Regular Democratic Organization under Mayor Richard J. Daley had the ward maps redrawn in hopes of squelching Singer's independent political movement. Nonetheless, Singer was elected in the newly redrawn 43rd Ward and Dick Simpson became 44th Ward Alderman. Both men were constant and articulate critics of the Daley era's centralized control over the politics of both the City and Cook County. They were up against powerful headwinds, as Daley's wildly successful patronage-based political organization wasn't called the "machine" for nothing.



Bill Singer election night 1969



Dick Simpson, Leon Despres, Bill Singer 1973

Before I left the Army in 1971, another Ross, Hardies associate, Jared Kaplan, had called me from Chicago to say he was coming to Washington on business and would like to have lunch. I invited him to join me for a sandwich in the Pentagon's central courtyard, then open to civilian visitors. During lunch, he told me that he, Bill Singer and some other Ross, Hardies lawyers would shortly be leaving the firm to start a new smaller law firm. He wanted me to join them.

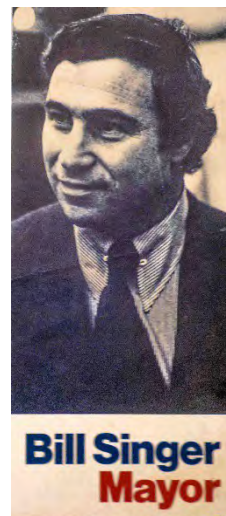


A day off 1975

At the time, I was turning 28 and felt that my time in the Army had put me behind my law school contemporaries in pursuing my legal career. Almost all of them had been able to pursue their legal careers without a three-year interruption for military service. At the time, I was having a hard time remembering what if anything I had actually learned in law school. I thought that though it would be riskier to turn down my standing offer to rejoin Ross, Hardies, joining a startup firm would likely give me more experience and responsibility sooner in the practice of law.

My thinking was that this would also let me catch up to my peers sooner than if I were to go back to a larger, more structured law firm. With the die cast, I left the Army in spring 1971 to practice at the newly established law firm of Roan, Grossman, Singer, Mauk & Kaplan (later Roan & Grossman). Not returning to Ross, Hardies turned out to be fortuitous for me as the firm shortly thereafter was forced to lay off most younger lawyers after its largest client, Peoples Gas Company, decided to fire the firm and create its own in-house law department.

Bill Singer, while 43rd Ward Alderman and a partner at the new Roan & Grossman law firm, had successfully joined with Jesse Jackson and other liberal anti-machine forces to successfully challenge the seating of Richard J. Daley's delegation of regular Democrats at the 1972 Democratic Convention in Miami. This success, and attendant publicity led Singer to give thought to challenging Mayor Richard J. Daley in the mayoral Democratic primary race to take place in February 1975. Singer announced his candidacy on October 15, 1973, leaving himself a full 18 months to raise funds and campaign throughout the city.



During this period, Singer asked me to become Secretary of his 43rd Ward organization, and later, as his campaign picked up steam, to join the campaign full time. Being eager to take on the challenge of what I thought was a worthy battle, I took a leave of absence from Roan & Grossman and became General Counsel and Director of Research of the Singer mayoral campaign. As the campaign grew more frantic and Singer's time got stretched thinner, I also began writing occasional speeches, campaign statements and press releases, as well as position papers on various issues of the day.

Don Rose

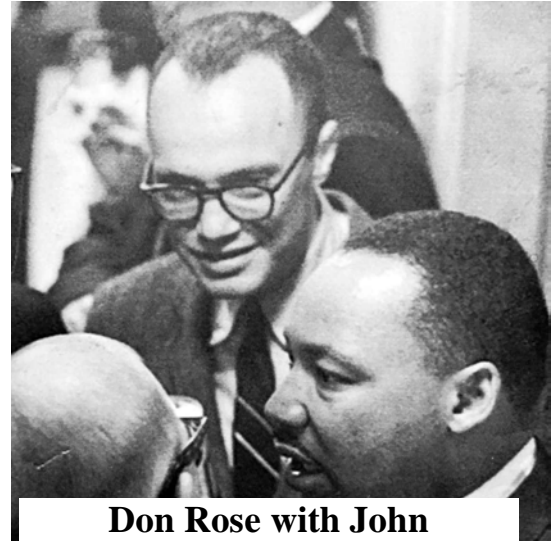


Don Rose 2022

During the Singer campaign in 1974-1975, I had met Don Rose, a longtime anti-machine and civil rights activist. Later, in 1979, I briefly sought his advice as I launched an unsuccessful effort to defeat the current machine Democratic Committeeman for the 43rd Ward. I don't remember the advice Don Rose gave me, but it wouldn't have mattered one way or the other.

As it turned out, I was tossed off the ballot for having insufficient signatures on my nominating petitions. I successfully appealed this decision of the Cook County Board of Election Commissioners and the Illinois Appellate Court had ordered my name back on the ballot. [Bowe v. Board of Election Commissioners](#). However, when the dust finally settled, I could later tell people I'd lost the election by only seven votes. Unfortunately, these were the votes of the seven Illinois Supreme Court justices who had reversed the Appeals court. Thus, was short-circuited my ill-fated political career.

Though usually working behind the scenes, over the years Rose had a number of important roles in the city's electoral contests and political spectacles. In 1966, Rose had served as Martin Luther King, Jr.'s press secretary when King moved into a Chicago slum to bring attention to poverty and racial injustice in the North as part of his Chicago Freedom Campaign. Apart from handling the local press in this effort, Rose served as a King speechwriter and one of his local strategists. He later looked back on this effort as probably the most important thing he ever did.



**Don Rose with John
McDermott & Dr. Martin
Luther King, Jr. 1964**

Two years later in fall 1968, Rose had a major role in the circus around the Democratic National Convention in Chicago. My law school classmate Bernardine Dohrn, and her fellow radical and later husband Bill Ayres, were busy organizing the “Days of Rage” riots of the Students for a Democratic Society. The resultant street battles with police immediately preceded the opening of the Democratic National Convention. I was watching this chaos unfold with more than casual interest given my role at the Pentagon at the time in assessing whether civil disturbances might grow beyond the control of police and National Guard troops. At the time my brother Dick was literally in the middle of the Days of Rage riots in his work for the city's Human Relations Commission.

Coincident with this SDS unpleasantness, the “Yippies” had also arrived in Chicago for the Convention with their political theater of nominating a pig for president. However, SDS and the Yippies were just the opening act. The bulk of the anti-war demonstrators had come to town by the thousands under the aegis of the coalition of groups known as the National Mobilization to End the War in Vietnam; the MOBE for short. And Don Rose, building on his recent successful effort for Dr. King, became the press spokesman for the MOBE, and is credited with creating the slogan of the anti-war demonstrations, “The Whole World is Watching.”

A committed man of the left all his life, Rose could manage to work for a Republican if the times called for it. He took particular pride in his management of the campaign of Republican Bernard Carey in 1972 against the sitting Cook County State's Attorney, Edward Hanrahan. Hanrahan had been vastly weakened with the public as a result of his deadly raid on Black Panther leader Fred Hampton's house in late 1969. Most people thought the raid was a botched one at best and a murderous one at worst.



Don Rose with Jan Grayson & Vicki Quade, Nick Farina Memorial 2022

I personally felt so strongly about it that I and Ross, Hardies lawyer Phillip Ginsberg had earlier called upon the Chicago Bar Association to initiate a breach of legal ethics investigation against Hanrahan.

Notwithstanding the Hampton scandal, when Hanrahan came up for reelection, he was still the machine candidate and widely presumed to be a winner. That's when Don Rose arrived and helped Carey win what would normally have been a losing matchup.

Chicago Tribune contributing Sunday editor Dennis L. Breo captured a profile of Rose in a 1987 portrait. When I recently reread the article, I was struck by the fact that I had a relationship of one sort or another with all of those he quoted talking about Rose. Basil Talbot, political editor of the *Chicago Sun-Times* was a friend I knew from politics and Lincoln Park, Mike Royko of the *Chicago Tribune* had written a column about my uncle, Judge Augustine Bowe, when he died. Also, as a widower Royko had later married my first wife Judy Arndt. Ron Dorfman was a friend and the journalist who founded the *Chicago Journalism Review* in 1968. At the end of his life, he beat it to death's door by becoming half of the first gay couple to marry when Illinois law changed in 2014. The last to be quoted was former Alderman Bill Singer. Bill was a former law firm colleague of mine and one time brother-in-law. While I was only casually acquainted with Rose, we had many other friends in common.

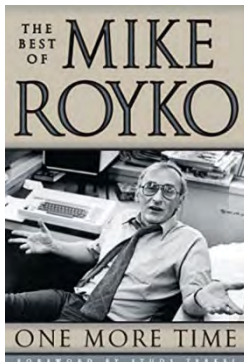
In the article, Breo and his sources described Rose this way:

A flexible strategist who calls himself "a promiscuous leftist," Rose set himself apart from other social activists of the 1960s by using his media and writing skills to tie electoral politics to the search for an egalitarian society. "(Leon) Trotsky is a hero of mine because he was a great revolutionary and a great historian of the revolution, but he didn't ring doorbells. I've tried to use electoral politics to achieve a cultural revolution," he says. "My real heroes are the giants who led cultural revolutions, who made people see things in a different way: Charlie Parker in jazz, Lenny Bruce in comedy, Ernest Hemingway in language. In a much smaller way, I've been trying to do this in local politics." The revolution never happened, but Don Rose has left his impact on Chicago politics, notably the demise of the old Democratic Machine.

Basil Talbott Jr., political writer of the *Sun-Times*, says: "Don's contributions can be blown out of proportion, but there's a lot to it, too. In 1972 he put together a coalition of blacks and liberals and conservative Republicans and helped Bernard Carey defeat Edward Hanrahan for Cook County state's attorney. In 1979 he helped create the rebellion of black voters that elected Byrne and defeated the Machine. (Mayor Harold) Washington's election in 1983 was just icing on the cake."



Don Rose & Basil Talbot 1999



The *Tribune's* Mike Royko says: "It's hard to measure one person's contribution to the demise of the Machine because it wore out on its own. Daley stifled those under him, and an entire generation of Machine politicians grew too old to govern effectively. But Don was one of the most consistent opponents of the old politics and one of the very few who never sold out his values one way or the other. He also was very effective, and one of the reasons for his effectiveness is that reporters trust him as a man of his word."



Ron Dorfman 2007

Ron Dorfman, a freelance writer and a 25-year friend of Rose's, adds: "The death of the Daley Machine had final causes and efficient causes, and Don was one of the efficient causes dating to the civil rights movement of the early 1960s. The Machine might have died off anyway, but he was an important part of the process. By taking the black vote out of the Daley camp, he set in motion the centrifugal forces that eventually spun the Machine out of control. He helped change the mosaic of power in Chicago and empower the powerless without seeking any personal power other than in the funny ways creative people seek power."

the mosaic of power in Chicago and empower the powerless without seeking any personal power other than in the funny ways creative people seek power. He was able to do it because he's a walking encyclopedia of Chicago politics. Tell him what block you live on, and he'll tell you exactly how that block will vote."

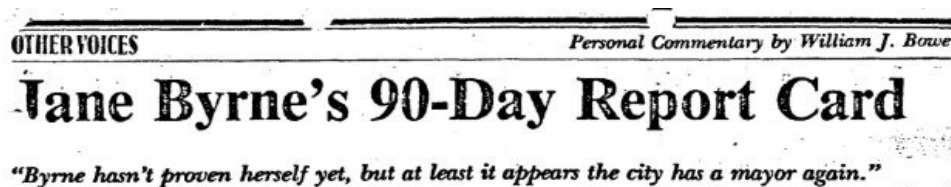
Former alderman and mayoral candidate Bill Singer, who has been both in and out of favor with Rose, says, "Don is a brilliant strategist, but he is such a true believer it's easy not to be 100- percent pure in his eyes."



Bill Singer 2007

With a long history of civil rights and anti-Daley, anti-machine credentials, Rose again was available for a battle against the machine in 1979 when Jane Byrne looked to all like a quixotic loser up against Daley's successor Bilandic.

Mayor Byrne's 90-Day Report Card

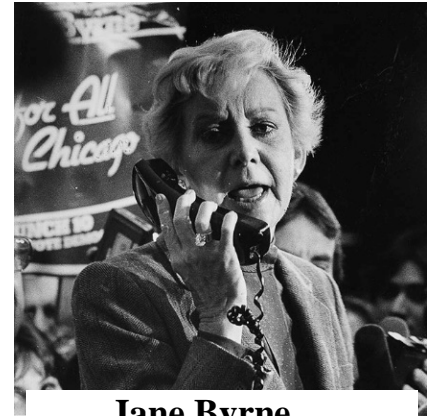


In the 1975 Democratic primary election for mayor, the *Chicago Tribune* had taken a pass on the endorsement of any of the candidates, saying it was a question of, "whether to stay aboard the rudderless galleon with rotting timbers or to take to the raging seas in a 17-foot outboard." By the time Don Rose joined Byrne to manage her campaign, the "rotting timbers" of the Democratic machine had more completely eroded. And the former Commissioner of Consumer Affairs, Jane Byrne, not only had the temerity to run against the machine's choice for mayor, but she also had a tough, down-to-earth, scrappy personality that sharply contrasted with her reserved and bland opponent.

The longtime liberal lakefront constituency in the city's 5th Ward in the University of Chicago's Hyde Park neighborhood, and more recent independent northside lakefront wards represented by Simpson and Singer solidly backed her. She also benefited from the growing opposition to the machine in the Black community.

But what really put her over the top was the 35 inches of snow that fell in the two weeks before the February 27, 1979, primary election. It had been met with a perceived collapse of the city's usually more efficient snow removal efforts. The primary ended with Byrne garnering 51% of the vote and Bilandic 49%.

Mike Royko's *Chicago Sun-Times* column immediately declared that, amazingly enough, ordinary Chicagoans had decided to finally defeat the machine. He thanked those who voted for her and said, "...today I feel prouder to be a Chicagoan than I ever have before in my life."



Jane Byrne

Not long after Jane Byrne was elected mayor in the April 1979 general election, I wrote an article for the August 1979 issue of *Chicagoland Magazine* assessing her first three months in office.

In the course of my review of her early performance in office, I first took a look at the broader context of the changing politics of Chicago from which she had emerged. For Richard J. Daley, the 1970s had been the most difficult period of his decades-long domination of the city's politics and the grand patronage machine he had fine-tuned was substantially weakened by the time he died in 1976. Throughout the 1970s, the growth of independent opposition continued, as did disaffection in the Black electorate.

As my article below reminds me, the beginning of Jane Byrne's mayoralty exposed the very seeds that would grow in the succeeding years and deny her reelection in 1983:

It cuts, it chops, it whirls like a dervish. It spins, it dices, it reverses direction as fast as A. Robert Abboud. It makes mincemeat out of dips with a mere flick of the tongue. It likes to really mix it up. A revolutionary new food processor you ask. Not at all. It's La Machine - By Byrne.

If Daley was the Machine's Christopher Wren, Bilandic was its Cleveland Wrecking Company. Through the sheer force of his impersonality, he systematically and devastatingly eroded the public perception that somebody was in charge and in control of a very large, very rough and tumble city. And, in fact, he wasn't in charge, having delegated the politics of the job to Daley's unelected former patronage functionary, Tom Donovan. As Chicago Byrned, Bilandic fiddled: jogging, raising cab fares and cooking on Channel 11. Or so it seemed.

It was all too much for the neighborhoods, no matter what the precinct captains said, the one thing most folks out there realized was that if they didn't take charge of the operation for once and put a tougher person in that office on the 5th Floor, they'd be snowed-under, potholed, garbaged, and maybe even thieved to death. Irony of ironies that the City of the Big Shoulders put a diminutive politician in high heels in charge of the store and relegated the

male incumbent to the relative quietude of a law practice on LaSalle Street. The fabled "Man on Five" became transmogrified into the "Women on Five" and in Chicago no less!

Clearly Byrne had one of the fastest mouths east of Cicero. But would her kind of instinctive, politically combative, hip shooting translate well once the substantive issues came along? A bit of evidence is now in and the answer to that question is something of a mixed bag. She hasn't proved it yet, but at least it appears Chicago has a mayor again. Take three issues that emerged early on: appointments, condos and the Crosstown. ...

Bill Bowe is Vice President for legal and corporate affairs at the Bradford Exchange and is Of Counsel to the Chicago law firm of Roan and Grossman. He served as an aide to Bill Singer in the 1975 mayoral campaign.

Mayor Jane Byrne's Secret Transition Report

Sunday Sun-Times ★★★★★ Final
Chicago, June 22, 1980 75¢

Byrne ignores secret study attacking waste

By Brian J. Kelly

Chicago suffers from a government that is closed to the public, expensive to run and structured in such a way that it is not responsive to the needs of the city.

Those are the conclusions that can be drawn from the long-suppressed report of Mayor Byrne's transition team, a copy of which was obtained by the Sun-Times.

The report, a 600-page document in a loose-leaf binder, was ignored by Byrne. The mayor also decided that since it was done for her and not the city, there was no reason to make it public.

The document serves as a comprehensive collection of reform proposals, some previously suggested and others new. It contains 197 specific recommendations and a number of more general ideas for restructuring City Hall.

Three major themes emerge:

- City Hall needs to make government more open and services more available to citizens.
- Waste from the patronage system is costing the city in many areas and will become a critical problem as the city faces a greater scarcity of funds.
- Many city departments are badly organized and do not have realistic goals. As one example, the Health Department still lists prevention of epidemics as a major goal, but has

Turn to Page 22

Mayor orders ouster of Tribune

Eviction from City Hall is set because of 'smear tactics'; Page 5

Because Byrne had run as a reform candidate, after the primary election she quickly sought advice from a panel of knowledgeable experts pulled together from a transition team headed by a Northwestern University professor, Louis Masotti. Masotti had taken a leave of absence from the University's Center for Urban Affairs and in an interview with the *Chicago Tribune*, said that the team's transition report for the new mayor was designed "to assist a fledgling administration to hit the floor running." Masotti went on to say of his 26-member transition committee:

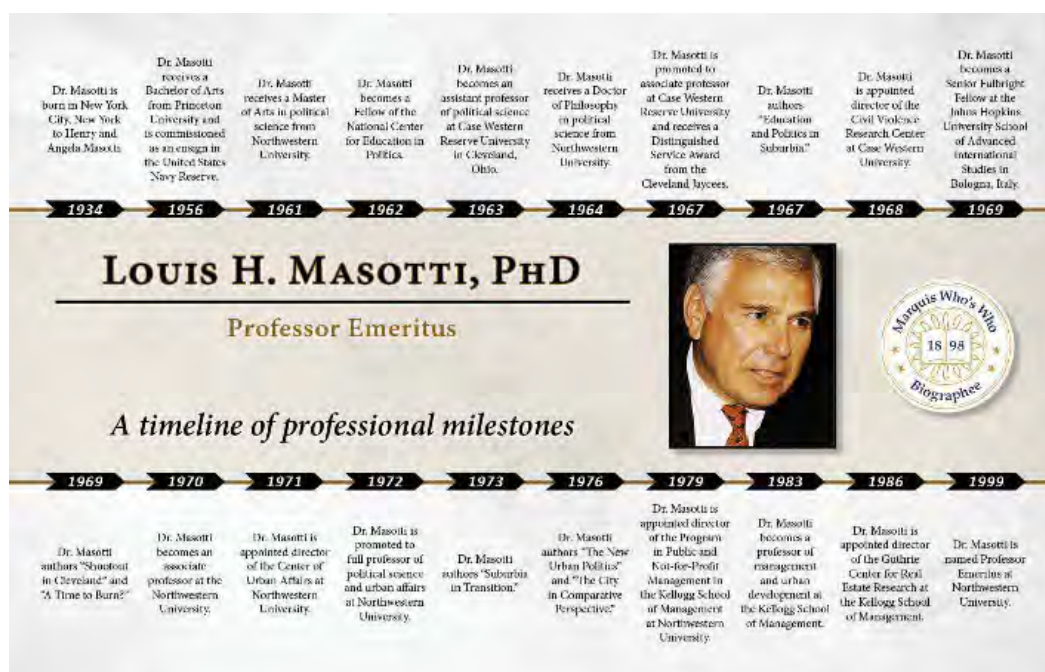
What we did was not budgeted; nobody got paid. We had no staff. These were citizens who at the request of the mayor volunteered to spend a hell of a lot of time and energy and put their reputations on the line to provide information to help guide the mayor. The fact that she chose to dismiss it, apparently without reading it or judging it on its merits, was not well received by anyone on the committee. Nor did anyone get any appreciation in any way, shape, or form, including me.



Louis Masotti

The report's principal author was Dick Simpson. It was reported to be 1,000 pages long, 700 of which were made available to the *Tribune*. Entitled *New Programs and Department Evaluations*, other transition team members besides Simpson included Bill Singer, Leon

Despres from the 5th Ward in Hyde Park, and other well-known opponents of the Regular Democratic Organization.



When the *Chicago Tribune* story on the transition report broke, it had a sidebar by George de Lama and Storer Rowley noting that I had written a section of the report. Years later I don't recall what part it was, but it may well have dealt with the Chicago Public Schools. I had spent a good deal of my time on CPS matters in my Director of Research role in the Singer mayoral campaign. Singer had made improving the public schools the centerpiece of his mayoral campaign and I had ended up writing most of the lengthy policy study the campaign released. When Jane Byrne went on to win the general election in April 1979, she corralled 82% of the vote in defeating Republican Wallace Johnson. Shortly thereafter, she and her staff had received Masotti's transition report. The decision was quickly made to keep it under wraps.

Rob Warden

Chicago Tribune

Sunday, September 22, 2013

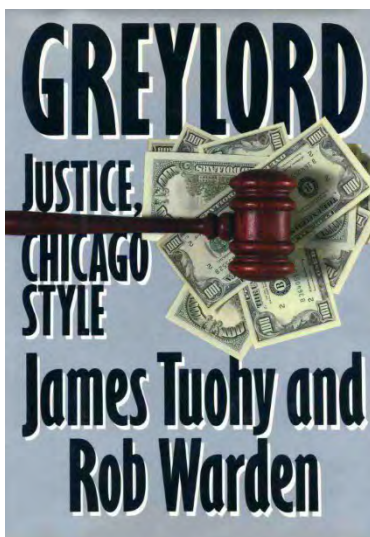
Head of Northwestern group
to keep fighting



Rob Warden

I had met journalist Rob Warden both through my law practice and at the time we both had frequented Riccardo's bar after working hours.

Warden was a former foreign correspondent in the Middle East for the *Chicago Daily News* and had become editor of the *Chicago Lawyer* after the *Daily News* folded in 1978.



The magazine had been started by lawyers unhappy

with the media coverage of the profession and they wanted the available Warden to improve press coverage of the judicial selection process. Warden being Warden, *Chicago Lawyer* had quickly moved on to subjects of broader public interest, including prominent lapses in legal ethics, non-legal governmental processes, and police misconduct. Warden in later years would document with James Tuohy Chicago's Greylord scandal of widespread judicial bribery and end his career in 2015 as Executive Director Emeritus of Northwestern University Pritzker School of Law's Bluhm Legal Clinic

Center on Wrongful Convictions.



Riccardo's 1983:

Ron Dorfman(Chicago Journalism Review), **Bill & Cathy Bowe**, **Nick Farina** (Chicago Sun-Times), **Jane Jedlicka & Carol Teuscher**

Warden and I liked and respected each other and as editor of *Chicago Lawyer* he had commissioned recent articles I had written for him on the proliferation of foreign bank offices in the city and the messy transition in leadership that had recently occurred at the First National Bank of Chicago.

**Chicago
Lawyer**
October, 1979

Business

An army of foreign banks has invaded LaSalle Street

By William J. Bowe
and Margaret J. Hardy

The foreign banking community has increased its presence on LaSalle Street recently. Negotiations have progressed toward acquisitions of major local banks by several international banking institutions.

In July, the Midland Bank, Ltd., Britain's third largest bank, reached an agreement with Walter E. Heller International Corporation to acquire the American National Bank & Trust Company, Chicago's fifth largest bank. In August, the American National itself agreed to acquire the assets of the Mercantile Na-

Chicago's relative position should improve still further because of a recent action by the Illinois legislature. In late 1978, in a move designed to cut through the traditional Chicago-Springfield rivalry, the legislature turned over to the city majority control of the Port of Chicago board. The new measure is expected to facilitate funding and construction necessary to end the competitive handicaps of the port vis-a-vis other ports. Because until recently the Port of Chicago was an underfinanced stepchild of the area's economy, even greater export growth should now be attainable.

Illinois' dynamic position in interna-

Illinois changes its banking laws

The significant foothold which foreign-based banks have gained for themselves in Chicago dates from 1973, when the state legislature passed Illinois' Foreign Banking Office Act (Ill. Rev. Stat., Chap. 16½, Section 501 et seq.) The Illinois act permits foreign banks to establish branches within the Loop area — bounded by Michigan Avenue on the east, Canal Street on the west, Van Buren on the south, and Lake Street on the north — and closely regulates their activities. The restrictions and requirements imposed are essentially the same as those applicable to Illinois-chartered domestic banks.

Since the Midwest is a major source of the country's international trade and foreign investment, foreign banks responded aggressively to the entry opportunities provided by the act. At the end of the first quarter of 1979 foreign banking insti-

Unhappy with the transition report being bottled up by Byrne, Warden had brought suit against the city for its release. In December 1979, Cook County Circuit Court Judge James Murray ordered that the six-volume report see the light of day.

However, with the city appealing the order, the report was still out of sight a year after Byrne's election. That was when, on June 6, 1980, Dick Simpson took his copy of the report to officials of the *Chicago Sun-Times* and offered the newspaper a chance to print an article about it and gain a major competitive scoop over its great rival, the *Chicago Tribune*.

Simpson's goal in taking the still secret report to the *Sun-Times* was primarily to bring to light the report's many recommendations to reduce government waste. Along the way he also hoped to generate some publicity for a forthcoming book he had edited that contained a long essay developed from the report. Because the *Chicago Lawyer* had been responsible for successfully suing the city to release the transition report, Simpson wanted to let Warden and the magazine publish its own account of the transition report coincident with the *Sun-Times*. Apparently, the *Sun-Times* was agreeable to this general arrangement.

An article in the *Chicago Reader* later described the press brouhaha attending the revelation of the transition report as a “tale of life on Media Row—a tale of misspent passions, split-second decisions, and late-night cloak-and-dagger.”

When Simpson gave Warden a copy of the 700 pages in his custody, Warden passed it on to me and asked me to digest the tome in an article appropriate for *Chicago Lawyer* readers.

I had read the entire report in my Lincoln Park home by Friday, June 20 and had just begun to write my article. Some time on Friday, Warden heard that the *Sun-Times* was at that moment putting together a three-part version of its story and planned to publish it in final form beginning in that Sunday’s paper.

Warden promptly called the *Sun-Times* Editor, Ralph Otwell, to see if he could delay the *Sun-Times*’s publication long enough for me to finish its article and have it ready for publication in *Chicago Lawyer* at roughly the same time as the *Sun-Times* would publish. According to the later *Chicago Reader* article, Otwell said the story was already in the paper, but he’d see if he could delay it. In fact, Otwell was able to delay it and the first edition of that Sunday’s *Sun-Times* had nothing about the transition report.

About 11:00 pm that Friday evening, Warden was at Riccardo’s when a *Sun-Times* editor, unaware of Otwell’s success in delaying publication of the article, told Warden the article had been set for publication in Sunday’s paper.

At the time, I was newly married and my wife Cathy was pregnant with our first son Andy. We were living in a townhome on Larrabee Street in the Lincoln Park neighborhood when I shortly got unexpected telephone call from Warden.

He said the *Sun-Times* had jumped the gun on its article, and with the timeliness of the *Chicago Lawyer*’s article now undercut, he wanted to give the *Chicago Tribune* immediate access to my copy of the report. He asked me to also lead the reporters who would write the front-page story for the *Tribune*’s Sunday paper through the lengthy document.

This would be necessary for such a complicated story given the tight deadline, but achievable given the fact that I had already carefully analyzed it for its newsworthy elements and had already formed my own idea of how the article might be structured. Warden told me I was to stay awake and await the arrival of two reporters.



At precisely 1:00 am, Saturday, my doorbell rang and George de Lama and Lynn Emmerman from the *Tribune* arrived, ready to jump into their task with both feet. As they entered, de Lama handed me a handwritten note Warden had given them testifying to their bona fides. It read:

The Tribune reporter who has this note has my blessing. The Sun-Times is screwing us on the release of the transition Report. I'd like to read it in the Tribune first. Help them. - Rob

I led de Lama and Emmerman through the hundreds of pages, explaining the structure of the report and pointing out for them what I thought to be the more important and interesting critiques of the various City Departments. I also reviewed with them the pertinent recommendations that had been made to the incoming mayor. It was 5:00 am before we had gotten through it all, at which point my visitors left. Their next task was to quickly write up their lengthy story and accompanying sidebars and meet the Saturday deadline for the early edition of Sunday's paper.

" Innuendo, Lies, Smears, Character Assassinations and Male Chauvinist Tactics "

The New York Times

Around the Nation; Chicago Tribune Is Barred From City Hall Press Room

The upshot of this frantic deadline mission was that the early editions of the *Tribune* that hit the streets Saturday evening had the story blasted over its front page and spilling into multiple inside pages, and the *Sun-Times* didn't. The *Tribune*'s headline screamed, "Secret City Report Cites Waste, Incompetence." The lead (or "lede" for nostalgic romanticists of the linotype era) of the story on page one was a classic:

Exclusive report: A SECRET evaluation of the City of Chicago prepared for Mayor Byrne last spring at her request by a hand-picked team of advisers and later shelved by her administration found widespread waste and incompetence in the city government she inherited. The secret report, obtained Saturday by the

Tribune, was apparently ignored, however, as the mayor and top officials of her administration deemed its recommendations for a general overhaul of the city's governmental structure and the dismissal of several clout-heavy department heads politically inexpedient.

When the *Sun-Times*'s Otwell saw that his paper's exclusive had gone out the window, with the story already written in house, he was able to promptly recover and feature it on the front page of the later Sunday edition of the *Sun-Times*. Proving the adage that when it rains, it pours. both the *Tribune* and the *Sun-Times* had been gifted a new story element by Mayor Byrne. Splattered across the top of its later Sunday edition, the *Tribune* headline read, "Tribune barred from City Hall: Byrne." The story lead explained:

Within hours of a published report critical of the way the city was run prior to her administration, Mayor Byrne called The *Tribune* city desk Saturday evening and said she would throw the paper's reporters out of City Hall Monday morning. "Today's paper was the last straw," she said. "Your paper will not have privileges at the City Hall press room. Never again will I respond to reports in the *Chicago Tribune*."

The shocking new story line immediately seized the attention of all Chicago's media as the television news departments now jumped into the mix with fevered stories and speculation on the imminent death of the First Amendment and the Mayor's ongoing predicament of how to walk back her untenable promise. The late edition of the *Sunday Sun-Times* also prominently featured the *Tribune*'s ouster and reported that a statement released by Byrne's press secretary and husband Jay Mullen to the City News Bureau said, "The *Chicago Tribune* has engaged in innuendo, lies, smears,



**Jane Byrne &
Jay McMullen**

character assassinations and male chauvinist tactics since Jane Byrne became mayor."



Jane Byrne

Byrne added in an interview with the *Sun-Times* that the *Tribune* articles were but the latest in a long series of unfair attacks on her administration. She called the task force's findings "ridiculous," the *Tribune*'s reporting, "yellow journalism," and said that the newspaper "only printed 85 percent of the story." The *Sun-Times* story went on: The mayor said she would refuse to answer any questions posed by *Tribune* reporters and would refuse to comment to other

reporters on stories carried by the newspaper. She also repeated directly to the *Sun- Times*, “I will never, ever talk to them [the *Tribune*] again.” She also dismissed the advisory study itself as “unbelievable, naïve and superficial.”

Rally ‘Round the First Amendment



Stuart Loory



Jay McMullen

Sunday morning, husband Jay McMullen spoke to Bob Crawford, longtime City Hall correspondent on WBBM radio. When Crawford raised the question of the mayor being sued and losing, McMullen opined, “At least we will have made our point.”

McMullen also went on offense by telling the United Press International wire service, “Let them sue; we’ll take it all the way up to the Supreme Court.” (Though I wasn’t General Counsel of United Press International for another five years, I can’t help but think I would have been filing a friend of the court brief siding with the Tribune if such a lawsuit had come to pass in later years.)

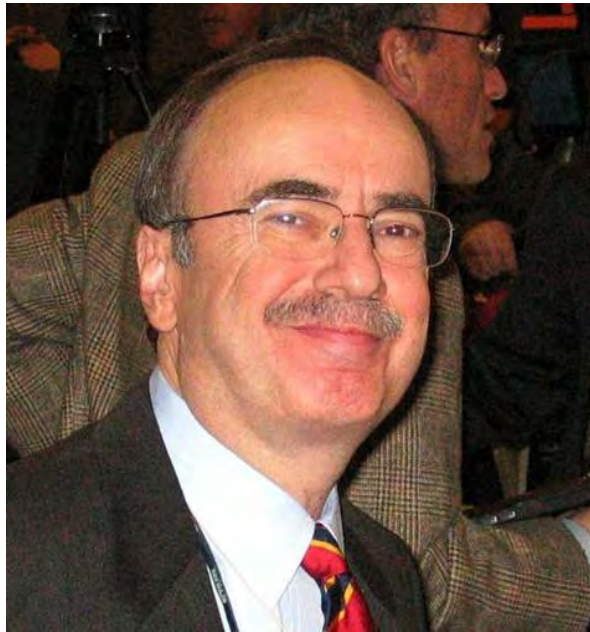
The American Civil Liberties Union, which then enjoyed a reputation for defending free speech, found the Byrne action “outrageous,” and predicted her *Tribune* ban would not be upheld even if taken to the Supreme Court.

Stuart Loory, president-elect of the Chicago Headline Club and managing editor for news of the *Sun-Times* found a “clear violation” of the First Amendment.

The Chicago Newspaper Guild union was equally aghast, “We vigorously and unanimously condemn the mayor’s action...”

Sun-Times publisher, James Hoge, chimed in calling the ban “indefensible.”

Will She or Won't She?



Roger L. Simon

At first, this was all taken very seriously. *Tribune* Managing Editor William Jones said in Monday's *Tribune*:

There is no vendetta and the mayor knows it. The *Tribune* will continue to publish the news without first seeking approval from the city administration. Mayor Byrne is saying in effect that when she disagrees with what is published in the *Chicago Tribune*, she will take action to impede the free flow of information from City Hall to the people of Chicago. That's a frightening point of view on the part of any public official. It's particularly chilling when it becomes the publicly stated policy of the Mayor of the City of Chicago. The issue is not a free desk at City Hall. The issue is freedom of the press.

At the *Sun-Times*, Byrne's attack on the *Tribune* carried over to its own front page on Monday, when the paper's headline read, "Byrne blames 'vendetta' on failure to OK land deal." The related article by *Sun-Times* reporter Michael Zielenziger reported that Mayor Byrne believed that the *Chicago Tribune's* "vendetta" against her administration stemmed partly from her failure to quickly approve a 54-acre real estate development along the Chicago River east of Tribune Tower.

Warm

Partly sunny, more humid; high in the mid-80s. Details on Page 73.

Sun-Times

Chicago, Monday, June 23, 1980

★★★★★
Turf
Final

20¢ city and suburbs; 25¢ elsewhere

Byrne blames 'vendetta' on failure to OK land deal

Multimillion-dollar package reportedly would involve Tribune holdings; Page 3

Trib-ulations make the mayor erupt

Mt. St. Byrne erupted over the weekend, spewing forth steam, hot air and volcanic anger.

Mt. St. Byrne, otherwise known as Jane Byrne, mayor of Chicago, was angered when the Chicago Tribune printed a year old report stating that past mayors often were influenced by politics in running the city.

This explosive revelation led Byrne to kick the Tribune where it would hurt the most: in its desk.

The mayor announced that the Tribune would lose its desk in the City Hall press room, but the Tribune reporter could stay—apparently if he is willing to stand up all day.

The real question, however, was why Byrne was so mad at the printing of the report, since the report did not attack her, but her predecessor, Michael Bilek, a man the mayor has often compared unfavorably to a sea bass.

The mayor answered by saying the Tribune had damaged the reputation of the city, especially with businesses that might go to the Sun Belt. The mayor apparently feels that if the Tribune had not printed the study, businesses would be only too glad to turn down the Sun Belt in favor of Chicago's pleasant winters, charming humidity, and fun-filled labor unions.

"The damage the Chicago Tribune has done to the city is



Roger Simon

the City of Chicago is not acceptable and is an insult to every Chicagoan who is proud of this city," the mayor said.

The mayor's husband, press secretary and chief enforcer, Jay McMullen, immediately sought to calm the situation by announcing that the Tribune would also be barred from speaking to City Hall officials and examining public records.

When persons pointed out that this might violate the Bill of Rights, Jay was momentarily silenced as he tried to find out if City Hall owned a copy.

The mayor also accused the Tribune of printing the report only because she had refused to give the paper special consideration on a multimillion dollar land deal. This did not explain, however, why the Chicago Sun-Times also printed the story.



DEBATING TO COMMENT on the weekend's events. Sideshow of a senior citizens facility at U.S. Park, 2200

The land being referred to was owned by in part by the Chicago Tribune and the Chicago Dock and Canal Company. The latter concern was a 123-year-old company started by Chicago's first mayor, William B. Ogden. Byrne said she was offended because detailed plans for the proposed development had been presented to her by an officer of the Dock and Canal Company the preceding Thursday, without first being presented to the city Planning Commissioner.

Left unreported was the fact that the mayor's occasional spokesman and husband Jay McMullen was currently on leave from his job as a *Sun-Times* reporter on the real estate beat.

With Byrne having thrown down the gauntlet by repeatedly saying the *Tribune* would be banned from City Hall, the question on everyone's mind was whether the mayor would actually carry through by kicking the *Tribune's* City Hall correspondent out of the building and keep her promise to "never again respond to reports in the *Chicago Tribune*."

Tribune prepares to resist ouster order from City Hall

By Michael Zielenziger

Amidst threats that the entire City Hall press room might be closed, the Byrne administration Sunday ordered a Chicago Tribune reporter to empty his desk there.

But Tribune officials said they had no intention of complying with the order, read over the telephone Sunday to reporter Robert Davis by Jay McMullen, the mayor's press aide and husband.

"You are hereby directed to remove your belongings forthwith from the desk occupied by the Chicago Tribune in the City Hall press room by order of the mayor," McMullen told the reporter.

Tribune Managing Editor William Jones said the paper and reporter Davis are "not prepared to accept that order under any circumstances." Jones said Davis would report to work at City Hall Monday morning.

He said the paper was consulting legal counsel should the mayor press her demand that the Tribune be ousted from its space in the press room. Byrne first made that demand late Saturday, charging the newspaper had sullied her administration.



JAY McMULLEN

Byrne, who at one point had indicated the desk used by the Tribune would be moved out of the press room, Sunday indicated she would leave it in the room but give the space to other journalists.

Sources close to City Hall suggested that Byrne's motive in moving to oust the Tribune was mainly to draw attention to her long-standing belief that the paper has treated her unfairly. It was possible, they said, that Byrne would drop her expulsion order rather than create a confrontation with Chicago's

press.

The city's news media, however, were quick to condemn the mayor's expulsion order. And Jay Miller, executive director of the American Civil Liberties Union, said Byrne's order was "outrageous" and could be "easily challenged" in court, should the Tribune be ordered out.

Byrne charged late Saturday that the Tribune "has engaged in innuendos, lies, smears, character assassination and male chauvinistic tactics" since her election in April, 1979.

McMullen, who once covered City Hall while a reporter for the Chicago Daily News, said the entire press room could be closed if the Tribune complained that its rights to space in the building had been unfairly revoked.

He and Byrne suggested that the press facilities are a "privilege" extended to the press corps that could be terminated at any time.

"It is a really good privilege we have extended to the press," Byrne said in an interview with the Sun-Times. "A lot of people don't have desks in City Hall. Channel 9 doesn't have a desk there."

Turn to Page 8

Fortunately, at the time Roger Simon was making his chops as a reporter at the *Sun-Times*. Simon was given the assignment to freely ponder the seeming seriousness of the whole Byrne ban on the paper's front page. In a series of straight-faced pinpricks, he successfully punctured the dirigible of hot air hanging over the city that morning.

The headline of Simon's story read, "Trib-ulations make the mayor erupt." The lead that followed gave more than a hint that everyone should relax and take a deep breath:

Mt. St. Byrne erupted over the weekend, spewing forth steam, hot air and volcanic anger. Mt. St. Byrne, otherwise known as Jane Byrne, mayor of Chicago, was angered when the *Chicago Tribune* printed a year old report stating that past mayors often were influenced by politics in running the city...The real question, however, was why Byrne was so mad at the printing of the report, since the report did not attack her, but her predecessor, Michael Bilandic, a man the mayor has often compared unfavorably to a sea bass....The mayor's husband, press secretary and chief enforcer, Jay McMullen, immediately sought to calm the situation by announcing that the *Tribune* would also be barred from speaking to City Hall officials and examining public records. When persons pointed out this might violate the Bill of Rights, Jay was momentarily silenced as he tried to find out if City Hall owned a copy.

Simon concluded his observations with suggestions on how the *Tribune* might better have responded to the mayor's attacks and expressed the depressing thought that the city would remain captive to the chaos for the foreseeable future:

But the *Tribune* is being really dumb about this whole thing. Instead of issuing swell sounding statements about a free press, here's what I would do: I'd get my five fattest reporters and have them sit on the desk in City Hall. I'd force McMullen to cart it out with a forklift. Then I'd sell the picture to *Life Magazine* for \$10,000.

Or I'd get all my editors and have them sit down on the floor of the City Hall press room and go limp. Then when the mayor ordered the cops to move in with cattle prods, I'd have all the editors sing "We Shall Overcome" and sell the soundtrack to "Deadline U.S.A."

I think the whole affair has been terrific. It's the most fun the press has had since the Democratic Convention of 1968. During most June days, other newspapers around the country have to write stories about kids frying eggs on sidewalks and flying saucers landing in swamps. But not in Chicago. We have daily eruptions to keep us busy. I say: "Keep it up, Mayor!" Who cares if those drab little men on Wall Street keep getting upset with all the crises on this city and keep lowering our bond ratings? Those guys have no sense of fun.

As for the rest of you citizens, I realize it sometimes depresses you that Jane Byrne has created all this chaos in just over 14 months. But what can you do about it? That's the way it is, on the 434th day of captivity for the hostages in Chicago.

Chicago Tribune
FOUNDED June 16, 1837

STANLEY R. COOK, Chairman and Publisher
CLAYTON KROENKOWSKI, President
HAROLD R. LUTHELMAN, General Manager

Marshall McLuhan, Editor
William H. Jones, Managing Editor
John McCutcheon, Editorial Page Editor

2 Section 4 Monday, June 23, 1983

The mayor vs. the Tribune

At 11:00 a.m. today, the Tribune is in the awkward position of being ordered by the Mayor of Chicago to vacate its assigned desk in City Hall, effective Monday morning. She has also ordered city officials not to talk to Chicago Tribune reporters. Mayor Byrne's moves were a totally unprecedented case of interference with freedom of the press. She accuses the Tribune of reporting "unfavorable news about the state of city finances, among other things, and of thereby encouraging Chicago businesses to flee to the Sun Belt."

If the city's image is being hurt, it is the mayor herself who is hurting it, by her past record of impulsive and often inconsistent behavior, by her inability to obtain and keep qualified administrators, and now by a vindictive step that is bound to make her administration the laughingstock of the country.

A free press is what keeps a city administration on its toes. If a businessman is considering moving away from Chicago, he will be far more encouraged to do so by fear that the taps is being kept from him than by the disclosure in the press of flaws in the city financial statements, especially flaws that can be remedied if caught in time and are surely less serious than those that have crippled New York.

But the mayor's position seems to be that any criticism of the way Chicago is being run is unpatriotic, and that a paper that dares to print information that the mayor herself has seen fit not to publish is doing the city a disservice.

On the contrary, it is the mayor who is being disloyal to her city. It is hard to believe that she will persist in a "leave so vindictive and so improper that the publisher of the Chicago Sun-Times, which is at bitter odds with the Tribune over much of City Hall coverage, has condemned her. We are grateful for

her support. The Tribune intends to continue to cover the news from City Hall, whatever handicaps may be put in our way.

If censorship is to be the watchword of City Hall, then we shall serve our readers and our conscience best by continuing to print the truth as we see it, whatever difficulties we encounter and whatever the mayor's reaction may be. In the meanwhile, we hope that the mayor will reconsider her stand, because an attack on freedom of the press goes far beyond the cost of character; it immediately involves, it is a nationwide threat, especially to publications smaller than the Tribune and less able to resist the arrangement of power.

In conclusion let us repeat that the problems facing Chicago are within reach of solutions. We are in far better shape than many other cities. There are few indeed that have done more to rectify their downtown areas than Chicago. There are few that have recognized their problems and have undertaken to cope with them as promptly as Chicago. To suggest that stories like those in the Tribune have destroyed the city's reputation is absurd. Chicago will be destroyed only if it refuses to recognize its problems and fails to correct them in time. If there are differing opinions as to the seriousness of the problems or the facts surrounding them, these differences should be brought into the open. It is the Tribune's goal to see that all of this is done and that Chicago's business is no longer conducted under a hat, so it was for years.

We would like to think that this is Mayor Byrne's goal, too, and that she will reconsider her shocking action. Otherwise, we shall be compelled to fight her in our pages and in the courts, because we owe it to our readers, to our conscience, to our city, and to the future of a free press in our country.

The Aftermath – Harold Washington Defeats Jane Byrne



Harold Washington is Sworn In as Mayor

On Saturday, June 27th, just one week after the *Tribune* laid out the details of the previously shielded transition report, it was left to the Hot Type section of the *Chicago Reader* to try to pick up the pieces. The very last word, if not the last laugh, was had the next day by the *Near North News*, one of the Lerner Newspapers.



Ralph Otwell

In the *Reader's* analysis, Warden was a former *Daily Newsman* with no love lost for Field Enterprises, the owner of the *Sun-Times*. As a result, he had no trouble believing it when a *Sun-Times* editor told him

that they had seen page proofs of the Sunday story and also concluded that Ralph Otwell had failed to pull the story and was going back on its arrangement with Dick Simpson. The *Reader* reviewed the bidding:

So, to retaliate, Warden decided to turn the *Sun-Times's* “exclusive” into no exclusive at all. By midnight, Warden was in the *Tribune* city room; by 1 AM Saturday, a couple of *Tribune* reporters had awakened William Bowe, who was analyzing the transition report for *Chicago Lawyer*, and who (at Warden’s suggestion) led the reporters through its 700 available pages over the next three hours. By 5AM, the *Tribune* was assembling an unexpected front page for Sunday’s paper and remaking its “Perspective” section to accommodate a lengthy scorecard of the report’s findings.

The *Reader* article concluded by quoting Otwell as saying under normal circumstances, the story wouldn’t have been played up as big as it was under a Sunday banner headline. Otwell observed, “After all, it’s a recycled story that wouldn’t seem to justify the space and fanfare that either of us gave it, quite frankly.” When Warden was asked by the *Reader* if he would

have run my story on the front page of *Chicago Lawyer*, he answered, "Hell no!" The *Reader* summed it up this way:

At any rate, consider the real meaning of the whole ridiculous episode: (which has probably set back any serious scrutiny of the transition report by months) a year-old story becomes a three-day, three-ring media circus, thanks to one overprotective magazine editor, two contentious dailies, and the city's dizzy first family. And for a few moments, all of Chicago was fooled into thinking something important had happened.

THE MEDIA

Lerner, Sun-Times didn't irk Byrne

BY JOHN KINZIE JR.

Near north siders were heavily involved in the Chicago Tribune story that so miffed Mayor Jane Byrne that she announced the paper was going to be thrown out of city hall.

The mayor's transition report was obtained by the *Chicago Lawyer*, edited by Rob Warden, 1324 N. Sandburg. Warden turned it over to Atty. William J. Bowe, 2044 N. Larrabee, for analysis. Bowe turned it over to the Tribune.

Ironically, the report was printed in great detail last Nov. 18 by the Lerner newspapers, without unduly irritating the mayor. Late editions of the Sunday Sun-Times also picked up the story from the earlier Tribune without upsetting Byrne.

The only way the mayor could stop the Tribune or any other news media from using the city hall press room would be to close it down completely.

all know James V. Riley, the president of the firm, but since the retirement of Earl Weber in the late 1960's few people if any had seen all three men together.

Riley, Weber and board chairman Ronald I. Cohn all showed up for the agency's 20th anniversary bash at 444 N. Michigan. Cohn and Riley are near north siders.

WNIB (97.1 fm), the finest classical music station in town, will celebrate its 25th anniversary next month at

The station has aired an estimated 125,000 hours of classical music. Currently it broadcasts the classics from 9 a.m. to 10 p.m. Sonia Florian is the station manager and Ron Ray is program director.

"Inside Politics with Bruce DuMont," a weekly radio discussion program at 7 p.m. Thursdays, began this week on WBEZ (91.4 fm).

The 90-minute show will explore all aspects of politics. It will feature a panel of three experts each week. Listeners can take part by calling 236-1531.

Bearded John Erlichman of Watergate and Art Petacque of the Sun-Times will be interviewed by Sandra Gair at noon Friday, July 4, on WBEZ.

Rev. Garrett G. Barton of St. Michael church, 1633 N. Cleveland, will talk about "4th of July in Mind & in Heart" at 10:15 a.m. tomorrow on WPRZ (1590 am).

radios turned to its state as it parades along Chestnut in Evanston on Friday, July 4.

Ruth L. Ratny, publisher of the weekly *News-Screen*, and Jack Behrend's equipment rentals will present two hour short films on Wednesday, July 2, at Leon Solomon's Warehouse, N. LaSalle.



BILL BOWE



The truly last word came the day after the *Reader's* story and appeared in a regional edition of the Lerner Newspapers, the *Near North News*.

True to its traditional concentration on its local circulation, it focused on the north side addresses of Rob Warden and me before turning to the fact that the Lerner papers had long before run a detailed story on the transition report in November 1979:

Near north siders were heavily involved in the *Chicago Tribune* story that so miffed Mayor Jane Byrne that she announced the paper was going to be thrown out of City Hall. The mayor's transition report was obtained by the *Chicago Lawyer*, edited by Rob Warden, 1324 N. Sandburg. Warden turned it over to Atty. William J. Bowe, 2044 N. Larrabee for analysis. Bowe turned it over the *Tribune*. Ironically, the report was printed in great detail last Nov. 18 by the Lerner newspapers, without unduly irritating the mayor.

My own view is that what went on was more than a tale almost about nothing, and that there is a least one solid truth to be unraveled from the affair. This particular media circus added to an already growing view that Jane Byrne, for lots of reasons, was not well suited to serve a second term as Chicago's mayor.

The strange media flap over the transition report and the coverage of her temporary sojourn in the Cabrini-Green housing project conveyed a sense of her instinct for the capillary instead of the juggler. Her firing of officials throughout the city government seemed too disruptive and haphazard to be treated as fair political retribution. Having campaigned as a reformer and the "evil cabal" in the City Council, she had also alienated Rose and other independent minded supporters when she cozied up to heavyweight machine aldermen like Edward Vrdolyak and Edward Burke. Finally, Chicago was in any event getting ready to move on to the next new thing, the election of Harold Washington, the city's first African American mayor.

While there was much to admire about Jane Byrne personally, and in her one term as mayor, on balance she added, instead of subtracted, to the city's ongoing sense of unease after Daley's long rule, and voters punished her for this at the next election.



Before the Deluge - United Press International

On the Way to UPI



State of Illinois Center, Chicago

After I left Bradford in 1983, I briefly settled back into the private practice of law. Joining several of my former Roan & Grossman partners as Of Counsel, I worked in a LaSalle Street office across from architect Helmut Jahn's nearly completed State of Illinois Center (later the James R. Thompson Center). My strongest memory of this short period is not the legal work I did but rather being at eye level with the glass dome under construction atop the unique 17-story building. It was impossible not to frequently stare out the window at the steel workers clambering along the yet to be glazed skylight structure above the building's atrium. Their ballet-like, death-defying, angled tightrope walks were so gripping that anyone watching it for long could fairly be accused of having the morbid curiosity worthy of a Formula One fan.

Notwithstanding this distraction, I continued to do some carryover corporate work for Bradford and general legal matters for other clients. One matter in particular I remember working on was an odd problem that cropped up in the administration of an estate. My friend Arthur Cushman had recently started a long-planned vacation trip across the Canadian Rockies. He was headed westbound to Vancouver from Toronto on a Via Rail Canada train. He never made it. Though only in his early 50s, a contemporaneous police report said he that not long after leaving Toronto he had been eating dinner in the dining car when he suddenly stood up, grabbed his chest, collapsed, and died. I knew he had had heart troubles in the past, but the report of his sudden death had come as a shock to me and all those who knew him.

The executor of his estate retained me to track down several missing items known to be on his person when he died. Strangely, they had not been on him when his remains were claimed by next of kin. One item was a money belt that he always wore travelling. It was said to have \$200 of mad money in it. The other missing item was of more sentimental value, a gold Bolo sheep's head tie clasp that was always a part of his informal string tie attire.



**Art Cushman with Bolo tie
and my son Andy**



The train crew had promptly alerted Via Rail's far away dispatcher, who in turn contacted authorities in the first available stopping place along the route. Cushman was tall and very heavy and, when I later talked to the local sheriff, I learned that his corpse had been offloaded from the train with some difficulty. The body was put in an ambulance in a sparsely populated location and driven to the nearest mortuary.

The sheriff took my report of the missing items seriously and, amazingly enough to me, he mostly solved the mystery of the missing items. It turned out the ambulance driver and his assistant couldn't resist temptation. It had been a dark night when they picked up the body after all, and the only other person around them as they drove to the undertakers would never be able to tell the tale of their filching.

Confronted by the law, they had given up the gold Bolo tie clasp without ado, disclaiming any knowledge of what might have happened to the cold, hard cash. Although I never found out, my guess is that in return for giving up the clasp, the sheriff let the matter ride.



Linda Thoren Neal

My priority in this period was to find another corporate law position. In pursuit of this goal, I began to talk to friends and family and other lawyers I knew for advice and pointers to possible opportunities. One of those I talked with was a classmate of mine at the University of Chicago Law School, Linda Neal (then Linda Thoren).

One of the few women in the class that graduated with me in 1967, Linda had first worked in the development office of the University and later at the Art Institute of Chicago. At this time, she was an associate in private practice with the large Chicago firm of Hopkins & Sutter.

There she was doing legal work for Cordell Overgaard, a partner representing new of the owners of the United Press International wire service.

UPI – Second Banana to the Associated Press



Early UPI Office in Washington, D.C.

United Press had been founded in 1907 by E.W. Scripps, the owner of newspapers in Cincinnati, Cleveland, Columbus, and Toledo. The papers covered local news in these cities adequately but were at a disadvantage in covering non-local news. The competitors to Scripps had inexpensive access to news stories outside their local markets because they had access to the Associated Press wire service and Scripps did not. AP was a standalone cooperative news gathering organization created and funded at the time by its members, most of the country's largest newspapers. With these newspapers



E.W.Scripps

the AP was able to telegraph these local stories to all the other AP members.

The cooperative newspapers that owned AP had solidified their monopoly on this kind of economic news reporting by making it against AP policy for it to sell to more than one newspaper in each market. This had forced Scripps into the uneconomic step of beginning to put its own reporters in cities in which it had no newspaper or way to offset the cost.

The answer to this problem that Scripps arrived at was to create a competitor to AP. After some years, his United Press had a small number of correspondents in cities that were transmitting about 12,000 words of Morse code over leased telegraph lines to 369 newspapers. In later years UP grew to be a worthy competitor to the AP, but throughout the decades always remained second in size and scope to the AP. What it lacked in AP's deeper resources, it tried to make up for with a colorful focus on people and succinct lively reporting. It took pride in its scrappy reputation as the Avis to the AP's Hertz and continuously over its long competition with AP scored many news scoops.

In the late 1920s, UP's head briefly met with William Randolph Hearst to discuss merging with the Hearst newspaper chain's competing International News Service, INS was having its own difficulties competing with the AP behemoth at the time. According to the history of UPI in the book *Down to the Wire*, written by Gregory Gordon and Ronald Cohen, Hearst is said to have replied, "You know a mother is always fondest of her sickest child. So, I guess I will just keep the INS." However, in 1954, three years after Hearst's death, the mother of INS was no longer in the picture. The merger went forward and the United Press became United Press International.

In the next two decades, UPI thrived. By 1975, it counted 6,911 customers. Its main revenue producers then were 1,146 newspapers and 3,680 broadcasters. Technology advances in computerization had brought teletype machine advances, but cost-saving satellite technology was still in the future.

After 1975, the continuing movement of advertising dollars from newspapers to television had begun to sharply reduce the number of surviving afternoon newspapers in the country. This had an increasingly negative effect on UPI's finances. In the late 1970s, UPI merger talks with CBS, National Public Radio, and other possible buyers went nowhere and Scripps' executives went public with news that it was interested in a sale or other divestiture of UPI. By 1980, a quadrennial year with extra news expenses for both the presidential election and the Olympics, the Scripps chain was forced to underwrite a \$12 million annual operating loss at its UPI subsidiary.



UPI Newsroom, 220 East 42nd Street, New York City 1981

With no responsible parties in the news business stepping up to the plate with an offer to take UPI off its hands, the E.W. Scripps Family Trust, which owned the newspaper chain, began pressing for a sale of UPI on any basis.

Beneficiaries of the Trust were Scripps family heirs. Trustees of the Trust, owing a fiduciary duty to the heirs, were increasingly concerned that if the Trust continued to own UPI, at some time in the future the trustees might be subject to up to \$50 million in unfunded pension liabilities.

They were also worried that lawsuits could be brought by the heirs against the trustees for wasting the Trust's assets by continuing to fund the losses of a wire service that no longer was essential for the Scripps newspapers to own.

Enter at this propitious moment, Douglas Ruhe and William Geissler. They bought UPI from Scripps for \$1 in June 1982.

Douglas Ruhe and William Geisler

1 this page

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20 Jun 1982, Sun · Page 1

laws regulating oil prices. "I have been fighting for even-handed enforcement of these...
 re-chairing," in which a reader would illegally change the certification of a type of oil...
 five attitude about enforcing the law. (Turn to Page 11, Column 1)
 or in New York, where Secretary of State Alexander Haig and Soviet Foreign Minister Andrei...
 "It is not over yet and our position is not desperate at all. We will not negotiate with the Am...
 owners who have allied them...
 selves with Israel, has been...
 (Turn to Page 11, Column 1)

Out of Stormy Past, UPI's Two 'Mystery Men' Have Covered Long Distance

By JOHN SEIGENTHALER
Tennessee Publisher
and ROBERT SHERBORNE
Staff Correspondent
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In New York, it's about two miles from the courthouse where William Geisler received a prison sentence in 1969 to the skyscraper office he now occupies in UPI's executive suite. He knows the time and distance are much greater.

"IT SEEMS LIKE I have come through a lifetime," he said last week as he sat in the office where he is working on planning United Press International's future.

"Obviously, when I was in Danbury prison I had no idea that in 1982 I would be part of a group that would assume the management of UPI. It is a sobering undertaking."

Down the hall from Geisler, his friend and business associate, Douglas Ruhe, the new managing director and chief executive officer of UPI, looks out on Second Avenue and shares a sense of miles traveled. Last week when he went in to meet for the first time with labor officials to renege them that the union contracts would be honored by the new UPI management, he thought back to the days he and Geisler were labor organizers in Texas.

AND WHEN Geisler and Ruhe are home in Nashville it is only 290 yards from their Focus Communications Inc. offices at One Commerce Place, across War Memorial Plaza, to the spot where Ruhe was physically assaulted in a one-man anti-war protest in 1969.

Again, they both know they have covered a great distance since those days of activist dissent when Geisler went to federal prison for refusing the military draft and when Ruhe was beaten up for demonstrating against Sen. Edmund Muskie during a vice presidential campaign speech.

The announcement less than three weeks ago that these two young men who came from backgrounds of social protest were among four principals in the purchase of United Press International — one of America's two international news services — shook the nation's business community and shocked the communications industry, which relies on UPI as a major source of news.


ON JUNE 2, E.W. Scripps Co., owners of UPI since its founding 75 years ago, announced it was selling UPI to a newly formed, previously unknown company called Media News Corp.

Its owners, in addition to Ruhe and Geisler, are Len R. Small, publisher and editor of the *Moline (Ill.) Daily Dispatch* and heir to an extremely successful string of newspapers, and Cordell Overgaard, a Chicago communications lawyer and cable television company owner.


Small was well known and highly regarded in the newspaper industry and Overgaard was recognized as an expert in communications law and cable company operations. Neither Scripps nor the new owners would discuss terms of the sale.

HAD ONLY SMALL and Overgaard been involved, it is likely that hardly a word of concern would have been spoken about the sale of UPI. But, then, there

(Turn to Page 11, Column 1)



William Geisler
"I am the pessimist"



Douglas Ruhe
"I have come to love Nashville"

William Geisler left, Douglas Ruhe right
June 20, The Tennessean 1982

UPI's new owners, Douglas Ruhe and William Geissler, were young Nashville entrepreneurs. Though they had started out with little business experience or capital, their small Nashville company, Focus Communications Commission. They had been issued one low-powered television license in Illinois and had several others pending. Ruhe had grown up in an unusual family.

His father, Dr. David Ruhe, was appointed the first professor of Medical Communications at the University of Kansas Medical School in 1954. Dr. Ruhe was a medical educator who made more than 100 training films. A member of the Baha'i Faith, he was later elected Secretary of the National Spiritual Assembly of the Bahais of the United States. As the Baha'i Faith has no clergy, it is governed by elected spiritual assemblies. Then from 1968 to 1993, the senior Ruhe served as one of the nine members of the representative body of the global Baha'i community, the Universal House of Justice of the Bahai Faith resident in Haifa, Israel. Dr. Ruhe had also long been active in civil rights, working in Atlanta in the 1940s to increase the hiring of African American police officers, and in Kansas City in the 1960s in protesting segregation.

His son Doug had followed his father in the Bahai faith. He had met Bill Geissler when both attended graduate school at the University of Massachusetts in Amherst. They later worked together in the 1970s at The Bahai National Center in Wilmette, Illinois, near where Dr. Ruhe lived. In 1977, with a loan from Ruhe's mother-in-law, the two joined with a Korean-born graphics designer and started a small public relations firm in the attic of Ruhe's home in nearby Evanston.

In 1980, under President Jimmy Carter, the Federal Communication Commission had launched a program to “let the little guy” get into commercial television broadcasting. The idea was to ease licensing requirements and financial hurdles for low-power TV stations that would have a small range of 15 miles, rather than the average 50 miles for full-power stations. The thinking was that these stations would be cheaper to build, enabling minorities and more owners to get broadcast licenses. Applicants for low-power stations also would no longer have to prove they had the financial wherewithal to actually make a go of it.



By 1985 many of the 40,000 applications received were for overlapping geographic areas. In these cases, licenses had been awarded in over 300 lotteries. To steer more applications to minority applicants and increase their chances of beating out non-minority applicants, minority applicants were given more lottery numbers. With Doug Ruhe married to a Black, and their Korean-born partner married to a Native American, enough boxes were checked for several low-power licenses to be pending or issued to their Focus Communications enterprise. The issued license at the time was for Channel 66 in Joliet, Illinois, near Chicago. The then chief of the FCC’s low-power TV branch, Barbara Kreisman, estimated that minorities, with given extra numbers to play with in the lottery, had won about two-thirds of the lotteries they had participated in.

In its early days its scrambled signal gave low-power television stations wide programming latitude to attract a paying, subscription audience. At fandom.com, the self-described “world’s largest fan wiki platform,” I found a brief history of Ruhe and Geissler’s Joliet station WFBN:

Independent station WFBN. Originally owned by Nashville-based Focus Broadcasting, initially ran local public-access programs during the daytime hours and the subscription television service Spectrum during the nighttime. By 1982, WFBN ran Spectrum programming almost 24 hours a day; however, by the fall of 1983, Spectrum shared the same schedule with that service's Chicago subscription rival ONTV. The station as well as ONTV parent National Subscription Television faced legal scrutiny

because of its lack of news or public affairs programming and was faced with class action lawsuits because of the pornographic films aired by ONTV during late-night timeslots, with some of these legal challenges continuing even after ONTV was discontinued; however, a ruling by the Federal Communications Commission (FCC) permitted broadcast television stations to air content normally considered indecent through an amendment to its definition of what constituted "public airwaves." It declared that "broadcasts which could not be seen and heard in the clear by an ordinary viewer with an ordinary television" were exempt, as long as the signal was encrypted.



Having vaulted into the ownership of several active and pending television station licenses, Ruhe happened to see a *Wall Street Journal* article in 1982 that E.W. Scripps, Co., having failed to sell UPI to other buyers, was considering selling the company to National Public Radio, a private and publicly funded not-for-profit company. Ruhe immediately focused on his next goal, buying UPI.

Knowing that they lacked experience in the news business, they contacted the lawyer for their earlier public relations firm, Cordell Overgaard, a partner in Linda Neal's law firm of Hopkins & Sutter. Overgaard put them in touch with Rob Small, another client of his and a publisher of several small Illinois newspapers. Ruhe and Geissler thought Rob Small would be a good partner and agreed he would be Chairman of UPI after the sale. This choice lent a needed patina of credibility to their bid to buy UPI. Also, joining their effort to buy UPI was a fresh Baha'i graduate of Harvard Business School, Bill

Alhauser. He became UPI Treasurer. Ruhe and Geissler initially had a 60% interest in UPI, Rob Small and Overgaard got 15% each, and Alhauser and another financial advisor, Tom Haughney, 5%.

From Stormy Past, 'Mystery Men' Have Traveled Far

(Continued From Page One)

...were also the Nashville "mystery men" — Ruhe and Geissler — with their controversial past.

When the news broke that they were involved, the same question was asked on Wall Street in New York and on Fleet Street in London: "Who are Ruhe and Geissler?"

As associates after associates trickled out to fill the information vacuum about the two men, it prompted a second inquiry: "Where did they get the money to purchase United Press International?"

FOR THEM, indeed, had been labor organizers, civil rights demonstrators and war protesters during most of the decade of the 1960s.

Both of them are active members of the Baha'i faith, a religion founded in Persia in the 19th century and considered an "exotic" creed because it was little known in American culture.

Ruhe's father is one of the nine international leaders of that religion. He left the United States 15 years ago to move to Haifa, Israel, the world headquarters of the Baha'i faith.

NEITHER RUHE nor Geissler earned an undergraduate college degree, but both received master's degrees in education from the University of Massachusetts at Amherst — without writing a master's thesis. It was not required under the program they followed.

The dean of the school of education at Amherst, Dr. Dwight Allen, is a national leader of the Baha'i faith.

Both Ruhe and Geissler, after leaving the University of Massachusetts, worked on the national staff of the Baha'i church in Wilmette, Ill., until five years ago.

AS INFORMATION about the two "mystery men" began to come out, another important question emerged.

Was there "Baha' money" involved in the purchase of UPI? They are few weeks before the United Nations in Chicago, the United Nations Church of the Baha'i faith, was founded in Washington, D.C., the nation's capital. Was UPI to be under the financial control of the Baha'i faith?

All the principals anticipate that the formula used for the purchase will become public knowledge at some point, but won't even speculate as to how soon this might occur.

But even that will not stem the continuing stories about the lives of Ruhe and Geissler.

WHILE SMALL's categorical statements that there was no "Baha' money" or outside debts to be repaid, he said, he knows his father's past. He knows him say his father denied "external" debts or money in connection with the transaction, he would say, he has a chilling effect on the question about the involvement of the Baha'i religion in the deal.

Small's father has a reputation for integrity. He knows that many of the news organizations whose reporters are questioning him are UPI clients. Those who know him say his father denied "external" debts or money in connection.

But even that will not stem the continuing stories about the lives of Ruhe and Geissler.

WHILE THEY do not repudiate the actions of their past, they insist that at present they also are conservative businessmen.

On the one hand, media executives have come to believe in "supply side economics."

On the other hand, media executives have come to believe in "supply side economics."

THE ELDER SMALL had attempted several years ago to put together a consortium of publishers to purchase and save UPI. That endeavor was unsuccessful, but the involvement of Ruhe and Geissler was a factor in the failure of the press empire.

Some news executives looking at Ruhe and his family's reputation as publishers and conservatives, and then looking at Ruhe and Geissler, with their stormy past, wondered if they were together. As one publisher said it, "Who would the sudden hand be in the power?"

The answer was "Cordell Overgaard," a highly respected corporate attorney in Chicago, who long has been the lawyer for the business interests of the Small family and who also represented Ruhe and Geissler since they were in business in Chicago in 1977.

OVERGAARD had watched Ruhe and Geissler pursue their successful acquisition for a full

those doctors who their names were set in the streets with me," Ruhe recalls.

They were very proud of me," he said.

After public high school he enrolled in Earlham College, a Quaker institution in Richmond, Ind., and spent two years there, then transferred to the University of Kansas for two additional years, studying sociology. He had trouble with math, however, and failing to get a degree.

EACH SUMMER he was off demoralizing with various groups in the South — in Georgia, South Carolina and Alabama. He was in Birmingham during the days when that city was wracked by civil rights turmoil, and he participated in the last part of the Selma march. He had trouble with math, however, and failing to get a degree.

He was a man of great vision and to him this marvelous delivery," Ruhe said.

He had worked out of college. Ruhe signed up as a VISTA worker in the Peace Corps and then he was associated with another young VISTA staff member named Richard Geissler, the other brother of his present business associate.

Ruhe and Richard Geissler worked together to develop the cafeteria strike. As the strike was in progress William Geissler, who had been attending Syracuse University in New York, came to visit his brother and they met Ruhe for the first time. He eagerly joined in the labor organizing activity which later had the national support of the AFL-CIO.

Geissler was a VISTA worker at the time, and he was very close to Ruhe. He was a very close friend of Ruhe's.

He had a burning desire to be a writer, and he was very close to Ruhe. He was a very close friend of Ruhe's.

Geissler said he had been involved in newspaper reporting during the Laredo strike as

Later, when they were to be sent, he had to leave his long-term partner because the religious requires parental consent before marriage. He searched the nation before finding her in California. She valued him once, then vanished.

GEISLER was still interested in journalism and dropped a job with the Springfield (Mass.) News. He says he worked there for about five months, and the paper remembers him as a Tennessee reporter.

"I wouldn't argue with the characterization," Geissler says. "But I covered a five-college beat for the paper and wrote a number of stories."

While doing so he was asked by Ruhe to begin teaching a journalism class at the Street Academy, the did so, while applying for admission to the education program at the University of Minnesota. While his application was pending he was hired by the Street Academy. One of the group that Ruhe had hoped would become self-sustaining. It didn't.

AFTER RECEIVING his master's degree in education, and unwilling to continue to teach at the Street Academy, Geissler applied in 1972 for a job at the national Baha'i center at Wilmette. He was employed to publish and edit the Baha'i publication.

Ruhe followed Geissler to Wilmette several months later to take a job at the church headquarters, where he began to develop a television program for the Baha'i faith.

Back at the University of Minnesota, the dean, Dr. Dwight Allen, another Baha'i, ran into controversy in 1976. He had left Ruhe and Geissler and had put a number of Baha'i members on the education school faculty.

AFTER A SERIES of newspaper stories charging financial mismanagement at the school, Allen and three other faculty members resigned. No charges were filed against Allen, although one faculty member was charged with embezzlement of \$20,000 and was given a three-year suspension.

An internal "blue ribbon" committee of academics also conducted an investigation into allegations that Allen had

Scripps had diligently been trying to sell UPI for five years at this point and was ready to throw in the towel. To finally get rid of it to Ruhe and Geissler, they provided UPI \$5 million in working capital and put another \$2 million plus into its pension funds. For their part, Ruhe and Geissler put up the proverbial \$1. On June 3, 1982, UPI was theirs.

What they had bought was the second largest generator of news on the planet, with more than 200 bureaus around the world and over 1,500 employees writing, editing, and distributing over 12 million words of news daily.

The purchase by Ruhe and Geissler got a rough reception once its customer base of newspaper publishers heard of the sale. Their unease was accentuated when The Tennessean newspaper in Nashville reported that both men had previously been arrested, Ruhe in a civil rights demonstration and Geissler for draft evasion. Geissler had even served a year in federal prison as a result.

Civil Protests In History of 2 New UPI Owners

By ROBERT SHERBORNE

Copyright 1982, The Tennessean

An FCC application filed by Nashville's Douglas Ruhe and William Geissler — two new owners of United Press International — reveals the ambitions of two young telecommunications entrepreneurs with a history of civil protest.

The application shows Geissler was convicted, and served a year in federal prison, for resisting the draft and Ruhe was arrested twice for participating in civil rights demonstrations.

"WILLIAM GEISSLER was indicted for violating the Selective Service Act in 1968 and sentenced in the Southern District of New York to serve one year at the federal correctional center at Danbury, Conn.," the FCC application says under the heading: "Disclosure of Court Proceedings."

"He was confined to Danbury between August 1969 and June 1970," it continues. "The offense

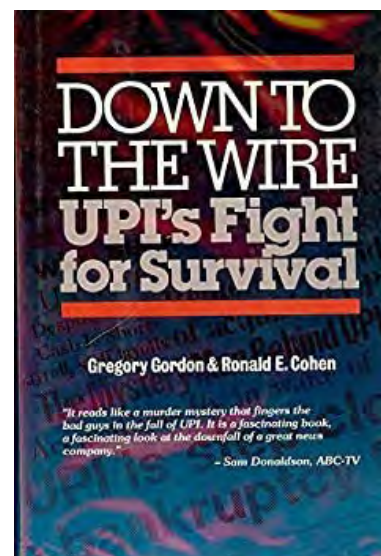
(Turn to Page 4, Column 5)

Following their purchase of UPI, operational chaos was quickly the order of the day in upper management. UPI's carryover President was shown the door and a former news executive with NBC and CBS, Bill Small (no relation to Rob Small), arrived as an expensive replacement. Small had no experience in the wholesale news business, but he at least gave Ruhe and Geissler a known figure in the news business to be the public face of UPI.

In the fall of 1982, Alhauser had directed UPI's Controller to stop sending Overgaard and Rob Small monthly financial statements. Then, in early 1983, both Rob Small and Overgaard resigned their management roles when it became apparent that Ruhe and Geissler

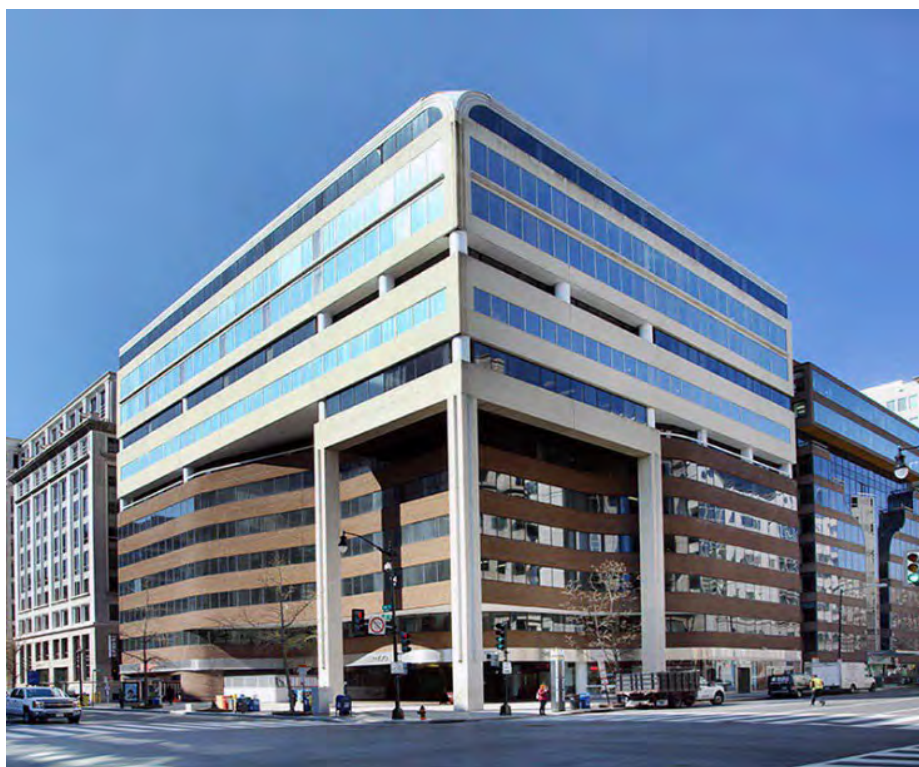
were not inclined to listen to them. Gordon and Cohen's *Down to the Wire* reports on Rob Small's and Overgaard's reaction to what had happened in the short time that had elapsed since the purchase of UPI:

"Ruhe and Geissler, they felt, were lost in dreamy idealism that distorted their business judgement. If their partners were going to run UPI into the ground, Small and Overgaard wanted no part of it."



Other major changes in management followed in 1983. Australian Maxwell McCrohon, the *Chicago Tribune*'s Vice President for News came in as UPI's Editor-in-Chief and Luis Nogales, a Vice President in Gene Autry's Golden West Broadcasting, arrived as Executive Vice President.

Moving to Nashville as UPI Assistant General Counsel



**UPI Washington, DC Headquarters
1400 I Street, NW**

Ruhe and Geissler had made Linda Neal UPI's General Counsel after their purchase of UPI. They also had decided to save money by moving UPI's news headquarters from Manhattan to Washington, D.C., and the company's corporate headquarters from Scripps's offices in Cincinnati to Nashville, where both Ruhe and Geissler then lived.

With UPI having moved out from under the Scripps administrative umbrella, the company needed to create a standalone internal law department for the first time. Linda had a varied practice at Hopkins & Sutter and had no desire to fill this role by moving to Nashville. She remembered that I was looking for a corporate law position and that I had already created one law department from scratch at The Bradford Exchange. She asked

me to think about starting UPI's law department in Nashville and serving there as the company's Assistant General Counsel.

On the plus side, this sounded like a good opportunity, though on the negative side it would entail moving with Cathy and our three-year-old son Andy to Nashville. It was certainly worthy of a serious look on my part, so I travelled to Nashville to meet with Ruhe, Geissler and Alhauser to learn more about UPI's plans and finances.

I first met with Ruhe in the pie-shaped Focus Communication office in the Union Bank of Commerce in downtown Nashville. Ruhe was a whirlwind of upbeat blather, who presented himself as a know-it-all, "I see the future!" business wunderkind. He explained to me more than once that owning a television station was like having "a license to make money."

My dinner meeting with Geissler was, in a Pythonesque way, something entirely different. Geissler had been born in Venezuela and was fluent in Spanish as well as English. During dinner, he strangely had little to say in either language about anything. For whatever reason, he remained largely catatonic throughout our meal.

Since Linda Neal had little direct knowledge of the company's current financial condition, she had steered me to UPI Treasurer Bill Alhauser for the straight dope. I was entirely focused on the state of UPI's finances when we met and my questions to the reserved and mild-mannered Alhauser about the company's financial position were very direct.

As I later found out, I was not the only one he regularly misled. As a result, while I had met the three principal operating managers of UPI, and was generally aware of its turnaround posture, I hadn't a clue the company would crater in the next 18 months and that I would get the post-graduate education in bankruptcy law that I never got in law school. Contrary to the rosy picture painted by both Ruhe and Alhauser, UPI actually ended 1983 with a loss of \$14 million and was facing debts of \$15 million. Peanuts today perhaps, but a lot of money in 1983.

Though I didn't know it at the time I was meeting with Ruhe, Geissler and Alhauser, UPI was regularly having a hard time meeting payroll. Fortunately for UPI, Tom Haughney found that Los Angeles-based high-risk lender Foothill Capital Corporation was willing to lend UPI \$4 million. The loan would cover payrolls for a period of time and would help deal with arrearages due AT&T and RCA. Unfortunately for UPI, the loan

carried an interest rate of 14.25%, three points above prime in that period of still high inflation.



8245 Frontier Lane, Brentwood, TN

With this background that I knew nothing about, in early 1984 Cathy, Andy and I settled into our new home in the Nashville suburb of Brentwood, not far from UPI's new business headquarters there.

UPI Begins Its Descent Into Bankruptcy



Teletype Machine of the Day

In scrambling for cash to meet payrolls, UPI at this time was awash with highly paid consultants. Disadvantaging its growing legion of creditors, Baha'i friends and acquaintances of Ruhe and Geissler increasingly began to propose and execute purchases of UPI assets on extremely favorable terms. Major staff cuts and salary reductions and sweetheart asset divestitures were the order of the day. Ruhe and Geissler also continued to siphon cash from the company through payments to their Focus holdings. Though not seen in financial statements, under pressure to deliver a life-saving loan to the company, Alhauser later revealed the Focus had been receiving \$150,000 to \$200,000 a month from UPI. This was far in excess of Ruhe and Geissler's salaries. According to the book *Down to the Wire* in 1984:

UPI was sinking in debt, swamped by its staggering communications burden, by the costs of the moves, by fees to a proliferation of highly paid consultants, and by costly joint-venture deals. Compounding the problem was the owners' secret transfer of cash from UPI to Focus. During 1983, it would total \$1.434 million.

The dire straits the company was in could be seen in the explosion of trade creditor debt. AT&T and RCA Service Company were several of UPI's largest trade creditors. UPI was getting way behind in paying the monthly cost of leasing the telephone lines and teletype machines that were essential to running its offices and carrying news stories to its customers.

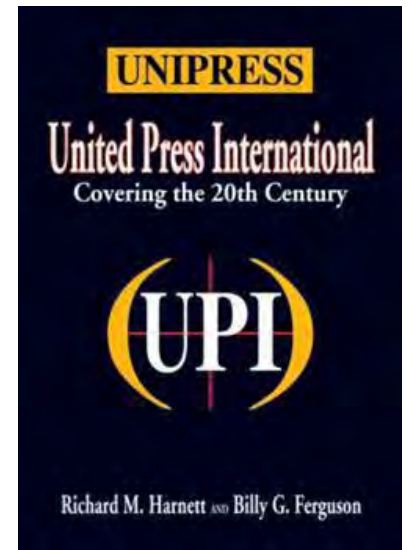
The Richard Harnett and Billy Ferguson book *Unipress*, a history of UPI in the 20th century, reports that the UPI Controller in this period couldn't convince Ruhe that UPI was running out of money and was regularly disparaged by Ruhe as a "bean counter" for his efforts. The Treasurer Alhauser was said to be either oblivious to the problem or not willing to confront Ruhe and Geissler about money. The exceptional rise in accounts payable produced a bizarre administrative fiasco.

To ensure a smooth transition, Scripps had agreed to handle UPI's payments to vendors for a period of time after the sale to Ruhe and Geissler. At a later point, UPI's finance department needed to manage the task of sending checks to its suppliers of goods and services. When the cutover came, UPI's computer was duly programmed to print out these checks as soon as the invoices for these expenses were approved. However, UPI's Controller was in no position to mail checks if the funds in the company's checking account wouldn't cover them.

Payroll, rent, telephone and teletype service were all top priorities, but even here arrearages began building up. When a lower-priority check would produce an overdraft if cashed by the payee, it would be held back. In a sign of impending disaster, at one point nearly \$1 million in checks had piled up this way in the Controller's desk.

These financial problems continued to be ignored and Ruhe and Geissler shortly threw a lavish party to celebrate the opening of its new Washington, D.C. news headquarters. For a company headed down the tubes, an inexpensive press release announcement might have been more sensible alternative than an over-the-top, costly blowout. In the 9th floor executive suite of a newly constructed 12-story building above the subway station at 14th and I Streets NW, hundreds of high mucky-mucks from Congress and media organizations milled about the new space feasting on tray after tray of hors d'oeuvres and drinking case after case of spirits and champagne. Gordon and Cohen in *Down to the Wire* succinctly said of the party, "Ruhe and Geissler spent money as if they had it."

The main newsroom had been successfully moved from Manhattan to the new building but moving the New York radio studios for UPI's news reports on the hour and half-hour proved to be a major problem and caused a massive cost overrun in the budget for the move. It turned out no one had thought about recreating the necessary soundproofing for the Washington studios. Part of the new offices had simply been partitioned off with glass walls and fitted with desks and microphones. Immediately the many radio stations across the country dependent on retransmitting these reports complained that the voices of UPI's commentators were hard to hear. The problem was low frequency background noise from the heating and air conditioning fans in the ceiling ventilation ducts. Fixing this was a



complicated tasks that both disrupted the broadcast part of the business and cost an arm and a leg as well.



Site of the Washington, DC Radio Debacle

UPI Sells Its Crown Jewel Picture Service to Reuters



Reuters Headquarters, 85 Fleet Street, London

By spring 1984, UPI was again running out of cash. Desperate to stave off the loss of control that would come with bankruptcy of UPI, Ruhe had decided to sell off UPI's crown jewel, its newpicture service. This was an international enterprise that sold breaking news photos from around the world to all UPI's newspaper clients. Mike Hughes, UPI's head of the picture service, feared that if Ruhe went ahead, the estimated cost to recreate the asset would be about \$25 million. Ruhe began secret sale negotiations in Brentwood with Peter Holland, an executive of London-based Reuters.

Holland must have seemed certain he would shortly strike a deal with Ruhe. Reuters was about to go public in a stock offering and in a June 4, 1984, sale prospectus stated that it would soon enter into a five-year joint venture agreement that would obtain UPI's overseas picture business for \$7.5 million. This was even before Holland got on an airplane to Nashville to firm up the details of the deal. Not long after he arrived, Ruhe called me into his Brentwood office and told me to draft a memo spelling out terms of the agreement they had just struck. UPI was to get a immediate infusion of \$3.3 million in cash, with another \$2.4 million in 60 monthly installments. This was much less than what Holland had earlier anticipated. In return, Reuters would acquire UPI's foreign photo staff and send Reuters pictures of American news events. UPI would receive the non-U.S. pictures of the expanded Reuters service but would have to let Reuters gain a foothold in the U.S. by permitting its output to be sold to such large papers as the *Washington Post*, *Baltimore Sun* and *New York Times*.

Shortly after news of the deal leaked, Linda Neal and Bill Alhauser met Ruhe for breakfast. When both raised questions about the deal. *Down to the Wire* reports Ruhe shut them down saying, "Look, the deal is done! Just get the thing signed!" At that point, I got on the next plane to London to negotiate the formal terms and legal details of the agreement that both parties would sign. Not surprisingly, this turned out to be a very one-sided affair.

Normally in a contract negotiation there is always some back and forth as the secondary business terms are put to paper. Holland was quite smart and knew that there was little leverage on the UPI side to negotiate even minor points. Nonetheless, Holland and I closeted ourselves in the Board of Directors room of the Reuters headquarters at 85 Fleet Street in London and started our discussions. Watching over our negotiation across the large boardroom table was a portrait of founder Paul Reuter. We had made some progress during the daylight hours when the unexpected occurred. After a knock on the door, we were served with papers issued by a New York court stating that signing the agreement and going ahead with the transaction was prohibited.



Once the shock wore off, we began assessing this development. We ultimately decided to ignore the court development and proceeded to finalize the agreement. This took hours and had us spending the night in the board room. Then, we not only had to wait for the papers to be typed up in final form, but we had to wait for Ruhe to fly in from Nashville to sign them. Holland relieved the boredom of our boardroom siege in the early morning hours by breaking out a bottle of Scotch from a hidden Reuters liquor stash. He proved to be a delightful and convivial business opponent as we took a break waiting for the typing to finish, still on the opposite sides of the table.

Back in Nashville Jack Kenny, the newly hired financial operating officer brought in at Foothill's insistence to cover for the inexperience and befuddlement of Alhauser, was beginning to clear some of the most pressing vendor invoices. He was being helped by a new Controller, Peggy Self, who had also been brought on as his assistant. They had been hired after Foothill, worried about UPI defaulting on its \$4 million loan, had assessed Alhauser as inadequate to the task of managing the company's finances.

When Kenny and Self arrived in spring 1984, they were immediately confronted with a host of angry creditors and little cash to pay them. Both were quickly appalled by Ruhe's instructions to pay his consulting friends and cronies ahead of critical UPI suppliers.

With the \$3 million cash immediately in hand from the Reuters closing, Kenny quickly covered the immediate payroll due, followed by checks to the creditors that were by that time threatening lawsuits for nonpayment. By the time Ruhe had returned to Nashville from signing the Reuters agreement in London, the Reuters cash was completely gone.

Ruhe and Geissler Lose Sway as UPI Implodes



Luis Nogales, UPI CEO

As summer 1984 wore on, another Baha'i friend of Ruhe continued to chase payment for enormous consulting fees for an automated accounting system he promised UPI but never delivered. When I joined Kenny and Self urging Ruhe to further postpone payment to this non-critical vendor, Ruhe was adamant in ordering immediate payment. For Self, it was the last straw. She shortly departed for the more pacific world of the Baptist Sunday School Board.

Luis Nogales in his role as UPI's Executive Vice President in New York, increasingly became aware of the company's dire financial straits. I had no sooner returned to Nashville from completing the sale of UPI's photographic business in London, than Nogales had concluded employee layoffs and salary cuts must be immediately negotiated with the Wire Service Guild, the editorial employees' union, if UPI was to avoid going under.

Gordon and Cohen in *Down to the Wire* report that Geisler was blind to this reality and wrote an angry letter to Nogales ordering him out of the negotiations with the wire service union, saying along the way, "All you MBAs think the only way to solve problems is pay cuts and layoffs. The way to do it is sales and marketing and increasing revenues."

By early August 1984, Ruhe and Geissler could no longer keep the company's imminent collapse from the union. Wire Service Guild President William Morrissey was

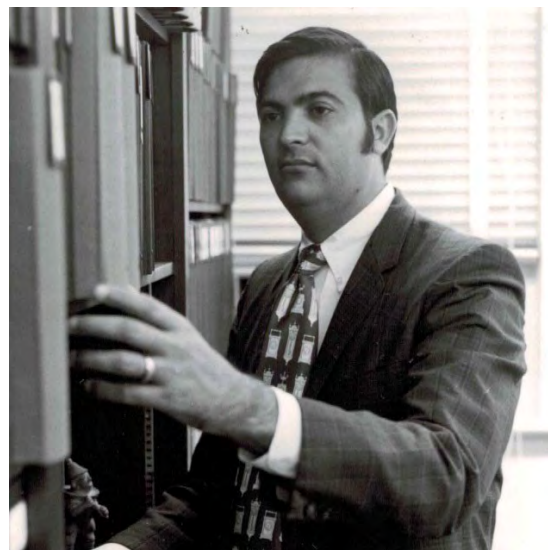
astounded when informed of the peril facing the union's entire membership. UPI owed creditors \$20 million and was losing \$1.5 million each and every month. Initially, all concerned believed that UPI should do everything it could to avoid bankruptcy, since such news would have an immediate adverse effect on UPI's customers and many newspapers would no doubt not renew their subscriptions. Ruhe and Geissler in particular understood that, while not a certainty, UPI filing for bankruptcy could wash them out of any continuing management role and render their ownership interest in the company worthless.

Notwithstanding the fact that UPI President Bill Small continued to turn up in UPI's New York office every day, as a practical matter in the emerging crisis Luis Nogales was the person running the operations of the company day to day. Luis Nogales was then and throughout his later career, a person of integrity and substance.

Coming from humble immigrant origins, Nogales grew up in the agricultural valleys of California near Calexico working as a farm worker. His intellect permitted him to attend college at San Diego State University. In 1969, he graduated from Stanford University Law School. When he was inducted into Stanford University's Multicultural Hall of Fame in 2004, his profile had this to say about him:

Mr. Nogales has had a full and active career in the private sector and public service. He served as CEO of United Press International and President of Univision, among senior operating positions; in addition, he has served on the board of directors Levi Strauss & Company, The Bank of California, Lucky Stores, Golden West Broadcasters, Arbitron, K-B Home, Coors, and Kaufman & Broad, S.A. France. He also served as Senior Advisor to the Latin America Private Equity Group of Deutsche Bank working in Brazil, Argentina, and Mexico. On corporate boards he has been an advocate for diversity of the workforce and senior management. While assuming leadership positions in the private sector, Mr. Nogales continued participating in public service by serving, among other activities, as a Trustee of the Ford Foundation, The Getty Trust, The Mayo Clinic Trust, and Stanford University. He also served on the board of directors of the Inter-American Foundation, The Inter-American Dialogue, The Pacific Council on Foreign Policy and The Mexican and American Legal Defense Fund, (MALDEF) where he served as president of the Board.

Not surprisingly, as the company's financial condition deteriorated, I worked increasingly with Luis both before and after I became UPI's General Counsel. As his dispute with Ruhe and Geissler came to a head as to who should be managing the company, it wasn't hard to see what the better outcome for the company would be. With Ruhe and Geissler, you had would-be boy wonders who had briefly gamed the minority lottery set aside program of the FCC to transitory wealth. Though poor in cash, good sense, and management experience, they were possessed with a high energy impetuosity and good luck. This had permitted them to leverage their position beyond anyone's wildest expectations into the ownership and control of UPI. However, having won a prize



Luis Nogales at Stanford University

they were ill-equipped to deal with, they had in short order run UPI into the muck with a speed fast enough to make your head spin.

With the fate of UPI now hanging in the balance, you didn't have to be a seer at this point to recognize that the company would be better off having its debt and management reorganized under the federal bankruptcy laws. In contrast to Ruhe and Geissler, you had in Nogales the exact opposite choice for someone to carry the company forward in trying times. Trained as a lawyer, and possessed of exceptional leadership and political skills, early in his career he was already an accomplished businessperson with the experience and intelligence to manage a large, global media company in trouble. My sympathies naturally lay on his side as the management conflict with Ruhe and Geissler came to a head. While the lawyer-client relationship between myself and Nogales unfolded in this period, we became good friends as well.

Pay-TV on way?
Wometco Enterprises, Inc., said it hopes to expand Wometco Home Theater — its over-the-air subscription television operation — to Chicago. It now provides the service to metropolitan New York. Wometco said it signed a lease agreement with Focus Broadcasting Co. Focus is one of four firms that has applied for a UHF station and subscription television license for Joliet. It would broadcast on channel 66 from a Sears Tower transmitter. If the Federal Communications Commission approves the Focus license application, Wometco would operate the subscription television operation.

Chicago Tribune 1979

When I later became General Counsel of Encyclopaedia Britannica, former General Counsel of Britannica Newton Minow was one of the company's directors. Minow was a helpful mentor to me during my tenure in that position, partly I think because he knew and had a high regard for my father's brother Augustine Bowe, a former President of the Chicago Bar Association. Since I held both Nogales and Minow in great esteem, I couldn't pass up the opportunity to introduce them to each other. Both had served in the

federal government. Luis had been a White House Fellow and Minow had been appointed Chairman of the Federal Communications Commission by President John F. Kennedy. Minow was forever famous for his speech calling the television of the 1950s and early 1960s a “vast wasteland.”

Besides federal service, both had in common being deeply immersed in the television industry, Minow as an attorney and director and Nogales as a manager. The three of us had an engaging visit when Luis came through Chicago and I had



Newton Minow 2014

the chance to get the three of us together. I was delighted when Nogales and Minow immediately hit it off, as I suspected they would.

As the UPI saga continued towards the inevitable, after some effort, and with the grudging consent of Ruhe and Geissler, Nogales was able to open the books of UPI to the union and made sure there was transparency as to the company’s ownership structure and finances. Pursuant to his direction, Linda Neal and I spent a long day with the union negotiators in UPI’s Brentwood office unveiling the strange corporate structure of companies Ruhe and Geissler had erected to serve their interests, if not UPI’s. Morrissey and the others were both shocked and angry at what they learned.

With bankruptcy still a real possibility in the short term, the union agreed to job cuts and wage givebacks. The final agreement with the Wire Service Guild called for the wage cuts to expire before the end of 1984.

UPI wasn’t the only thing going south for Ruhe and Geissler at the end of 1984. The use of minority set-asides had indeed brought them success in the early 1980s in winning multiple FCC low-power TV licenses. If the stations were built, the business model at the time was to acquire paying viewers through subscriptions. This early form of Pay-TV got Channel 66 off the ground in Joliet, Illinois, and Ruhe and Geissler’s Focus Broadcasting Company drew capital from outside investors for several other small markets. What Ruhe and Geissler hadn’t counted on was the nascent growth of cable television. It ate into what they thought would be a long-term income stream for low-power channels. As 1984 unfolded, the program provider for Channel 66 pulled out and the channel began to fill its airways with soft-core porn content and music videos. Ruhe and Geissler began trying to switch the channel to a regular commercial station format and sell it to another operator. If a sale couldn’t be accomplished, Ruhe and Geissler’s entire world might crumble around them.

Down to the Wire describes the period this way:

Nogales’s own illusions about the TV sale were short-lived. Not long after he had delivered to employees the owners’ pledge of a cash injection, he

recalled later, he was chatting with Ruhe when the subject of the owners' investing money from Channel 66 came up. "I wouldn't risk a dollar in UPI," Ruhe said firmly. Nogales couldn't believe what he was hearing. He had just put his reputation on the line for the owners. "Doug," he said, bristling, "I went down and told the staff after clearing it with you that you would put \$10 million or \$12 million from the proceeds of the [TV] sale into UPI." Ruhe stiffened. "No, I'm not going to put in a dime," he declared. On many occasions Nogales had gone out of his way to excuse the shortcomings of the owners, who had hired and promoted him. But now, he thought, Ruhe had betrayed him. And betrayed UPI.

With operating cash non-existent, Ruhe decided to borrow from Uncle Sam by not paying the Internal Revenue Service \$3 million in employee payroll taxes owed for 1984's fourth quarter. I had been careful to make sure Ruhe and all the senior executives were aware of the enormous personal exposure this could bring them. Shorting the IRS is one of the great no-nos of running any business, because the owners or executives responsible for making this decision can end up assuming personal liability for the shortfall if the company itself can't make good on the debt.

This properly scared the bejesus out of Nogales, Kenny, and others. So, when Ruhe and Geissler still hadn't been able to sell Channel 66 in early 1985, the proverbial excrement began to hit the fan when it became apparent UPI would be unable to pay the now past due taxes. Kenny's proper response was to promptly inform UPI's lender, Foothill. Foothill executives were not amused, since in a bankruptcy the IRS's lien would get top priority, even higher than a secured lender like Foothill.

The Los Angeles Blow Up



**Century Plaza Hotel, Los Angeles
Luis Nogales Headquarters**

For some time, it had been the view of Nogales and Kenny that the time had come for Ruhe and Geissler to either sell UPI or send it into bankruptcy court for a restructuring. Now Nogales was making the argument directly to both owners. Recognizing that in either event, they would likely not only lose operational control, but would also walk away with nothing further to gain financially, this was the last thing Ruhe and Geissler wanted to hear. Ruhe had concluded now that he had to get rid of Nogales. In parallel, Nogales had concluded Ruhe and Geissler had to be removed from operational control of the company if it was ever going to recover from the current crisis.

With the owners now at loggerheads with the top managers of UPI, the two factions agreed to meet at the Los Angeles airport on Sunday, February 24, 1985. Foothill had summoned Nogales to be briefed on UPI's financial status and recovery plan the next day. With primary lender Foothill, UPI's senior management, creditors, and newspaper subscribers all having lost faith in reign of Ruhe and Geissler, Nogales hoped that they would come around in their thinking given the inability to meet the next payroll. Not to be. Ruhe and Geissler still thought they would somehow muddle through.

When Nogales and UPI's outside financial advisor, Ray Wechsler, met with Foothill the next day, things didn't go well. Foothill executive John Nicholl told them:

“You’d better get the owners back out here. We’re at a crucial point. You guys don’t own the company. You’re managers not owners. Owners need to make the decisions.”

Ruhe and Geissler might ignore Nogales, Wechsler, or Kenny, but they couldn’t have UPI’s prime lender going wobbly on them. When Ruhe and Geissler turned up on Wednesday, they got the following blast from Foothill executives:

“We don’t have confidence you can turn it around. We’re not going to fund the company with its present ownership. Often, in situations like these, management takes over. If you want to work out an agreement where management takes over, we’ll work with you.”

For Ruhe and Geissler that meant giving up any further dismemberment of UPI and swapping their UPI stock in return for creditors forgiving their debts. After dickering Thursday with Nogales and Wechsler, Ruhe and Geissler agreed to the basic outlines of a plan and shook hands on it.

While all this had been going on, I had been in Brentwood and was unaware of the details of what had occurred in Los Angeles. However, as they flew back to Nashville from Los Angeles, Ruhe and Geissler were already cooking up a new Plan B for Nogales.

Down to the Wire records the next chapter in the Los Angeles blow up:

As Ruhe and Geissler headed home, Wechsler phoned Kenny in Nashville and told him to hop a plane to Los Angeles. Kenny, in turn, called new General Counsel Bill Bowe and excitedly broke the news. “I’ve made reservations for you to fly to Los Angeles,” he told Bowe. “An agreement has been reached that will result in a change of control, a sale of the company, and a working out of the creditor problem.” Bowe’s assignment was to put into ironclad writing, for presentation to Foothill Sunday night, the agreement removing the owners from control of the company. Nogales should have known it wouldn’t have been that easy. Although they had shaken hands on the deal, Ruhe and Geissler were bitter that the men they had hired had just dictated the terms of their surrender. Flying back to Nashville, they craftily plotted strategy.

Back in Nashville Saturday, March 2, Ruhe had decided to welch on the deal and fire Nogales.

I had immediately flown to Los Angeles and hired local lawyer Lisa Greer and her law firm Lawlor, Felix to provide legal assistance and office support for me all Saturday and Sunday. I was trying to understand and document the agreement for the change in control of the company. Usually this wouldn’t be any different than documenting any other

arrangement between parties. The parties on both sides of an agreement are usually represented by separate counsel.

With Linda Neal recently leaving her role as UPI's General Counsel as she prepared to marry our former law school dean, Phil Neal, I had succeeded her as General Counsel. This happened to occur at a time when ownership and management were no longer aligned. In fact, they were at each other's throats. With management of UPI about to shift from Ruhe and Geissler to Nogales, I was still reporting to the former, but about to follow directions from the latter. This was a very uncomfortable position for a lawyer because of the expectation on both sides that he would document an agreement in their favor.

As I increasingly recognized being caught in the vise of these conflicting pressures, I began to ask myself who my client really was. My sympathies were completely with Nogales. I had seen Ruhe and Geissler were rank amateurs recklessly pursuing their own self-interests as they sluiced cash and assets out of UPI. Nogales on the other hand was smart, professional and a born leader. He was likely to have success in leading UPI into and out of an inevitable bankruptcy proceeding.

Although you don't normally have to think about who your client is as a corporate lawyer, in this case I had to. And the answer was simple. I was now General Counsel of UPI, and UPI was my only client. My client was not one or the other of the feuding parties, my client was UPI. My loyalty and duty were to the enterprise and my obligation was to further its current and future welfare. My role was to simply assist the enterprise in any way I could to help it survive a crisis.

The earlier verbal agreement between Ruhe and Geissler and Nogales had been short on substance and I spent a fair amount of time Saturday trying to understand what Nogales thought the agreement was. On Sunday, I called Ruhe back in Nashville to make sure his understanding matched up with what I'd learned from Nogales. Ruhe abruptly told me there was no agreement and he wouldn't be signing anything.



**John Nickoll,
Foothill**

With everything coming to a head, I would be leaving from the Century Plaza Hotel with Nogales that Sunday night to meet Foothill officials for a briefing at Foothill executive John Nickoll's Beverly Hills home. The stage was set. Foothill would learn Ruhe and Geissler would not be stepping aside, they would pull the plug

on its now defaulted loan to UPI, and shortly the checks going out to its 1,000 plus employees, including me, would bounce.

Nogales, Wechsler, UPI financial advisors from Bear Stearns, myself and Lisa Greer of the Lawlor, Felix law firm represented UPI that evening in the home of Nickoll. Besides Nicholl, several other Foothill executives were present. When the news of Ruhe and

Geissler's about face was discussed, there really wasn't much anyone could say. Everyone knew UPI would go down the tubes. It was now merely a question of how and when.



Ann Nickoll

Then the phone rang. Nickoll's wife Ann answered the call in a bedroom and said it was for Nogales. When Nogales got to the phone, it was Doug Ruhe. The conversation was a short one on Ruhe's side, "Luis, you're fired!" He then told Nogales he wanted to speak with Ray Wechsler. Nogales returned to the group and reported on his conversation with Ruhe. Wechsler said, "Luis, just tell Doug I'm too busy, I'm in a meeting right now. What do I want to talk to him for and get fired?"



Lisa Greer

Everybody had a good laugh except me. I did my unwelcome duty as General Counsel and went into the bedroom and picked up the phone. Ruhe immediately shouted, "Go in there and fire Wechsler, fire Lawlor Felix, fire Bear Stearns, fire Levine!" Levine was Boston bankruptcy

attorney Rick Levine. Though not present, he had been advising me on the finer points of a possible bankruptcy proceeding.

John Nickoll and the others sat quietly as I returned from the bedroom. Though I took a stab at it, it's hard to publicly fire half the people in a large room with any degree of dignity. Based on accounts of those present, the reporting in

Down to the Wire records the scene this way:

Watching Bowe uncomfortably playing the role of angel of death, John Nickoll feared for both his company's substantial investment and the fate of UPI. Nogales's leadership had inspired confidence among the very employees and clients Ruhe had so badly alienated.... Nickoll was simply not going to stand still while Foothill's investment was in jeopardy. He went to the bedroom and picked up the phone. Ruhe was still on the line. "Doug, you've got to be crazy! UPI has no management. Foothill has nobody to deal with. You'd better get out here immediately and talk to Nogales and come to some sort of agreement."

UPI's Bankruptcy Unfolds with a Shock



**CEO Luis Noga les announces purchase of UPI
by Mario Vazquez Rana and Joe Russo 1985**

It has never sounded quite right when I tell people that as a result of my legal advice, UPI declared bankruptcy. But that's what shortly happened. Kenny and other UPI senior executives followed Nogales's abrupt departure and resigned.

As predicted, after many previous close calls, paychecks around the world finally began to bounce. Correspondents in Asia and Europe lit up the internal UPI wire with queries as to how they would get back to their homes in the U.S. if the company could no longer afford to buy their tickets home. UPI Bureau rent parties were organized in some bureaus. In

late March 1985, the dust had settled sufficiently so that *Time Magazine* reported recent developments this way:

In the nearly three years since Nashville Investors Douglas Ruhe and William Geissler acquired ailing United Press International from E.W. Scripps for \$1, they have slashed costs, reduced staff and cut wages 25%. For a time, the medicine seemed to work. When U.P.I. announced a \$1.1 million profit in the fourth quarter of 1984, its first gain in 23 years, the owners predicted profits of \$6 million in 1985. That view was overly optimistic. Last week, with payroll checks bouncing and losses again mounting, Ruhe and Geissler agreed to step aside as part of a deal to save the firm. Under the new plan, they would retain some 15% of the stock but relinquish all control of the news service. U.P.I. President Luis Nogales, who was fired by Ruhe just four days before the agreement, will return to run the company. The terms also call for U.P.I.'s trade creditors to forgive the bulk of its \$23 million debt in exchange for a 30% to 40% interest in the firm; most of the remaining shares will be divided among the staff. The creditors, however, may not accept the deal. And even if they do, further cost-cutting moves will be needed if U.P.I. is to survive in the lengthening shadow of the Associated Press.

I had my own personal concerns. Five years before our son Andy had been born prematurely and his medical bills had topped \$100,000. Fortunately, most of this amount had been covered in the ordinary course by my employer's health insurance policy. Cathy was pregnant again, and again at risk of giving birth early. As feared, our second son Patrick was born prematurely in mid-April 1985, and by the end of the month UPI filed a bankruptcy petition in the federal district court in Washington, D.C. With Pat in an intensive neonatal care unit, Cathy and I were again watching enormous medical expenses pile up daily.

When I learned that UPI had stopped paying its health insurance premiums and that the insurance carrier had cancelled its policy coverage, It was a blow. I had thought for some time that the company might go belly up, but I had never thought it might take me with it.

We were not the only ones potentially out of a safety net. Among the hundreds of UPI employees caught short by the bankruptcy filing, some were in the midst of cancer radiation treatments and others were facing necessary surgical procedures they from UPI's descent into bankruptcy, the trade creditors of the company really took a bath. Thankfully, not all humanity was lost. U.S.

RENT PARTY
FOR
UPI STAFFERS
HOSTED BY AUSTIN SPJ-SDX
SUNDAY, MAY 5
12:30 - 4 P.M.
3006 WASHINGTON SQ.
(RICK & JANE FISH)
HOT DOGS, OPEN BAR, BEER,
CHIPS, CROQUET
RAIN OR SHINE
\$10 / PERSON
ALL PROCEEDS TO HELP AUSTIN
UPI STAFFERS OVERCOME THE
ULTIMATE DOWNHOLD.

Bankruptcy Judge George Bason stepped up to the occasion with the creditors later and sufficient funds were set aside so that the health insurance of all the employees was retroactively reinstated. God bless them!

With the bankruptcy proceeding unfolding in the E. Barrett Prettyman Federal Courthouse in Washington, D.C., I began flying every Monday from Nashville to the Courthouse and to UPI's new offices at 14th and U Streets, NW. Saturday and Sunday would be a welcome family weekend back in Brentwood, notwithstanding the fact that for many weeks much of this time would be spent in the neonatal intensive care unit at Vanderbilt Medical Center.



E. Barrett Prettyman Courthouse



UPI ph

UPI deal OK'd: Mexican publisher Mario Vazquez-Rana, right, and Houston developer Joe Russo congratulate each other Tuesday after a federal bankruptcy judge approved their \$40 million

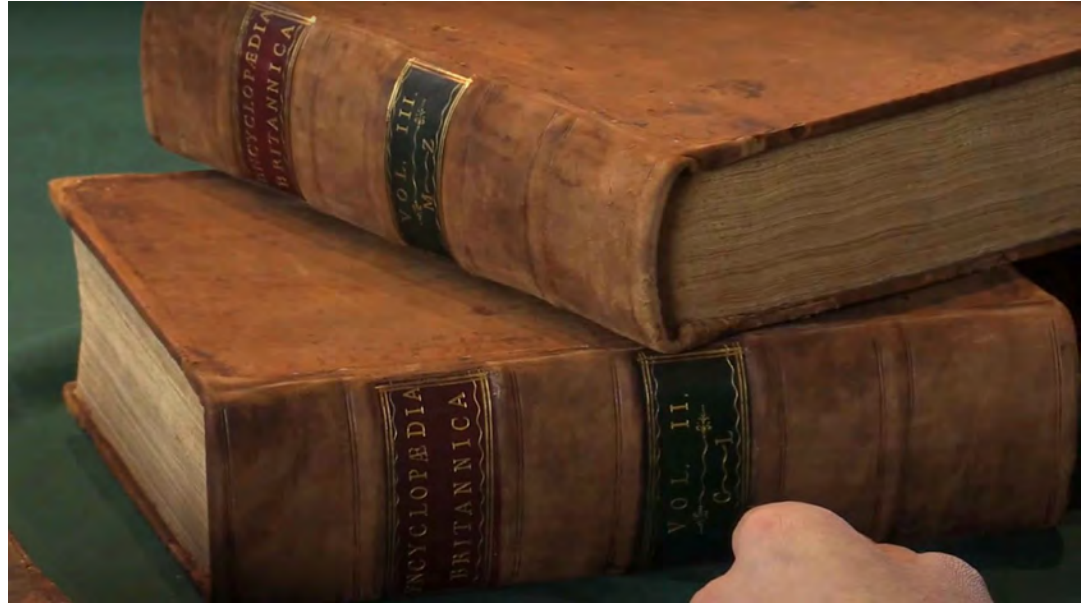
purchase of United Press International U.S. Bankruptcy Judge George Bas praised the nation's second-largest news service for a 'truly extraordinary' recovery from the brink of financial collapse.

This travel went on during the summer as the Bankruptcy Court looked into the many questionable dealings of Ruhe and Geissler. By September, a Mexican newspaper owner named Mario Vazquez-Rana, with a Texan junior partner named Joe Russo, emerged to buy UPI out of bankruptcy. With the seemingly successful reorganization of UPI just completed, I got a call out of the blue from a Chicago headhunter who was looking for a lawyer with publishing experience to head up Encyclopaedia Britannica's law department in Chicago.

I pursued the job for the great opportunity it was and ended up being chosen for the General Counsel opening. I later learned that over many months there were more than 20 other candidates considered for the position before EB settled on me as their final choice. As 1986 began, I was flying from Nashville into Chicago during the week instead of to Washington, D.C. Until my family joined me, I lived in a one- bedroom apartment not far from EB's offices near the Art Institute of Chicago. That spring we bought a house in Northbrook, a suburb north of Chicago. It was well located to take advantage of the special needs schooling Andy was about to embark on.

With the family settled, I was ready to dig in my heels and take on the much bigger challenge of Encyclopaedia Britannica.

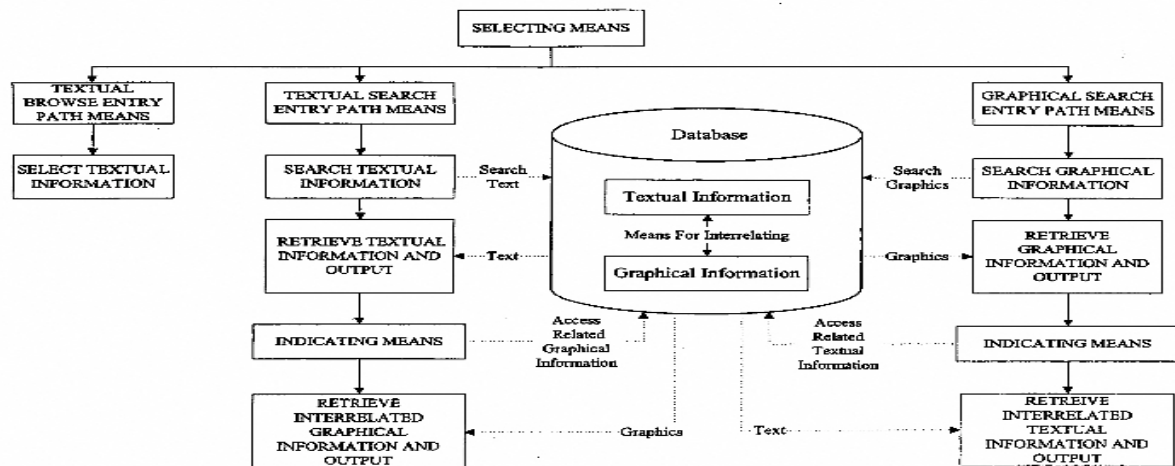
Inventing the Future - Encyclopaedia Britannica



First Edition, Encyclopaedia Britannica 1768

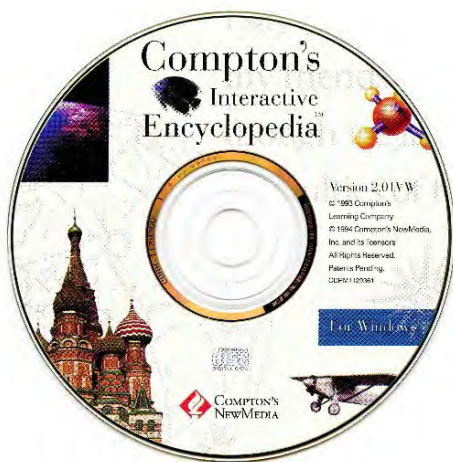
Only an Artifact of the Scottish Enlightenment?

Who would have guessed that at the end of the 20th Century it would be a company founded in Scotland in 1768 that would invent a key part of the mechanics that would let people intuitively navigate the electronic flood of text, sound and images soon to drench the planet from the internet?



CLAIM 1 OF THE
'671 PATENT

In 1989, 221 years after the company's founding in Edinburgh during the Scottish Enlightenment, Chicago-based Encyclopaedia Britannica, Inc., publisher of its eponymous *Encyclopædia Britannica* reference work, had not only solved this puzzle for the first time, but it was also issued a patent for it. While it may be incongruous that a legacy reference print publisher would be the party to make the discovery, this is exactly what happened



Normal patents on inventions today have a revenue producing life of 20 years. The patents Britannica filed for in 1989 were issued by the U.S. Patent and Trademark Office in 1993. Immediately controversial, software industry opposition caused the Commissioner of Patents to promptly order a reexamination by the Patent Office. Following the Commissioner's invitation, the Office cancelled the patent a year after it had issued. After more years of litigation by Britannica, another court finally reversed the Patent Office and in 2002, the patent was reissued. Then it was finally up to Britannica to enforce the patent against infringers. The

family of Compton's Patents were unusual both in their long and controversial history, but also in that they never earned a nickel. Indeed, in 2015, after years of lawsuits in multiple court venues, they were finally found to have been improperly issued by the U.S. Court of Appeals for the Federal Circuit. In 2011 the court found that there had been a technical and procedural error in the original filing papers.

The technical defects meant that a court never got to a detailed ruling on whether then commonplace GPS navigation systems infringed the patents covering Britannica's invention. When Britannica later sued its outside patent law firm for legal malpractice for committing the technical error, another court denied this claim saying that, if the patent shouldn't have been issued by the Patent Office in the first place, Britannica couldn't have been hurt by the law firm's mistake.



Even though Encyclopaedia Britannica never benefited financially from the extraordinary human/machine interface it had been the first to build, it had reason to be proud of its fundamental achievement. The public filing of its patent application had provided the roadmap for others to follow in quickly developing many other complex software applications besides encyclopedias. The Britannica human/machine interface provided for the first time seamless navigational paths into and through complex databases of mixed media including, text, graphics, maps, videos and audio elements. When



developed, the goal had been to have even a nine-year old master the navigation. Of course today some four-year-old children are playing with computers in a way unthinkable in 1989 when the Compton's Patent application was filed.

Britannica's landmark invention had partly to do with the evolution of the personal computer in the mid-1980s. But it also had to do with a small group of encyclopedists who had been struggling for many years before to define what an electronic encyclopedia would look like. The culmination of their work happened to coincide with the coming of age of the personal computer in the nascent consumer market. This was the secret sauce that made the breakthrough in the human/machine interface possible.

This fortuitous combination produced a remarkable cultural result. It meant that for the first time, children, as well as adults, could easily and quickly access and navigate complex and media-rich stores of digital information. It also created a plumbing roadmap for the software design that in later years would prove essential in making user friendly such diverse applications as automobile GPS navigation systems and websites on the internet.

Four pioneers in the development of computer interfaces stand out: Vannevar Bush, Ted Nelson, Douglas Engelbart, and Alan Kay. Each made exceptional contributions to the developing field of how humans interact with machines and each helped set the stage for Encyclopaedia Britannica's unique invention in the 1980s. Two of the four, Bush and Kay, even directly applied their thinking specifically to the problem of building an electronic encyclopedia,

[Vannevar Bush](#)

Vannevar Bush with President Harry Truman



The scientist with the most penetrating early vision of the machine's potential role in helping us easily access the growing storehouse of human knowledge was Vannevar Bush. After he received a joint doctorate in electrical engineering from the Massachusetts Institute of Technology and Harvard in 1916, Bush showed a bent for military applications by inventing a submarine detection device during World War I. Then in the 1920s at MIT, he began to design and build analog computers. These early machines used voltage variances to reflect different numeric values.

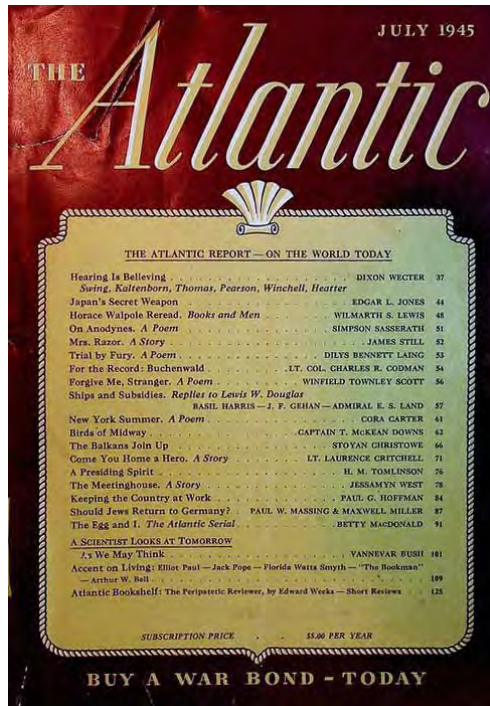
These machines were the precursors to today's binary language, digital computers that use zeros and ones to represent data. In 1928, Bush was issued a pioneering patent for one of his computers and by 1935 his Rockefeller Differential Analyzer was the most powerful computer of its day. It was quickly put to the task of solving problems associated with the development of long- distance power lines. Then, in World War II, it was turned to the task of producing artillery ballistics tables to assist the military.



At the beginning of World War II, Bush made recommendations to President Franklin Roosevelt about how to organize scientific research to keep the military abreast of new technologies. Then, during the war, Bush headed the federal government's Office of Scientific Research and Development. It has been said that radar (from the acronym for "radio detection and ranging") won the war, and the atomic bomb ended it. Bush and his Office had played a crucial role in both developments.

Towards the end of the war, Bush gave considerable thought to the potential application of computers to peacetime requirements and their likely evolution in the post- war era. He came to believe computers could play an important peacetime role in managing the increasing store of humanity's accumulated knowledge.

The Atlantic Monthly's As We May Think Article 1945



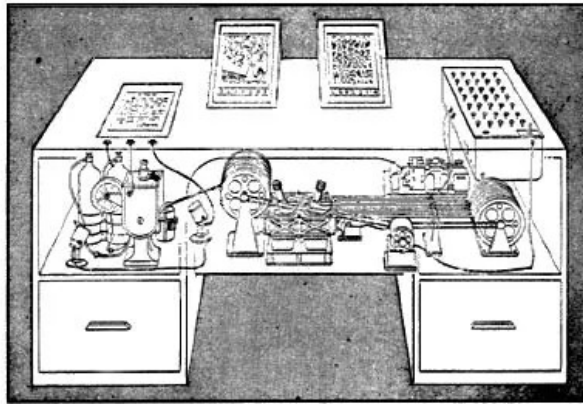
In a now landmark article for the *Atlantic Monthly* published in July 1945, entitled “As We May Think,” Bush laid out a vision of a world in which computers would be central to our social and business life. The article remains to this day, stunning in the accuracy of its perceptions regarding the likely evolution of computing. In an introduction describing the thrust of Bush’s article, the *Atlantic Monthly*’s Editor wrote, “Now, says Doctor Bush, instruments are at hand which, if properly developed, will give men access to and command over the inherited knowledge of the ages.” No small step for Mankind that.

In the article, Bush looked at recent advances, such as the cathode ray tube, dry photography and microphotography and pondered how logical extensions of these technologies might be applied to create a future miniaturized Encyclopædia Britannica:

The Encyclopædia Britannica could be reduced to the volume of a matchbox. A library of a million volumes could be compressed into one end of a desk. If the human race has produced since the invention of movable type a total record, in the form of magazines, newspapers, books, tracts, advertising blurbs, correspondence having a volume corresponding to a billion books, the whole affair, assembled and compressed, could be lugged off in a moving van.

Although Bush thought in terms of microfilm rather than magnetic drives, optical discs or silicon wafers for data storage, he conjured up a likely playback machine for a high-capacity storage medium that closely resembles the personal computer of today.

Bush called it a Memex and described it this way:



Memex in the form of a desk would instantly bring files and material on any subject to the operator's fingertips. Slanting translucent viewing screens magnify supermicrofilm filed by code numbers. At left is a mechanism which automatically photographs longhand notes, pictures and letters, then files them in the desk for future reference (*LIFE* 19(11), p. 123).

Consider a future device for individual use, which is a sort of mechanized private file and library. It needs a name, and, to coin one at random, 'memex', will do. A memex is a device in which an individual stores all his books, records, and communications, and which is mechanized so that it may be consulted with exceeding speed and

flexibility. It is an enlarged intimate supplement to his memory. ... On the top are slanting translucent screens, on which material can be projected for convenient reading. There is a keyboard and sets of buttons and levers. Otherwise, it looks like an ordinary desk. In one end is the stored material . . . Wholly new forms of

encyclopedias will appear ready made with a mesh of associative trails running through them, ready to be dropped into the memex and there amplified.

The Memex – Dissected



Bush did a prescient job describing in 1945 his idea of what a personal computer of the future might look like. This is particularly true given the required reliance on vacuum tubes for the computers in that era. Vacuum tubes were a great limitation for the computers of the time.

Though the transistor was invented in 1947 by physicists at Bell Telephone Laboratories, the shift from slow, heat producing vacuum tubes that often burned out, to cooler, more powerful and reliable transistors did not unfold overnight.

For instance, when the March 1949, issue of Popular Mechanics surveyed the then state of the art ENIAC computer (from “Electronic Numerical Integrator And Computer”), the potential impact of the transistor, let alone the microprocessor chip, was entirely missing:

Where a calculator on the ENIAC is equipped with 18,000 vacuum tubes and weighs 30 tons, computers in the future may have only 1,000 vacuum tubes and perhaps weigh 1.5 tons.



Ted Nelson – Hypertext Envisioned and Pursued

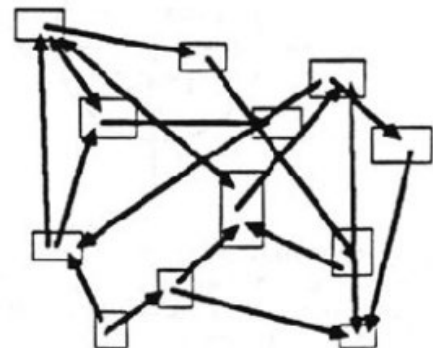


Ted Nelson

Another element of the information management challenge that Bush understood was the fact that quickly finding information through data compression and advanced displays didn't solve the need to move with ease from one type of pertinent information to different, but related, information. He recognized that there remained a need for a human/machine interface that more realistically mirrored the way people thought.

And, so, in one final burst of creative insight, Vannevar Bush dreamed up what we call today “hypertext” or “hyperlinking.” That's the highlighted text or interactive graphic on a computer screen that, when clicked upon with a mouse, takes the user to related information stored in a different location.

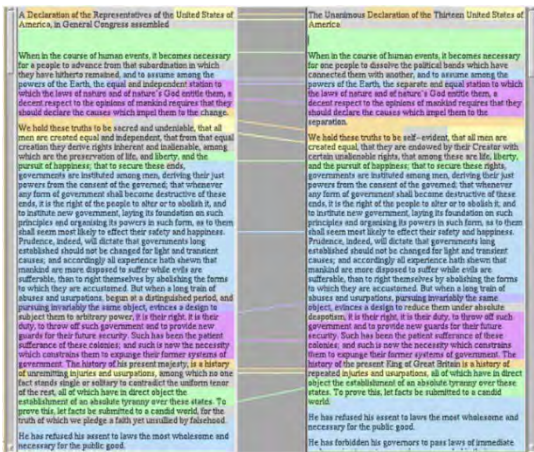
“ORDINARY” HYPERTEXT



Bush saw that static indices were an imperfect way to search for and access information and what was needed was a more direct way of moving from one thought to a related one. He understood that a major limitation in quickly accessing desired information

was the absence of ways to associatively access that information. In short, he saw the need for a random-access mechanism that would also provide quick connections to related information in different locations— hyperlinks as we now refer to them. As Bush put it:

Mere compression, of course, is not enough; one needs not only to make and store a record but also be able to consult it. Our ineptitude in getting at the record is largely caused by the artificiality of systems of indexing. When data of any sort are placed in storage, they are filed alphabetically or numerically, and information is found (when it is) by tracing it down from subclass to subclass. It can be in only one place, unless duplicates are used; one has to have rules as to which path will locate it, and the rules are cumbersome. Having found one item, moreover, one has to emerge from the system and re-enter on a new path. The human mind does not work that way. It operates by association. With one item in its grasp, it snaps instantly to the next that is suggested by the association of thoughts, in accordance with some intricate web of trails carried by the cells of the brain. Selection by association, rather than indexing, may yet be mechanized.



Xanadu Showing Changing Drafts of the Declaration of Independence

actress Celeste Holm who was nominated for her performance in the 1950 movie *All About Eve*. With a BA in philosophy from Swarthmore College, a small liberal arts school in Pennsylvania founded by Quakers, Nelson started graduate school in sociology in 1959 at the University of Chicago. Moving on to Harvard, he received his MA in 1962.

It was at Harvard that he began to work on a “writing system” that would let people store what they had written, change it, and print it out. His concept included being able to see alterations in a side-by-side format that would also retain the train of changes. As Project Xanadu evolved through the decades of the unsuccessful effort to produce a useful and commercial software product, hints of what could be in store were evident, but never made workable.

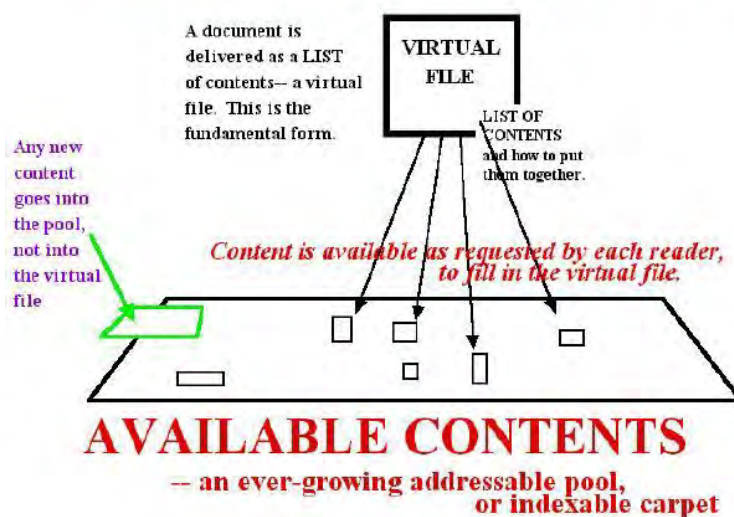
While Ted Nelson’s software concept named Project Xanadu, was unable to be reduced to practice notwithstanding decades of fitful development, researchers today look back on Nelson’s ideas about hypertext as influential in how people thought about computer interface concepts and the potentially revolutionary nature of hyperlinks.

Ted Nelson’s parents were Hollywood royalty. Father Ralph Nelson directed the 1963 movie *Lilies of the Field* that led to Sidney Poitier winning the Academy Award for Best Actor. His mother was

FIGURE 4—ELF's capacity for total blings: hypothetical use by historian. Thin lines indicate links; heavy lines indicate some of same entries.

On the storage end of things, magnetic drum memory devices had come to market in 1950. They functioned by storing information on the outside of a rotating cylinder coated with ferromagnetic material. This was circled by read and write heads that remained in a fixed position.

- built on the assumption of perpetual change and re-use



Douglas Engelbart-The Mouse and Graphical User Interface



Douglas Engelbart was born in Portland, Oregon, in 1925. When he died in 2013, Ted Nelson gave an impassioned eulogy at his memorial service. You get a good view of Nelson's charismatic personality as he rails against the forces he believes held himself and Engelbart back during their lives.

Engelbart had been drafted into the Navy in World War II, where he had served as a radar technician. Perhaps his familiarity with cathode ray tubes prepared him for the role he was to play later in the evolution of the visually centric human/computer interface. While awaiting discharge from the Army in the Philippines at the end of the War, he had read Bush's article, "As We May Think." As it turned out, Bush's precepts remained at the center of Engelbart's later career in computer science. When he got home, he pursued an education in electrical engineering, receiving a B.S. from Oregon State University in 1948 and a Ph.D. from the University of California, Berkeley, in 1955.

After 1957, when the Soviet Union launched Sputnik, the first earth orbiting satellite, the U.S. government, through the Department of Defense's Advanced Research Projects' Agency (ARPA), and the Air Force Office of Scientific Research made funds available to further research in computer science. Engelbart had joined a group at the Stanford Research Institute (SRI) in Menlo Park, California, and in 1962, under a contract with the Air Force Office of Scientific Research, wrote a seminal

paper building on Vannevar Bush's earlier concepts. In the paper *Augmenting Human Intellect: A Conceptual Framework*, he sketched out the basis of his advanced thinking on the development of a human/machine interface.



The paper cites Bush's Memex as important in thinking about next steps not in building a better computer, but in building a better way for humans to interact with the machines so as to leverage the unique powers of human intellect so that it can be efficiently applied to analyze the vastly increasing body of mankind's knowledge. Engelbart writes in the

paper:

The Memex adds a factor of speed and convenience to ordinary filing-system (symbol-structuring) processes that would encourage new methods of work by the user, and it also adds speed and convenience for processes not generally used before. Making it easy to establish and follow the associative trails makes practical a new symbol-structuring process whose use can make a significant difference in the concept structuring and basic methods of work.

It is also probable that clever usage of associative-trail manipulation can augment the human's process structuring and executing capabilities so that he could successfully make use of even more powerful symbol-structure manipulation processes utilizing The Memex capabilities. An example of this general sort of thing was given by Bush, where he points out that the file index can be called to view at the push of a button, which implicitly provides greater capability to work within more sophisticated and complex indexing systems.

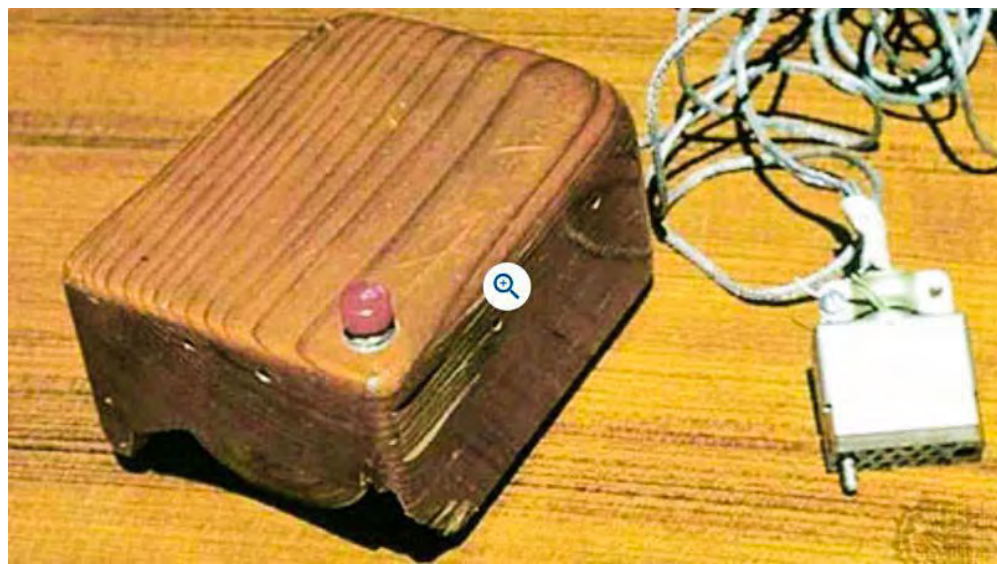
Later in the 1960s, Engelbart and his colleagues at SRI, particularly William K. English and John F. Rulifson, created what they called the "Online System (NLS)." They also developed a graphical user interface (GUI, pronounced "gooey") to facilitate operating it.

In the 1960s, in corporate America, universities and the government, "big iron" IBM mainframe computers ruled. Input into computers was still done largely through punch cards. Output was typically paper as well. Standard computer output to a visual device was still a printout.

These machines were not for ordinary folk, as they were almost entirely devoted to a triad of commercial, scientific, and number crunching users. It was quite a departure for Engelbart and his band of software engineers to focus on a highly visual interface, one

that even lay people might master. Their unique approach to GUIs and computing led to the development of basic tools such as the mouse, hypertext linking and word-processing in a windows environment.

On December 9, 1968, Engelbart demonstrated his NLS at the Fall Joint Computer Conference in San Francisco. Those who witnessed his use of a keyboard, display screen and mouse knew they were present at an unusual moment. It's not surprising that footage from this event was later put on display at the Smithsonian Museum's exhibit on the Information Age. The combination of the mouse as a tool to interact with the display screen was a giant home run for those present and for the generations of computer users to follow.



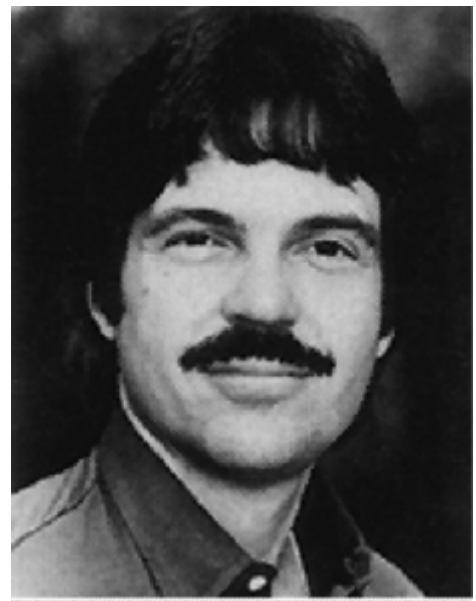
Alan Kay



The Department of Defense's Advanced Research Project Agency funding of SRI's work dried up in the early 1970s. When Engelbart's Stanford Research Institute activity center closed in 1977, a number of its computer researchers moved on to Xerox Corporation's Palo Alto Research Center (PARC) to carry on their work on human/computer interfaces.

PARC researchers, including notably Alan Kay, continued to focus on marrying graphics and animation to computer systems. They also thought about simpler interfaces that even children could interact with. Pertinent to Britannica, Kay would also focus later on the likely nature of an electronic encyclopedia.

Kay's early education had had a lot to do with computers. After a tour in the Air Force working on IBM computers, Kay had enrolled at the University of Colorado, receiving his undergraduate degree in mathematics and molecular biology in 1966. In 1969, he received his PhD in computer science from the University of Utah. His thesis was about graphical object orientation. After teaching two years at the Stanford Artificial Intelligence Laboratory, Kay moved on to PARC, where he focused on bitmap displays, windowing, and the point-click-and-drag user interface.



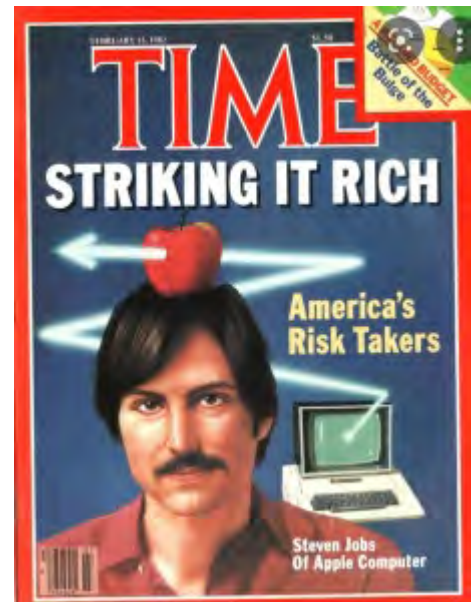
When Steve Jobs and his colleagues at Apple visited PARC in 1979, they saw the future of computing in what Kay and his colleagues

had been working on. Apple's later unique graphical user interface reflected PARC's cutting edge approach to interface design. Not surprisingly, Kay later served Apple directly as a research Fellow, before serving in a similar capacity for The Walt Disney Company, and, beginning in November 2002, for Hewlett-Packard. Through the work of Nelson, Engelbart, Kay and many others, Bush's early ideas about advances in computing technology evolved and, by the early 1980s, computing machines had begun to enter the consumer mainstream.

However, the prevailing operating system displays of the day were still arid and text centric. There were no high resolution or color displays. Also missing was the much larger local storage capacity required to play the game of dynamic knowledge management.

As a result, dreaming up a theoretical machine with an interface for ordinary folk and filled with programs rich in data and loaded with computer-based hyperlinks remained much easier to do than actually building one. Many such as Ted Nelson and Alan Kay had begun to think the interface side of things through. Kay in particular gave extended thought to construction of a complex encyclopedic database.

However, the stage had been set for the big breakthrough: computers built for the consumer market. Louisiana Senator Huey Long's depression era campaign promise of "a chicken in every pot" became "a computer in every home" for Apple and IBM in the 1980s. Time magazine made the IBM Personal Computer "Machine of the Year" in 1981, and the next year Steve Jobs of Apple made the cover. This was testament to the fact that the computer finally was moving out of its prior confines of big government, big business, and big universities and into the home.



The Proper Study of Mankind



Although a print publisher throughout its long life, Encyclopaedia Britannica had been keeping abreast of these computer developments closely. When the first CD- ROM (for Compact Disc-Read Only Memory) storage discs came out

in 1985, Britannica had just put the finishing touches on its multi-decade, massive rewriting of its 1928 14th Edition. The 15th Edition had originally been published in 1974 in a 30-volume set. The 15th Edition was structurally rounded out in 1985 with the addition a separate, two-volume index to the 15th Edition.

This redesign of the *Encyclopaedia Britannica* in the several decades before the CD- ROM-based *Compton's Encyclopedia* launch was a critical precursor to EB's invention. The Britannica multimedia search system patent would not have been possible without the specialized learning that grew out of the computer-assisted design of the 15th Edition print set. When the Compton's Patent was reissued by the Patent Office in 2002 after a lengthy reexamination, the stage was set for Britannica to exploit its achievement monetarily.

English poet Alexander Pope began the second epistle of his 1732 work *An Essay on Man* with this couplet:

Know then thyself, presume not God to scan;
The proper study of Mankind
is Man.

His reference to our genome-embedded drive to understand ourselves and catalog our knowledge is symbolized and given tangible shape by the encyclopedic form. The long, continuous history of the encyclopedia in our civilization is evidence that our collective need for self-examination is hard- wired into our brains.

Thus, the presence of a reference publisher at the center of a critical human/machine interface development in the 1980s was not entirely an accident. It stemmed in part from the very nature of encyclopedias in modern society.

The word “encyclopedia” comes from the Greek words *enkyklios*, meaning general, and *paideia*, meaning education. The effort to create a system of knowledge or circle of learning in the form of an “encyclopedia” spanning humankind’s knowledge has been with us for over 2,000 years, although it hasn’t always been called this. Speusippus, who died in 339 BC, recorded his uncle Plato’s thinking on natural history, mathematics, and philosophy. Speusippus also apparently attempted to record detailed descriptions of different species of plants and animals.

However, it was Denis Diderot’s *Encyclopedie ou Dictionnaire raisonne des Sciences, des Arts, a et des Metiers*, published in 1751 in Paris, that first popularized the use of the term encyclopedia to describe works containing a broad compendium of knowledge. Shortly thereafter, in 1768, the first edition of the *Encyclopædia Britannica*, the oldest and most comprehensive English- language encyclopedia, was published in Edinburgh, Scotland.

The Encyclopaedia Britannica First Edition



The 1768 First Edition of the Encyclopædia Britannica

The three-volume First Edition of the *Encyclopædia Britannica* paid homage to its classical roots in two conspicuous ways. One was a departure from the conventional spelling of *encyclopedia*.

The use of the *æ* ligature preserved an ancient bequest of Greek and Roman scribes used to denote diphthongal pronunciation. Even by 1768 this device had fallen out of use except in the most rarefied of contexts.

The other nod to antiquity was the Latinate title itself. It could easily have been called the *British Encyclopedia*, since Latin had long ceased to be the lingua franca of the educated. In the more than two and a half centuries years since that first edition, *Britannica's* stewards have continually changed everything else about the work, but they have always left its unusual title untouched.

The current 15th Edition was first published in 1974. The last print set bore the 2010 year on its copyright and the permanent cessation of printing the *Encyclopaedia Britannica* was announced in 2012.

Although there were regular revisions of print editions published, since the 1930s, readers typically kept their sets up to date by annually buying yearbooks that review recent developments.

Today, the *Encyclopaedia Britannica* is available to a global audience never dreamed of in the history of the print set. In the current era, the online version of *Encyclopaedia Britannica* receives over 7 billion annual page views, in more than 150 countries, with in excess of 150 million students using it in more than 20 languages.

The Encyclopedist's Art



Editor Philip W. (“Tom”) Goetz

In the twentieth century, encyclopedists were not been the only people to worry about how to facilitate access to an ever-growing sum of knowledge. The problem arising from the information explosion of modern times was also noticed by those who helped create it. In particular, the scientists and mathematicians who had created whole new disciplines of knowledge, such as atomic physics and computing machines, had also begun to think about how to increase efficient access by their colleagues and lay people to growing domains of information.

Since the mission of an encyclopedia is to encompass in an abbreviated and accessible form all of our knowledge about everything, the editorial investments needed to create encyclopedias have always been substantial. As a result, the number of encyclopedias has always been relatively few. Also, while there are several thousand distinguished outside contributors asked to write articles for an encyclopedia such as the *Britannica* (more than 4,000), there is a much smaller number of career encyclopedists charged with the actual design and creation of the work and its ongoing revision.



Mortimer Adler (with cane), Editor Philip W. “Tom” Goetz (with red bow tie) with Britannica’s officers and wives, Christmas 1990

In the modern era, professional encyclopedists around the world working continuously in the English language have mostly numbered in the hundreds rather than the thousands. And for over two centuries, the encyclopedists at Britannica have remained the most skilled and respected of their breed. The task of an encyclopedist is an odd one. There are not many of these folks around, and the few that around tend to spend their days in single-minded thought on how best to organize a brief, narrative summary of our cumulative understandings of history, art, literature, science, religion, philosophy, and culture.

The encyclopedist’s art has traditionally been more of what to leave out, rather than what to put in.

During my 28-year tenure at Britannica, I had the privilege of working frequently with EB’s Editor for much of that time, Phillip W. (“Tom”) Goetz.

He had been promoted to Editor well before the day I arrived in 1986. He had been the second-in-command Executive Editor during the development of the 15th Edition. When I once asked him about what that period was like, he said it was the toughest job he ever had to slog through. The complete rewriting of the 14th Edition had begun in the 1950s and the 15th Edition wasn't published until 1974. During that time, Goetz said that, to insure the entire corpus of over 30 million words had editorial consistency and "spoke with one voice," he was detailed to be the one person to read and give final approval to all of the 44 million words in the 65,000 articles in the complete set of 32 volumes, with each volume having more than 1,000 pages.

Goetz was possessed of an exceptional intellect and engaging manner and he never forgot a lot of what he had read, either. Once, when we had a problem with the development of an Italian translation of *Encyclopaedia Britannica*, I travelled with him to Milan. Arriving on a weekend, we decided to check the common tourist box of visiting the Milan Cathedral. I was particularly anxious to see it as my mother had taken a snapshot of the church on her honeymoon in 1928. Begun in 1386 it had been added to and refined over the next six centuries.

To take in the exceptional view of Milan from the top of the Cathedral, we climbed the 250 steps to the Duomo roof. As we strolled amongst the marble forest of statues and gargoyles, Tom had been filling me in on aspects of the Cathedral's construction. When I asked him what had been going on in the Catholic Church at the time of construction and the years immediately following, my casual question did not elicit a casual answer. It was all in his head and he poured it out to me in excruciating detail for the next hour, formulated in perfect paragraph-like sections.



It was an amazing and thorough education for me. While it had been completely casual for him to speak off the cuff as he did, he spoke with the command of a specialist university professor who might have spent their entire career studying and lecturing on the Middle Ages.

Architects of the 15th Edition

William Benton, EB Owner and Publisher



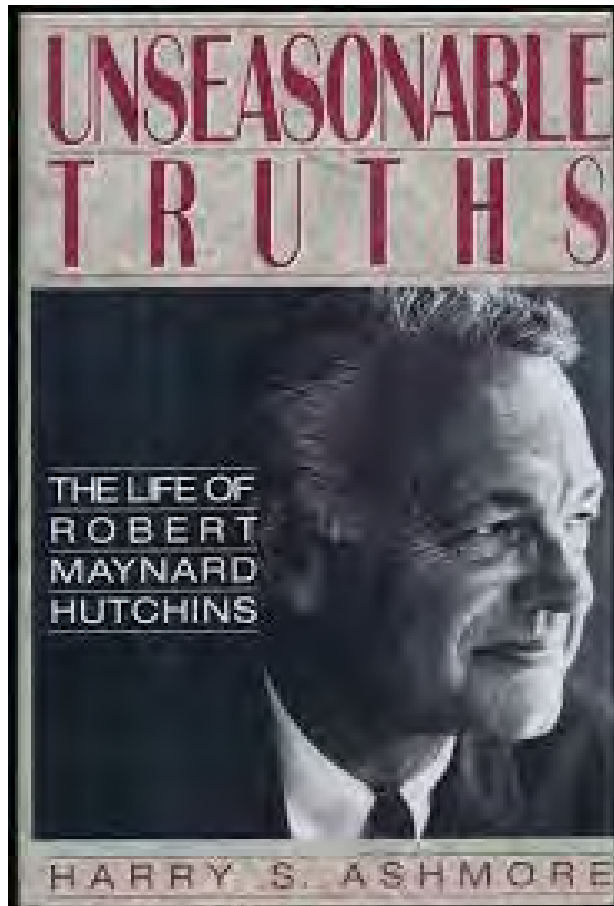
William Benton

Paralleling this whole development of the computer, encyclopedists at Encyclopædia Britannica had thinking long and hard about the proper structure of a modern encyclopedia and how it might be conjoined with an appropriate human/machine interface adapted to the electronic age.

The 14th Edition of the *Encyclopædia Britannica* had been published in 1929, when the company was owned by Sears Roebuck. That same year William Benton founded the Benton and Bowles advertising agency in New York City. The agency prospered with the growth of network radio and its own innovations in the development of national advertising. Among other things, Benton & Bowles is credited with inventing the radio soap opera, which it used as a vehicle to sell its clients' products.

Benton, later a vice president at The University of Chicago, used the proceeds from his sale of Benton & Bowles to acquire Britannica in 1943, after Sears failed at gifting the company to the University.

Robert Hutchins, University of Chicago President



Robert Maynard Hutchins

Benton had been recruited to the University of Chicago in 1937 by his fellow student in the Yale College Class of 1924, then Chicago's president, Robert Maynard Hutchins. Hutchins was one of the 20th Century's most prominent intellects and educators. A true prodigy, Hutchins had been named dean of the Yale Law School at the age of 28. He was only 30 at the time of his appointment as Chicago's president in 1929.

The University's trustees said notably as they turned down the Sears offer to gift Encyclopaedia Britannica to the school that the University was in the business of education, not the business of business. Bill Benton knew a good commercial opportunity when he saw it, however, and he seized both the moment and the company.

When Benton purchased Britannica, he agreed to pay the University a 3% royalty on U.S. encyclopedia sales in return for the editorial advice of its faculty. Not long thereafter, Benton appointed Hutchins Chairman of Britannica's Board of Editors. The University of Chicago's connection to Encyclopædia Britannica lasted more than five decades. Thanks to the simpatico relationship of Benton and Hutchins, it brought the University's endowment more than \$200 million in that time



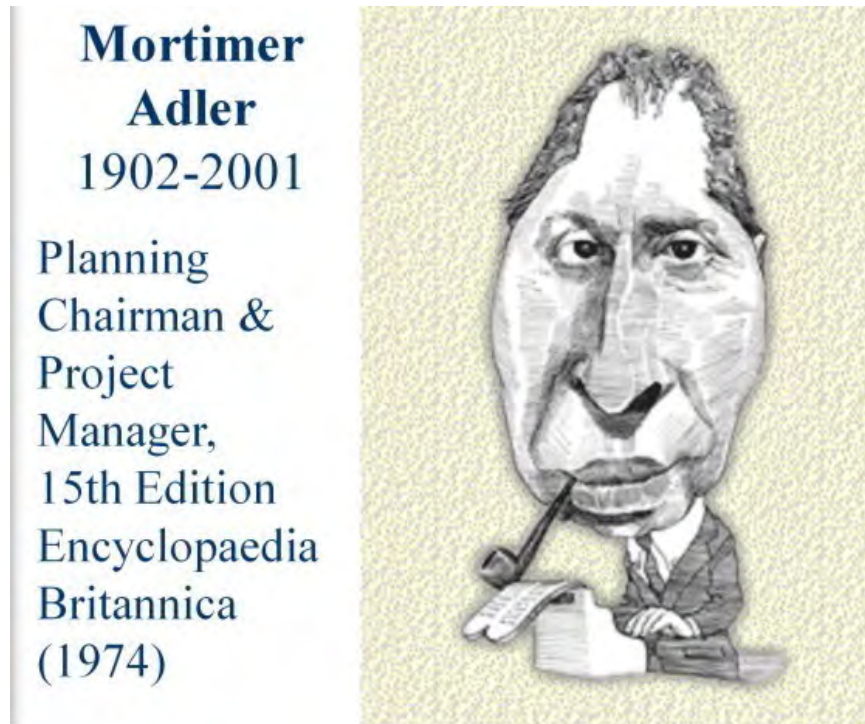
Robert Hutchins and William Benton

In 1974, after an investment of more than \$33 million, the 30-volume, 44- million- word 15th Edition of *Encyclopaedia Britannica* was published. The event made the front page of the *New York Times*. The standalone two-volume index was added to the set as part of a major revision published in 1985 partly because of complaints from librarians.



Charles Swanson, EB President (he interviewed and hired me as Vice President and General Counsel of EB in November 1984), William Benton, EB Owner and Publisher, Robert Hutchins, President, University of Chicago and Chairman of the EB Board of Editors

Mortimer Adler, Philosopher



Mortimer Adler

Mortimer J. Adler, a precocious student (and later critic) of philosopher John Dewey at Columbia University, had also been attracted to the University of Chicago in the 1930s. Hutchins had found appointments for him in philosophy and psychology and at The University of Chicago Law School.

Adler was an evangelist for a broad, liberal education and a strident critic of the disciplinary specialization just then coming to fruition at American universities. His and Hutchins's impassioned arguments for an undergraduate curriculum based on the classic texts of Western civilization touched off years of stimulating, though acrimonious, debate at the University in the 1930s. Adler's belief in exposing undergraduates to the classics fell in with Hutchins' view that, "What the nation needs is more educated B.A.'s and fewer ignorant PhD's."



Wags on the Midway soon were quoted reciting, “There is no God but Adler, and Hutchins is his Prophet.” Students also were heard singing an old New Year’s standard with a new refrain, “Should auld Aquinas be forgot.”



Adler later helped Hutchins complete editorial work on Britannica’s unique 54-volume canon of Western intellectual history, *Great Books of the Western World*. The set was published in 1952, the same year Adler left The University of Chicago. Notwithstanding its intellectual gravitas (from Homer, Aristotle and Aquinas to Freud), Britannica sold “Benton’s Folly” to ordinary Americans with great success.



**Mortimer Adler (with cane), EB Officers and wives
Christmas 1989**

By the early 1960s, the 14th Edition of *Encyclopædia Britannica* was showing its age. Benton, by this time, had also been an Assistant Secretary of State (he thought up the Voice of America), and a United States Senator (a Democrat from Connecticut and the first to denounce Senator Joe McCarthy).



After Hutchins left the University of Chicago, he headed the Fund for the Republic think tank, established with help from the Ford Foundation. The Fund had helped finance Adler's Institute for Philosophical Research in San Francisco. When Benton was assembling his editorial team to prepare the groundwork for the 15th Edition, he found Adler in San Francisco, where he was finishing his two-volume work, *The Idea of Freedom* (1958-61).

In December 1962, as Adler celebrated his 60th birthday, his Institute was going nowhere, his marriage had failed, and he was in debt. Thus, he was in a receptive mood when William Benton reached out:

Come back to Chicago, Mortimer, and help me make a new and greater *Encyclopædia Britannica*. I'll not only pay you a princely salary and fund the Institute, but I also support a series of Benton Lectures at The University of Chicago that can be the first step towards a new career for you—and an education for them.

Charles Van Doren, EB Editorial Vice President



Charles Van Doren

The year 1962 was also a watershed year for Adler's young friend and acolyte Charles Van Doren. In that year, Van Doren had received a suspended sentence following his conviction in New York State for perjury in the investigation into the fixed television game shows of the late 1950s.

Charles Van Doren
Vice President, Editorial
Encyclopaedia Britannica (1972-82)



As a sign that he was looking to the future, Van Doren published a scholarly article, “*The Idea of an Encyclopedia*,” in *The American Behavioral Scientist* that same year. In the article, Van Doren argued that American encyclopedias should no longer be mere compilations of facts (a criticism of the 14th Edition). He said they should educate, as well as inform. He also argued against encyclopedias that classified information in artificial pigeonholes reflecting university politics, and spoke in favor of celebrating the natural interrelatedness of man’s knowledge:

It takes a brave man to master more than one discipline nowadays; bravery is not totally absent from our society, and so heroes can be found. But the man who attempts to find the principals which underlie two or more disciplines is considered not brave, but mad or subversive. Those whom graduate schools have put asunder, let no man join together!



Van Doren’s article on encyclopedic form was influential enough to be selected for inclusion along with Vannevar Bush’s 1945 *Atlantic Monthly* essay, in the 1967 compilation, *The Growth of Knowledge: Readings on Organization and Retrieval of Information*. This book also took note of the theoretical work being done in automated text retrieval by Gerald Salton of the Department of Computer Science at Cornell.

When Adler moved back to Chicago to join Britannica in 1962, it is not surprising that he quickly found a place for the would-be encyclopedist Van Doren. Van Doren was a son of Adler’s old Columbia University teaching colleague and friend, poet Mark Van Doren, and Adler had known him since birth. As Charles Van Doren put it when he spoke at a 2001 memorial service following Adler’s death at age 98:

And then there came the time when I fell down, face down in the mud, and he picked me up, brushed me off and gave me a job. It was the best kind of job: As he described it, one you would do anyway if you did not need the money. First, we worked together making books for Encyclopædia Britannica. Then I, and many others, helped him to design and edit the greatest encyclopedia the world has ever seen.



**Charles Van Doren at his 1981 EB retirement party
with EB librarians Terry Miller and Shanta Uddin**

The source of Van Doren's infamy permeated the rest of his life, including his career as an editor at Britannica. At the same time I joined Britannica as General Counsel in 1986, Peter Norton succeeded Chuck Swanson as President of the company. When I once asked Norton about Van Doren's time at EB, he said a few times he had heard a mean spirited person hum under their breath Dum, Dum, DUM! Dum, Dum, DUM! when Van Doren entered a room. This was the sound of the drums heard on Twenty-One when Van Doren had been struggling with an answer.

The appearance of Van Doren at his mentor Adler's memorial service was a rare public outing. In the 45 years since his 1956 elevation as the new champion of the rigged TV game show Twenty-One, he had avoided the limelight with the exception of his 1959 Congressional testimony before the House Subcommittee on Legislative Oversight. His later career writing books with Adler and as Editorial Vice President of Britannica was notably out of the public eye. He had retired from EB in 1982, four years before I arrived.



Dum, Dum, DUM! Dum, Dum, DUM!

As Executive Vice President of Britannica as well as General Counsel, from time to time I managed a number of relationships with the partners around the world who were publishing translations of the *Encyclopaedia Britannica* into different languages. Usually this was when something in the relationship was going terribly wrong. So, when I began dealing with a copyright infringement of the *Encyclopaedia Britannica* in Greek, I dove into the files to read the correspondence and contractual underpinnings of EB's relationship with our Greek licensee. What I found was that I was walking in Van Doren's footsteps. In the 1970s he had negotiated and concluded a very complicated agreement that had substantially benefitted both EB and its licensee over the intervening years.



Pirated Encyclopaedia Britannica in Greek

With this background in mind, after Adler's funeral service I had a chance to chat with Van Doren. As I had also worked with Adler over the years, I told him I thought he had captured the man nicely in his remarks. When I told him that the Greek language version of the *Britannica* he had nurtured was still going strong, his eyes lit up as he briefly and enthusiastically spoke about his EB career.

Apart from his comments about Adler, he was rarely heard from in all the years following his humiliating confession before Congress in 1959. One exception was when he made remarks at the 50th Reunion of his class at Columbia University in 1999. At that time, he said:

Some of you read with me forty years ago a portion of *Aristotle's Ethics*, a selection of passages that describe his idea of happiness. You may not remember too well. I remember better, because, despite the abrupt caesura in my academic career that occurred in 1959, I have gone on teaching the humanities almost continually to students of all kinds and ages. In case you don't remember, then, I remind you that according to Aristotle happiness is not a feeling or sensation but instead is the quality of a whole life. The emphasis is on "whole," a life from beginning to end. Especially the end. The last part, the part you're now approaching, was for Aristotle the most important for happiness. It makes sense, doesn't it?

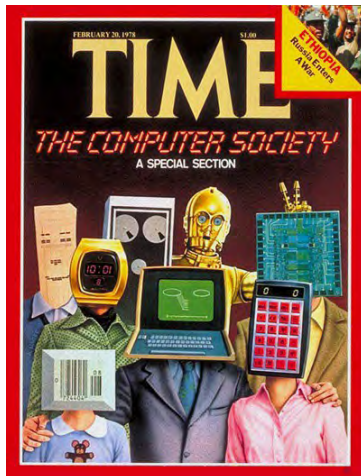
Van Doren died in 2019 in a Connecticut Retirement Community at the age of 93.

Reinventing the Encyclopedia in Electronic Form



Warren Preece, Editor, Encyclopedia Britannica

In 1981, Britannica's now retired Editor, Warren Preece, published "*Notes Towards a New Encyclopedia.*" In this article Preece described the coming electronic encyclopedia.



**Time Special Edition
1978**

As one of the architects of the 15th Edition, Preece was intimately familiar with the dense tapestry of cross references that connected related pieces of information spread throughout the Micropaedia, Macropaedia, and Propaedia, the three parts of the encyclopedia. He, more than most, was in a position to ponder the way in which the electronic publishing future might affect a corpus of this nature, and he explored the contours of these possibilities in his article.

Not only did Preece write that his newly envisaged encyclopedia would have an electronic version, but he also saw what Bush had not been in a position to see: optical laser-disc technology could be the likely storage medium for

encyclopedic data. Preece also noted that with over 300,000 home computers then in private use in the U.S., online query privileges for up-to-date encyclopedic information were another possible direction for the encyclopedia of the future to take. He also was attuned to certain competitive advantages an electronic encyclopedia would have over the book: it could hold more, be searched faster, and be updated more easily.



Charles Van Doren with Lexis Nexis terminal 1981

At Britannica, Van Doren was already leading the charge into Preece's Brave New World. In May 1980, he had circulated to his colleagues a new agreement between Britannica and Mead Data Central. The four- year agreement called for the full text of the *Encyclopædia Britannica* to be put online as part of the Lexis-Nexis service. Mead was to pay Britannica up to 25% of Mead's revenues from encyclopedia subscriptions. While being careful to discourage copyright infringement by not permitting subscribers to print articles from the encyclopedia, Britannica had now committed itself to an electronic future in more than a symbolic way.

Solving the PC Data Storage Problem



**The CD-ROM was jointly invented by
Philips Electronic NV and Sony Corporation in 1980**

Britannica editor Warren Preece had been able to foresee the possibility of an optical disc encyclopedia because of breakthrough engineering developments that had taken place in Europe and Japan. Klass Compaan, a physicist with Philips research, based in The Netherlands, had conceived of the compact disc in 1969 and, with Piet Kramer, had produced the first color videodisc prototype in 1972. Philips then worked with Sony to develop a smaller compact disc standard for just storing audio signals.

The audio compact disc that emerged was polycarbonate substrate, molded with pits that laser beam to read timing and tracking data. called Red Book format of the compact disc in Japan and Europe in 1982, and in the U.S. the year. A derivative format, designed to hold information and be played back on a computer the unwieldy name Compact Disc-Read Only CD-ROM for short. This was launched into the nascent personal computer market in 1985, several years after the first prototypes had been shown.



made with a permitted a The so- was released following multimedia was given Memory,



Sony Corporation CD-ROM Player

Grolier Publishing quickly put a text-only encyclopedia on a videodisc and also a CD-ROM in 1985. Most early CD-ROMs published were specialized compendia designed for commercial, not consumer, use. Navigation was accomplished through rules-based Boolean text string searches. Discs with sound, pictures, video and animation, although supported by the CD-

ROM format, were not available.

Microsoft believed that for sales of its operating system to grow at an exponential rate, software developers needed to be encouraged to use the new CD-ROM storage media to create compelling software for consumers. The assumption was that this would drive consumers to regard PCs in the home not just as gaming facilitators, but as a requirement for their children's education. To this end, Microsoft showed off a CD-ROM multimedia encyclopedia demonstration disc at a CD-ROM developer's conference it held in 1986. The dozen five- page articles on the demonstration disc contained text, graphics, sound, a motion sequence and animation.

Compton's Multimedia Encyclopedia Prime Movers:



Patricia Wier, EB, Marvin Minsky, MIT & Alan Kay



Patricia Wier

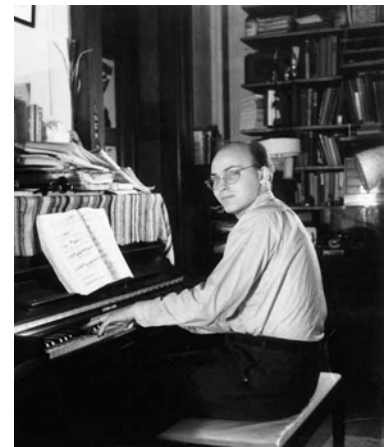
Britannica had first acquired a large mainframe computer in the 1960s. It had primarily been used to manage the company's direct mail and installment sales activities, though it also did the usual accounting applications and managed the payroll and accounts receivable functions. In 1971, Britannica hired Patricia A. Wier to help manage computer systems and programming operations. Wier had been lured away from a computer management position at Playboy Magazine's Chicago headquarters. A quick study, Wier was promoted to head Britannica's computer operations within the same year.

Wier was determined to broaden the use of computers within the company, and before long Wier helped graft the in-house editorial system onto Britannica's existing mainframe computer. This system was used to help produce the massive 15th Edition. It was not until the early 1980s, however, that Britannica moved to a stand-alone mainframe computer completely dedicated to editorial operations. At that time, all editorial and production work was put online, including page-makeup and indexing.

It was at this juncture that Wier was promoted to vice president of corporate planning and development. She was charged with developing or acquiring new products that would see Britannica into the future, particularly bearing in mind the new computer technologies that were coming to the fore. Soon she and editorial vice president Charles Van Doren began calling on various leading lights in the field of computer development to get ideas about the directions Britannica electronic products might take. Because Wier wanted to explore at a sophisticated level how the computer developments of the future might be put to use by a reference publisher such as Britannica, she traveled to the Massachusetts Institute of Technology.

MIT was then, as it is today, at the cutting edge of important computer developments. The people that she engaged at MIT included “artificial intelligence” guru Marvin Minsky at the MIT Media Lab. Minsky introduced her to a former student of his, Danny Hillis, by then at the supercomputer start up Thinking Machines. Both were intrigued with how computer technology might be applied to such an enormous and fascinating database as the *Encyclopædia Britannica*. Of particular interest to everyone Wier met was the dense indexing within the set that already existed, interconnecting as it did all parts of the database.

Wier recalls that when she met with Minsky at his home in Brookline, Massachusetts, and entered the large casual room where their meeting was to take place, three grand pianos scattered around the room sounded the opening chords of Beethoven's Fifth Symphony as the door opened. Minsky had other gadgets like this in his home, all reflecting his never-ending fascination with technology and its uses, both playful and serious. Grand pianos seemed the order of the day among these leading east coast technologists.



Marvin Minsky

When Minsky and Wier visited the home of Sheryl Handler, a co-founder with MIT graduate Danny Hillis of Thinking Machines, a supercomputer manufacturer. Minsky sat down at her new Bösendorfer grand piano and expertly indulged his passion for magnificent music machines.



Though all Wier's Boston-based interlocutors were singular, none could fully compete with one of Handler's achievements. She had appeared in a Dewar's Scotch Whiskey advertising profile next to the quote, "My feminine instinct to shelter and nurture contributes to my professional perspectives."

Wier also met briefly at this time with Nicholas Negroponte, director of the Lab. Wier and others were curious about how to use what was then called artificial intelligence to permit the recovery of pertinent electronic data in a more sophisticated manner than through key word searching alone.

Sheryl Handler Ad

Wier also met briefly at this time with Nicholas Negroponte, director of the Lab. Wier and others were curious about how to use what was then called artificial intelligence to permit the recovery of pertinent electronic data in a more sophisticated manner than through key word searching alone.

During this period, Wier and then EB USA president Peter Norton also met with Alan Kay to discuss how rapidly developing computer technology might impact an electronic encyclopedia. At the time Kay was working with Atari to produce electronic games, but Wier recalls that he was fascinated with the content of Encyclopædia Britannica and came to Chicago to visit Britannica's corporate headquarters to learn more.

His sneakers and jeans, while standard mode of attire for Silicon Valley, caused heads to turn and eyebrows to raise at then straight-laced Britannica Centre. The requirements for more formal business garb at Britannica and other offices in downtown Chicago didn't disappear until well into the '90s. Wier and Kay, who had his own associations with the MIT Media Lab, also brainstormed about someday using encyclopedic information in voice-controlled graphics on walls in the home.

In 1983, with her research complete, Wier proposed to Britannica's board of directors that it embark on the creation of an interactive electronic encyclopedia. Wier, who retired in 1993 as president of Britannica USA, got an answer akin to the one given by the University of Chicago's directors when they turned down Sears' Britannica gift. Wier remembers she was told in no uncertain terms, "We sell books!"



Bill Bove with William Benton's daughter Louise Benton Wagner, Ezra Solomon, Peter Norton, Newton Minow and other Encyclopaedia Britannica directors 1992

At Atari's Sunnyvale Research Laboratory, Kay consulted the next year on an encyclopedia research project sponsored by Atari, the National Science Foundation, and Hewlett-Packard. Joining Kay as a consultant on the prototype Encyclopedia Project was Charles Van Doren, recently retired from Encyclopædia Britannica.

Peter Norton Takes Britannica into the Software Business

Peter Norton

Encyclopædia
Britannica

President
(1985-95)

**Convinced EB Board to
Computerize Compton's
Encyclopedia**



Peter Norton

Although not willing to follow Wier's advice in 1983, Britannica's board of directors did believe the company needed to get closer to the emerging personal computer market. That year, Encyclopædia Britannica Educational Corporation, which I later served as president, published a dozen floppy disk educational titles that it had acquired for the Apple II platform. Soon Britannica decided to directly acquire its own software development capability. In 1985, it purchased Design Wear, EduWear, and Blue Chip, three small San Francisco-based software publishers also selling 5¼ inch floppy magnetic disk products.

With the introduction that year of the CD-ROM format, Britannica also began to think about how it might exploit this new medium. The question was not a simple one. With its vast storage capacity, the *Encyclopædia Britannica* itself was thought to be too massive to be put on a CD-ROM, even with minimal indexing and a text-only format. Also, the entire business model of the company was still built on selling its flagship, multi-volume print work at a purchase price of \$1,200 and up, depending on the binding. The direct selling sales culture that prevailed at Britannica was no more receptive to the idea of an inexpensive, electronic alternative to the print set than it had been when Patricia Wier first made her recommendation.

In 1987, Britannica's management, led by former Englishman, now American citizen, Peter Norton, hit on a solution.



Encyclopædia Britannica Officers in 2000

Left to right: Bill Bowe, Executive Vice President, Secretary & General Counsel, Karl Steinberg, Vice President Human Resources, Robert Gwinn, Chairman, Peter Norton, President, Fred Figge, Chief Financial Officer and Patricia Wier, EB USA President

This time the plan was not seen as a threat to the sales force and it was endorsed by the board of directors. Instead of putting the *Encyclopædia Britannica* on a CD-ROM, Britannica would become a leader in the newly developing software publishing industry by building a multi-media CD-ROM version of its student- oriented *Compton's Encyclopedia*. At the time, the Compton's print set was given away free as a premium to purchasers of the more expensive Encyclopædia Britannica print set.

Harold Kester, SmarTrieve, and Compton's Encyclopedia

Harold Kester

President Del Mar Group, Inc. until 1990

Encyclopaedia
Britannica

Vice President,
Technology
(1990-99)

Made new use of EB
editorial "hooks" at
the Del Mar Group
(1987-89)



Harold Kester

After further analyzing the potential market for such a work, Stanley Frank, in charge of development by then, decided in 1988 to partner in its development with Education Systems Corporation of San Diego, California. ESC had expertise in software development through building networked educational products for the school market. ESC chose as its text search engine subcontractor, the Del Mar Group. Del Mar was a Solana Beach, California, venture capital startup, with funding from Japanese computer maker Fujitsu.

Del Mar's chief scientist, Harold Kester, had already been building CD-ROM reference publications, though not for the consumer market. Importantly, Kester was also a student of the work of Gerald Salton at Cornell University. Salton had been doing pioneering research into the mathematical principles underlying automatic text retrieval. As Greg Bestik, ESC's head of development, Kester, and Britannica's editors and software engineers got together to plan the design of what became Compton's Multimedia Encyclopedia, they had one clear instruction from Britannica's management: Britannica was ready to invest millions of dollars in the product's development, but it must publish a revolutionary offering that would be a clear breakthrough in simplifying a user's interaction with computers.

This would not be a text-only product like Groliers. The depth of Britannica's vast holdings of reference media in film, pictures, animations, and sound would all be made available for close integration with the Compton's encyclopedic text. Kester's great contribution to this enterprise was to produce a natural language search engine that would help permit the prototypical nine-year-old to easily search the entire database for

articles of interest. Instead of expecting a nine-year-old to master the intricacies of Boolean logic in constructing search queries (“Sky” AND “Blue”), Britannica’s nine-year-old needed only to type in the search box “Why is the sky blue?” That would be enough to for Del Mar’s “SmarTrieV” search engine to take the user to the answer.



**Harold Kester, Vice President, Technology & Jorge Cauz, President
Seoul, South Korea 1998**

Shortly after Del Mar’s organization in 1984, it became one of the first CD-ROM publishers the next year. It published the fifth CD-ROM in the United States in 1985. It was a prototype of a product intended for bookstores that would permit consumers to interact with a database and be guided to titles of interest. Its SmarTrieV search system was licensed to other CD-ROM developers, and, in 1986, Del Mar briefly had the largest installed base of CD-ROMs in the country.

Informed by Gerald Salton’s earlier work, SmarTrieV’s natural language search and retrieval system went far beyond the usual database search engines of its day.

Duly impressed, Britannica purchased SmarTrieV and hired Kester and his team as soon as the networked version of Compton’s product was complete.

When Britannica and ESC signed their co-development agreement in April 1988, the Del Mar Group dived in to help with the preparation of the design document. This was completed in July 1988. It set forth in elaborate detail the architecture of the *Compton’s Multimedia Encyclopedia* that would be published in the new CD- ROM format in the fall of the following year.

The design document was very much a collaborative one. ESC had talented computer programmers and educational experts in San Diego and Austin, Texas sites. Harold Kester and his search engine group worked from Solana Beach, California, and the

Britannica editors and software experts were in Chicago and San Francisco. Over the years when I visited this brilliant group in Solana Beach and La Jolla, I had a chance to observe at close hand the intellectual leadership and creative genius with which Harold led his team. He was truly a person made for his time.

During development, between 40 and 80 individuals were active at any given time in working to bring the design document to life as a fully functioning product. This would be no prototype or demonstration vehicle for show and tell at a futurists' conference. They were about inventing and building the real thing.

If they succeeded, it would be proven that Ted Nelson's Xanadu dream could come true. Something along the lines of what Ted Nelson had surmised could actually be reduced to practice and change the world forever.

Those on the design team with a background in educational psychology were particularly sensitive to the fact that children learned in different ways. They pressed home the desirability of having different ways, both textual and graphical, for users to access the same information.

Dr. Stanley Frank, Vice President, Development

Stanley Frank

Encyclopaedia
Britannica

Vice President,
Development
(1985-93)

Former IBM executive and
Compton's Project Leader



Stanley Frank

Thus, from the beginning, the novel idea of developing an architecture based upon multiple search paths to related information was central to the product. Also fundamental to the design were reciprocal hyperlinks between related data contained in other search paths. With a product that was easy to use and that could easily facilitate different styles

of learning, the group felt they were building a blockbuster, both for the network market within schools, as well as for the stand- alone consumer market.

This combination of ESC's computer networking programming expertise together with Britannica's skilled encyclopedists was a unique combination for the times. And building an electronic database that went beyond text to include sound, animation, video and maps, could never have been accomplished without the millions of dollars that was

invested by Britannica both before and during the development of the Compton's Multimedia Encyclopedia product. This unusual combination of human resources, coupled with a subset of Britannica's rich editorial content, turned out to be the requirements for building the software needed to bring a highly complex digital work to life.

If anyone doubted the difficulty of pulling this task off, for a parallel they need only look at the decades long and costly failure of Ted Nelson's Xanadu effort. It had never been able to actually produce a useful product that actually worked.



[1990 Demonstration of Compton's Multimedia Encyclopedia](#)

In this video made on February 1, 1990, Dr. Stanley Frank of Encyclopaedia Britannica, Inc., demonstrates to educators across the country in a live satellite feed how text, sound, video and maps are accessed in the new Compton's Multimedia Encyclopedia CD-ROM.

Britannica released a network version for schools of *Compton's Multimedia Encyclopedia* in fall 1989 at a press conference at the New York Academy of Science.

The news media was out in force, recognizing the product as potentially noteworthy. Dr. Stanley Frank, who had overseen the development process as Vice President, Development, demonstrated the Compton's CD-ROM for a national television audience through a live presentation that reached the nation on ABC's Good Morning America television show.

The consumer version of Compton's CD-ROM was published shortly after in March 1990 at a price of \$895. Compton's Multimedia Encyclopedia, on a single CD-ROM disc, contained an amazing 13 million words, 7,000 images and numerous movies, animations and sound clips.

Compton's Multimedia Encyclopedia Makes a Splash

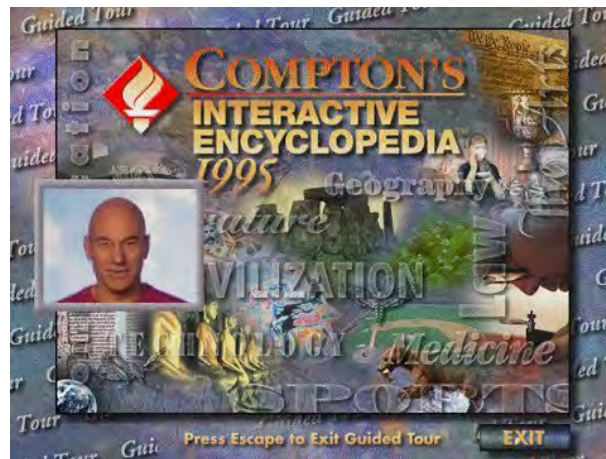
Compton's Multimedia Encyclopedia

The media again took notice. Said *Newsweek* of the breakthrough computer interface:



Computers aren't just smart typewriters and zippy number crunchers anymore. . . Yet so far hype has outstripped hopes in the growing collection of multimedia programs. Like dazzling Hollywood flops, most have turned out to be long on technology, but short on substance. Until Compton's. . . Just getting that much information on a disc is impressive enough. Yet the beauty of Compton's is in the links – everything is woven together so the user can quickly move between related bits of information. Thanks to ingenious design, the program is so simple that, literally, a child can use it... Hit a difficult word? A click will bring up the definition – and if your PC has sound capability, the machine will even pronounce it for you. Whetted appetites: A staff of 80 writers, editors, designers and programmers worked for two years to bring the product to market.

The effect on people experiencing Compton's for the first time could be stunning. Former Vice President Walter Mondale, like his political patron saint Hubert Humphrey before him, served on the Encyclopædia Britannica board of directors. Shortly after the Compton's product was released, I escorted Mondale to see the newly developed product with other directors at the Oak Brook Shopping Mall outside Chicago. He read with interest his own biographical entry reflecting his service as Vice President. After looking with less interest at the text of the entry on Richard Nixon, he got up from the keyboard and turned to leave.



[Patrick Stewart Introduces Compton's Interactive Encyclopedia 1995](#)

Seeing he had ignored the sound button on the entry, I quickly clicked on the audio icon in the Nixon article. When the computer speakers boomed Nixon's disembodied voice ("Well, I'm not a crook!"), Mondale turned around, frozen in amazement. He was obviously not prepared for this Nixon redux and was stunned by the product coming to life this way.

Computer hardware manufacturers quickly saw Compton's could help sell their boxes to consumers. Tandy Corporation immediately struck a deal with Britannica to sell its new multimedia PC for \$4,500, with the \$895 Compton's disc thrown in for free. IBM, not wishing to be left behind, quickly gave Britannica a million dollars towards EB's continued development of the product, making sure it was adapted to IBM's newly planned multimedia computer entry.

invention had been made by anyone else before the Compton's Patent application was filed in 1989.

As could be expected, attorneys for one of these parties being sued for infringement began wading through the already complex patent history. Lo and behold, they found a useful needle in the haystack. They discovered years after the mistake could have been cured that the Washington, D.C. law firm Britannica had hired to draft and file the patent application in the Patent Office had dropped the first page of one of the Xerox copies of the patent application it had filed. It had also made a scrivener's error by dropping a routine boilerplate phrase required to be recited in the application.

Dropping the page in a copying error and failing to put in the usual technical language required by the patent statute was bad news for Britannica. The result was that in 2009 the Compton's Patent was ruled invalid for technical reasons having nothing to do with the substance, novelty or importance of the invention itself.

But for the law firm's lapse, it appeared that the invention would have otherwise gone on to produce substantial royalties. By making public the details of the invention in its 1989 patent application it had been possible for other companies to quickly digest the nature of the invention and incorporate it into their own products. The application's detailed drawings and the textual descriptions of the innards of the invention gave rise to the immediate and wide dissemination of exactly how to structure and write the complex software needed to permit simultaneous access to multiple and disparate databases of text, sound, images and videos.

The only good news in this case's outcome for Britannica was that it had inadvertently cemented a perfectly good malpractice claim against the law firm that had negligently botched its job.

In the course of proving a case of legal malpractice involving a patent, the party alleging malpractice must show that a lawyer's mistake actually damaged it. If you're defending against such a claim of malpractice, you can get yourself off the hook if you can show that the patent in question was invalid and never should have been issued.

Therefore, when Britannica sued the law firm for legal malpractice, there was what's known as "the case within the case." This meant that the outcome of Britannica's malpractice case would also finally bring a ruling on the underlying merits of its patent. If this turned out to be good news for EB, it would be bad news for the Washington law firm. If the damages it was ordered to pay exceeded its malpractice insurance, it might bankrupt the law firm and perhaps some of its partners.

However undesirable it was for Britannica to have to sue a Washington, D.C. law firm in a District of Columbia court, it was unavoidable. When the dust finally settled in 2015 on this final dispute involving the Compton's Patent, the federal district court hearing

the case ruled that the invention was not patentable. This meant that while legal malpractice may have occurred, Britannica couldn't have been damaged.

In arriving at this conclusion, the court took a fresh look at the basic requirements for a patent to issue. It set aside the fact that in two separate instances the Patent Office had never found or ever seriously considered whether the software patent in question constituted what's called "patentable subject matter." Everyone before had always thought that it was, as the U.S. Supreme Court had long before ruled that software inventions could be patented.

Under the U.S. Patent Act, for a patent to be valid, it must have the attributes of utility, novelty, nonobviousness, enablement and it must cover patentable subject matter. There was no fresh evidence presented to the court in the malpractice case that the Compton's patent didn't meet the tests of being useful, novel, and nonobvious. It also had clearly enabled others ordinarily skilled in the art to replicate the invention. However, the court decided that Britannica's patent failed the remaining requirement for a valid patent because the patent did not meet the court's definition of "patentable subject matter."

The court said that "abstract ideas" were not patentable under the longstanding rule that an idea itself is not patentable. It said that the Compton's patent claims were drawn to the abstract idea of collecting, recognizing, and storing data to be easily found and retrieved, and that this was an abstract concept and therefore not patent-eligible. In its ruling, the court put it this way:

A "database" is nothing more than an organized collection of information. Humans have been collecting and organizing information and storing it in printed form for thousands of years. Indeed, encyclopedias---described as a type of "database" in the specification---have existed for thousands of years. For just as long, humans have organized information so that it could be searched for and retrieved by users: For example, encyclopedias typically are organized in alphabetical order and are searchable using indexes, and articles generally contain cross-references to other articles on similar topics. These activities long predate the advent of computers. Such fundamental human activities are "abstract ideas..."

Thus it was that a quarter century after the Compton's patent application was filed in 1989, the last hope of Britannica profiting from its investment in the invention was extinguished.

Having hired the law firm that drafted the Compton's Patent application in 1989, I was present at the creation as it were. I had subsequently spent 15 years directing and supervising the torturous regulatory and judicial quagmire that ensued. As it turned out, I missed the third act of the Compton's Patent drama when Britannica's malpractice claim finally died in 2015. My absence from the finale was a function of my 2014 retirement at the age 72 after 28 years as Encyclopaedia Britannica's General Counsel.

Engaged in the chasing of the Compton's Patent holy grail for all those years, I have a few simple afterthoughts as to how it all went down.

I think the patent would never have gotten in trouble in the first place had not Dr. Stanley Frank overreached in pursuing his dreams of a quick payoff. In the 2005 book *Intellectual Property Rights in Frontier Industries - Software and Biotechnology* edited by Robert W. Hahn, authors Stuart J. H.

Graham and David C. Mowery write that shortly after the Patent's issuance by the Patent Office in 1993:

Compton's president, Stanley Frank, suggested that the firm did not want to slow growth in the multimedia industry, but he did "want the public to recognize Compton's NewMedia as the pioneer in this industry, promote a standard that can be used by every developer, and be compensated for the investments we have made." Armed with this patent, Compton's traveled to Comdex, the computer industry trade show, to detail its licensing terms to competitors, which involved payment of a 1 percent royalty for a nonexclusive license. Compton's appearance at Comdex launched a political controversy that culminated in an unusual event—the U.S. Patent and Trademark Office reconsidered and invalidated the Compton's patent. On December 17, 1993, the USPTO ordered an internal reexamination of Compton's patent because, in the words of Commissioner Lehman, "this patent caused a great deal of angst in the industry." On March 28, 1994, the USPTO released a preliminary statement declaring that "[a]ll claims in Compton's multimedia patent issued in August 1993 have been rejected on the grounds that they lack 'novelty' or are obvious in view of prior art."

In the July 1994 issue of *Wired* magazine, the article *Patently Absurd* threw further light on how the Compton's Patent issuance created an almost instant political bonfire:

The Compton's patent contained 41 claims that broadly covered any multimedia database allowing users to simultaneously search for text, graphics, and sounds – basic features found in virtually every multimedia product on the market. The Patent Office granted the patent on August 31, 1993, but it went unnoticed until mid- November, when Compton's made the unusual move of announcing its patent at the computer industry's largest trade show, Comdex, along with a veiled threat to sue any multimedia publisher that wouldn't either sell its products through Compton's or pay Compton's royalties for a license to the patent. Compton's president, Stanley Frank, stated it smugly for the press: "We invented multimedia."

The denizens of the multimedia industry thought otherwise. In dozens of newspapers around the country, experts asserted that Compton's patent was clearly invalid, because the techniques that it described were widely used before the patent's October 26, 1989, filing date. Rob Lippincott, the president of the Multimedia Industry Association, called

the patent "a 41-count snow job." Even Commissioner Lehman thought that something was wrong.

"They went to a trade show and told everybody about it. They said they were going to sue everyone," says Lehman, who first learned of the Compton's patent from reading an article in the *San Jose Mercury News*. "I try not to be a bureaucrat," he adds. "The traditional bureaucratic response would be to stick your head in the mud and not pay attention to what anybody thinks." Instead, Lehman called up Gerald Goldberg, director of Group 2300 [in the Patent Office], to find out what had happened.

Like Lehman, Goldberg had learned about the Compton's patent from reading the article in the *Mercury News*. "We pulled the patent file and I took a look at it," recalls Goldberg. "I spoke with the examiner. We felt the examiner had done an adequate job." In this particular patent application, says Goldberg, the Compton's lawyer had included an extensive collection of prior art citations – none of which described exactly what the Compton's patent claimed to have invented. Without a piece of paper that proved that the invention on the Compton's application was not new, the examiner had no choice but to award Compton's the patent.

To cap things off Compton's New Media officers had also been quoted as saying offhandedly that the patent covered "anything on a chip." This clearly added even more fuel to the fire.

So, to me the biggest fly in the ointment was Frank's hubris. Frank's announced desire to be paid a 1% royalty on multimedia sales in the middle of the industry's biggest conference on the newly emerging technology was not just a political misstep, or overreaching, it was nuts.

Unfortunately, the consequent delay in enforcing the Compton's Patent brought about by Frank's misjudgment is what really killed the patent. The political blowup following Frank's Comdex declaration caused the Patent Office to promptly pull the patent. This caused a nine-year delay in Britannica being able to enforce what the Patent Office would again find to be a perfectly valid patent. At least one academic study has gone into the details of the Patent Office's questionable decision to reexamine the patent. [Patent Reexamination and the PTO: Compton's Patent Invalidated at the Commissioner's Request](#), 14 J. Marshall J. Computer & Info. L. 379 (1996), by Terri Suzette Hughes. Further, the law firm's technical error that might have been caught and cured early on, ultimately led to invalidation of the patent in 2009. This gave way to a further six- year delay pending Britannica's malpractice case claims against its law firm being finally assessed and turned down by a court in 2015.

The delay was deadly because by 2015 software technology had dramatically advanced in the quarter century since the Compton's Patent application was originally filed. By 2015, everything that was astoundingly novel back in 1989 had not only become commonplace, but it was so old hat that it was not hard for the federal court involved to conclude that the invention was no big deal and merely "an abstract idea." Also, it was easy for people to surmise that a company founded in 1768 like Encyclopaedia Britannica, a stodgy reference publisher of multi-volume printed encyclopedias, was just not in the right company with the emerging technology giants of Silicon Valley. It was hardly a regular player in the high-tech patent field.

I think there was a good chance Compton's Patent could have had a normal commercial life had not the political uproar at its birth delayed its day in court to a point in time when a usually correctible technical error could no longer be fixed and the substantive patent law had evolved in the meantime to make software patents generally harder to come by.

To my eye, the malpractice court's conclusion may have saved a local law firm from having to pay for an egregious error, but the way it arrived at this conclusion gave short shrift to the unique contribution Encyclopaedia Britannica had made to the advancement to the human/computer interface.

If Stanley Frank is the fall guy for the story of a fundamental patent that lived and died several times over a quarter century, could there possibly be a hero anywhere in this found and lost tale?

Absolutely! Let Harold Kester be given his due. Harold more than any other single person was the true inventor of the breakthrough invention embodied in the Compton's Multimedia Encyclopedia. In the long history of the Compton's Patent litigation, neither the Patent Office nor anyone else successfully brought forward prior art that challenged the fact that the invention Harold Kester was central to creating was the very first of its kind. His Del Mar group had been hired by Britannica to provide a search engine for the unusual and novel CD-ROM Britannica was determined to develop and under Harold Kester's exceptional leadership they with ESC and Britannica's editors accomplished what they were asked to do.

When I first learned of the scope of the computer software undertaking being launched I travelled many times from Chicago to Solano Beach and La Jolla, California where Harold Kester's led the small team that worked on the search engine at the heart of the project. Having watched Harold at white boards leading his team through the analysis of the software's internal organization, I can personally say Harold the key genius that could put all the pieces together.

Harold was the mathematical genius who was able to couple the nascent science of computer search technology with the recent computer hardware advances. Though others were involved on the teams that put his ideas to work, Harold Kester was really the one who can be primarily thanked for the Compton's innovation.

In recalling this part of the development of the human/computer interface early in the Information Age, I was left wondering what the reaction would have been if Ted Nelson had been able to bring his Xanadu Project to fruition in the form of a similarly novel, functional, and valuable end product. Would people really have thought that the novelty and ingenuity of his hyperlinked product was nothing more than a display of a "fundamental human activity." Would it have been dismissed as a mere "abstract idea" that had already been floating around for thousands of years. Personally, I think not.

What do you think?

Settling Down in Life and the Law

An Ill-Fated Book Attempt



Writer's block venue in Patterson, New York

Although I was discharged from the Army in May 1971, I didn't plan to start work for Roan & Grossman (at the time Roan, Grossman, Singer, Mauck & Kaplan) until that fall. Though far from the Vietnam war zone, my Army work

in its own way had been intense at times and I wanted a breather before resuming my legal career in earnest. As I exited the Army, I believed my three-year experience had been an unusual one due to my work in the middle of the racial unrest of the day and the companion civil dissonance flowing from the war. I also thought a break like this would give me a chance to see if there was a book in me that might capture some of the bizarre events I had been witness to during President Richard Nixon's first term in office.

After several weeks of largely staring at my typewriter while housesitting for a friend in upstate New York, I was rescued from my failing effort. I had only completed a single chapter. Worse, my meagre output only dealt with the evolution of domestic intelligence in the FBI and the military during the Red Scare in the aftermath of World War I.

Travel



Cairo 1979

My savior of the day turned out to be a friend I'd met in the Army in Washington, Larry DuBois. He had been a reporter in Time Magazine Washington bureau, but at that point had left to work as a freelance writer.

He said he had been commissioned to do a Playboy Interview with movie director Roman Polanski at his home in London. In one of the more shocking events of 1960s America, Polanski's wife Sharon Tate and others in her Los Angeles home had been killed in 1969 by followers of cult leader Charles Manson.

It was to be Polanski's first interview after the event. Larry wanted to know if I'd like to take a break and join him and his wife for some rest and recreation before and after his interview. With my writing task foundering, I leapt at the chance to plug a real vacation into the time gap I'd created before having to turn up to work in Chicago.

The London part of the visit lasted only about a week but was fascinating. We'd booked rooms at the Hilton Hotel on Park Lane near Hyde Park Corner. First off, I joined Larry for a tour of the nearby Playboy Casino. It was new and already running full tilt. Before long, Polanski's chauffeur-driven Rolls Royce picked us up and dropped Larry off at Polanski's mews residence for the interview. I had never imagined that just 60 days after mustering out of the Army, I would be chauffeured in solitary comfort back to my London hotel in the limousine of the Oscar-winning director of *Rosemary's Baby*. After the Polanski interview had been completed, there was time for a cruise on the River Thames. We also took time to poke around Carnaby Street where we saw remnants of the London of the "Swinging '60s." The fashion and cultural revolution that had brought stodgy and conservative London into the modern age was still in view.

Shortly after I had arrived in London, Judy Arndt, whom I had dated in Washington when I was in the Army, heard of our outing from Larry's wife and joined the largely unplanned excursion. With a week in London passing quickly, we made side trips to see Billie Jean King play at Wimbledon and the busby-wearing guards in red tunics at Windsor Castle.

Then it was time to plot our next step by looking in the Sunday paper for a package trip to a sunny place. The task was to combine an inexpensive charter flight with a week's house rental somewhere.

With the others soon headed back to the States, Bob Raymond and I had time to burn before our next commitments. Bob would later be lawyering in Washington for the Department of Health, Education & Welfare (now Health & Human Services), and for me it would be restarting life as an associate lawyer in Chicago, this time with the Ross, Hardies spinoff Roan & Grossman. Together Bob and I plotted an extension of our vacation to Greece and Egypt. On a leisurely pace we started in Athens and then headed from its port of Piraeus on ferries to extended stays in the Aegean on the islands of Ios, Santorini and Crete. Then it was back to Athens for a flight to Cairo.

In Cairo, we stayed in the 1957 reincarnation of Shepherd's Hotel. The original Shepherd's was a storied relic of the day European travelers were first discovering Egypt in the nineteenth century. The hotel seems set for yet another reincarnation with recent reports of plans to turn Shepherd's into an updated outpost of the Mandarin Oriental chain by 2024.

After visiting the pyramids near Cairo at Giza, it seemed like a natural thing to hire camels there to head across the 13 miles of desert to the step pyramids at Saqqara. Saqqara was the extensive necropolis of the ancient Egyptian capital of Memphis. Then it was south from Cairo by overnight train to Aswan and the not so grand Grand Hotel. This was not long after the Aswan Dam on the Nile had been built and it had created the vast reservoir of Lake Nassar upstream to its south. The goal of this part of the trip was to

take a hydrofoil 160 miles farther south on Lake Nasser to the reconstructed temple of Abu Simbel.

The temple and its four massive sculptures of Ramses II dated back to 1264 B.C. In an engineering marvel of the modern day, when Lake Nasser began to fill after the dam had been completed, the temple had been completely disassembled and reconstructed on higher ground. On our return north to Cairo we stopped at Luxor to visit the extraordinary Valley of the Kings. This was part of the ancient capital of Thebes and the burial place of many of the Egypt's greatest pharaohs.

Bob and I parted ways in Cairo. He flew back to Washington and I headed north to first stop in Oslo, Norway on my way home to Chicago. I had time to hike in the nearby hills to the great ski jump used in the 1952 Winter Olympics. My stop in Copenhagen, Denmark, gave me my first visit to the great Tivoli Park and awakened me to the more liberal sexual mores in evidence in its everyday street life. The guard at the palace entrance gave a more dignified look to the capital. I also took the first of many later trips down Amsterdam canals in The Netherlands and my last stop on the way home in Brussels, Belgium, gave me a nice aerial view of the city from my airplane.

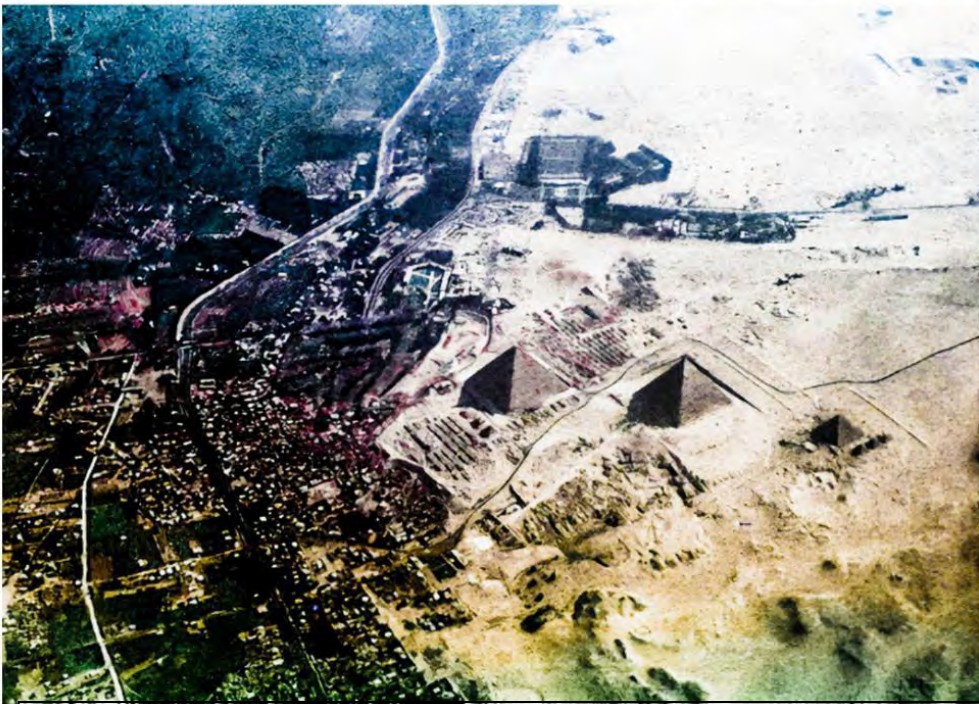
With my Army days behind me, I was ready to return to the private practice of law at Roan & Grossman, so it was time for me to decide on living arrangements in Chicago.



Clockwise: 1. Windsor Castle 2. Carnaby Street 3. Billie Jean King at Wimbledon 4. Gibraltar 5. Empty Rhonda bullring 6. San Pedro de Alcantura bullfight 7. Costa del Sol 8. Hyde Park Corner, London



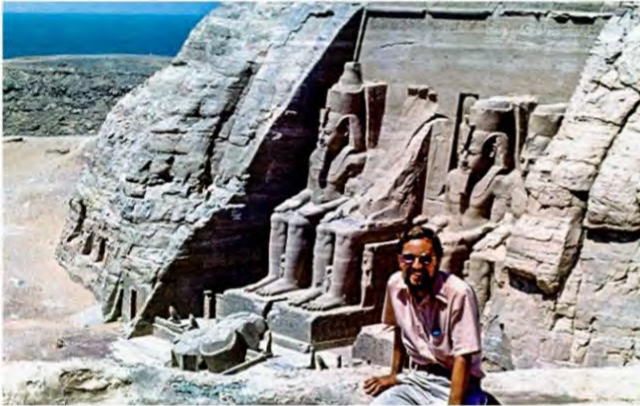
Clockwise: 1. Bill Bowe at Parthenon 2. Bill Bowe, Santorini 3. Bob Raymond, Santorini 4. Tender departin or Ios 5. Bill Bowe, Crete 6. Bill Bowe, Ios 7. Ios 8. Bob Raymond, Santorini 9. Santorini



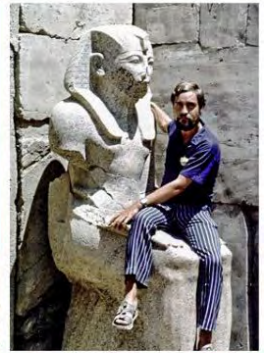
Clockwise: 1. Cairo rooftops and mosques 2. Street performers 3. Mosque doorkeeper sleeping 4. Cairo streetcar 5. Pyramids at Giza 6. Feluccas on the River Nile at Cairo



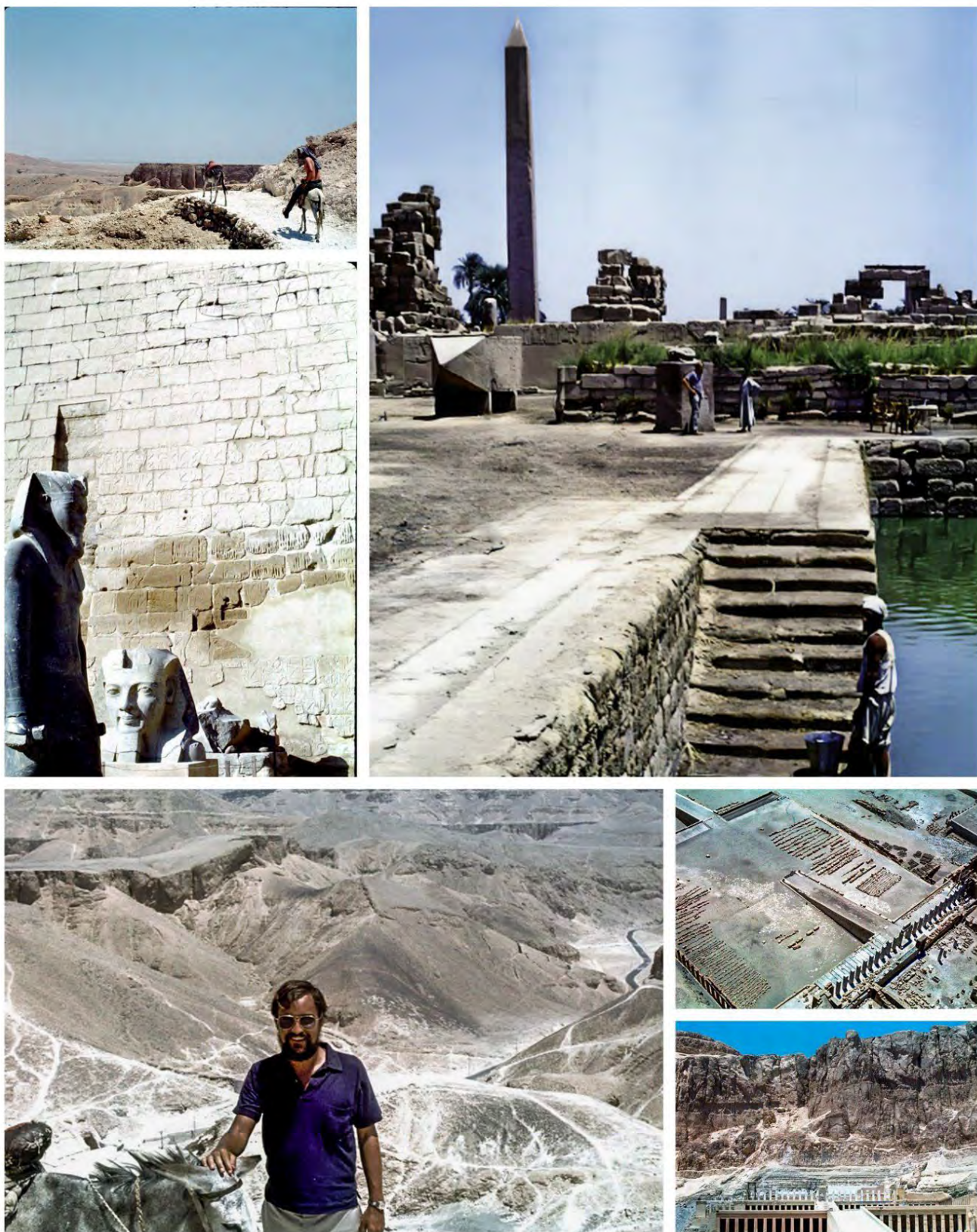
Clockwise: 1. Sphinx and Pyramid at Giza 2. Rent-a-Camel corral at Giza 3., 4., and 5. Bill Bowe riding a camel to the pyramids at Saqqara



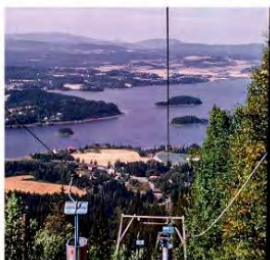
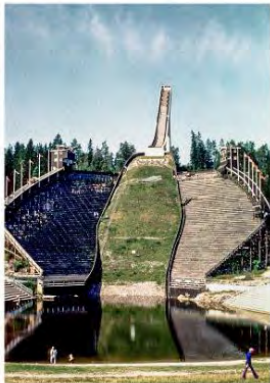
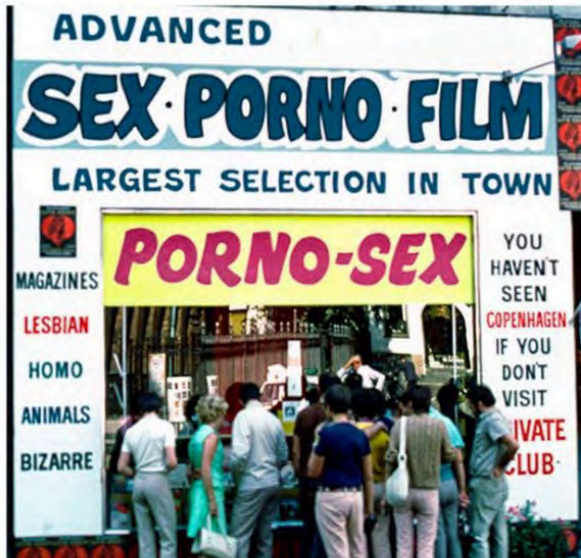
Clockwise: 1. Grand Hotel, Aswan 2. Man and boy with donkey and pack camel 3. Bill Bowe at Abu Simbel 4. Pharoah smiting an enemy 5. Pharoah in battle with chariot 5. Ramses II sculptures from 1264 BC 6. Bill Bowe above reconstructed Abu Simbel Temple



Clockwise: 1. Colorful hieroglyphics preserved at top of columns at the Temple of Karnak, Luxor 2. A Karnak Temple entrance, Luxor 3. Bill Bowe in Pharaoh's lap 4. Statuary at the Temple of Karnak 5., 6. Hieroglyphics at Karnak



Clockwise: 1. Bob Raymond on donkey headed to Deir el-Bahri 2. Luxor reservoir 3. Mortuary of Queen Hatshepsut at Deir el Bahri being reconstructed 4. Tiered Mortuary of Hatshepsut 5. Bill Bowe travelling by donkey from Valley of the Kings to Hatshepsut Mortuary 6. Statuary ruins at Luxor



Clockwise: 1 Porn shop in Copenhagen, Denmark 2. Little Mermaid sculpture, Copenhagen 3. Swedish war Vasa sunk in Stockholm's harbor in 1628, found in 1961, was being restored here in 1971 4. Copenhagen harbor hydrofoil 5. Oslo Norway ski lift 6. Oslo 1952 Winter Olympic ski jump 7. Danish Royal Guard at the Amalienborg Palace in Copenhagen

From Elm Street to Lincoln Park

When my post-Army travels finished, I briefly bunked in my old bedroom overlooking Elm Street in Chicago. I had grown up in apartment 4B in the 18-story apartment building at 1120 Lake Shore Drive (now DuSable Lake Shore Drive). Arrangements had changed in my years away. My mother had graciously given up the master bedroom to her also widowed sister-in-law and former Trinity College roommate, Julia Bowe. My mother now had the smallest of the apartment's three bedrooms. After Julia's husband Gus died in 1966, Julia had carried on for a while in their apartment 4D in the same building. Then she and my mother came to a better solution. The two widows would reunite, just as they had as 18-year-olds starting Trinity together in 1919. They would carry on in life together in my mother's apartment. Both their finances and social life enjoyed immediate improvement.

My stay with my mother and Julia was brief. Anxious to return to my life with no roommates, family or not, I soon found a suitable one-bedroom apartment on Belden Avenue in the Lincoln Park neighborhood. Both my mother and Julia had lost none of their mothering instincts and pitched in to make sure it was furnished in a warmer and more inviting manner than my bachelor instincts would have ever produced.

As a carryover from my Army service, for several years after my discharge I was eligible for group airfares available to military reservists and dependents. When I realized I could fly this way round trip from the Washington, D.C. to Bangkok, Thailand, for \$180, off I went on vacation to see the Far East. I went beyond Thailand on commercial flights to Bali, Indonesia, Hong Kong, and Macau.

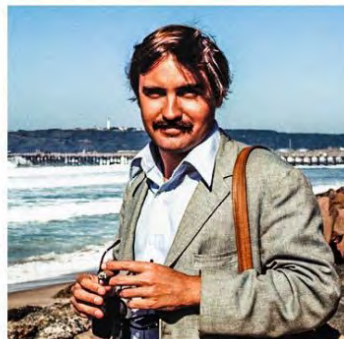
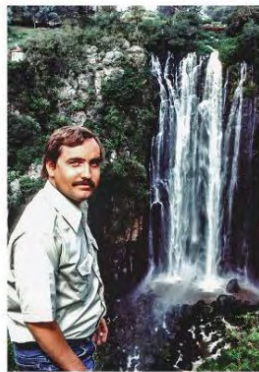
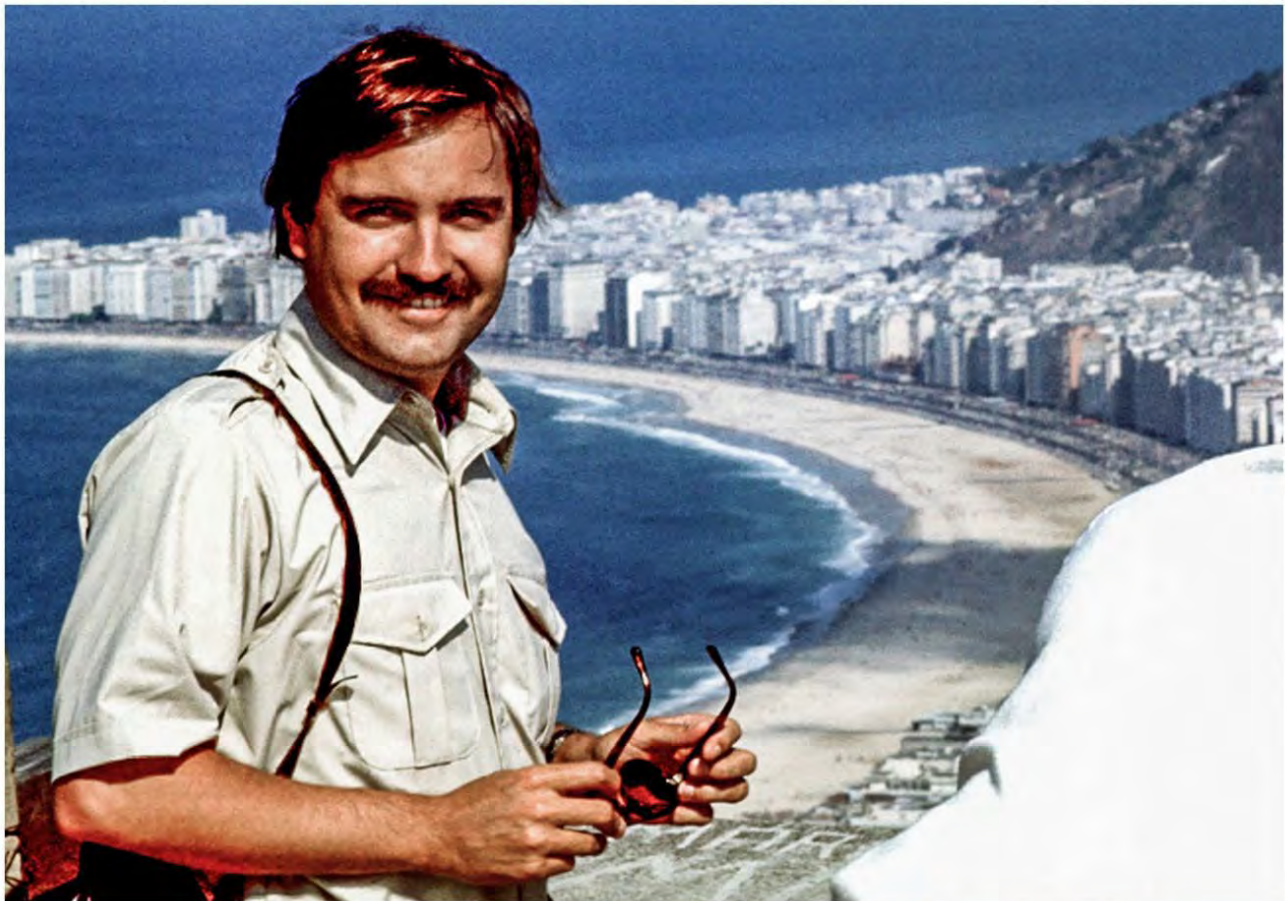
I remember flying home from Hong Kong, westbound our flight crossed Vietnam at 30,000 feet. With the war still on in 1972, you could see what looked like dozens of tiny, perfectly round lakes reflecting the blue sky above. These weren't lakes, however, they were bomb craters filled with rainwater. On some of the greenery below was clear evidence of previous carpet bombing. My next long vacation trip took me to Africa, with a stop in Rio de Janeiro, Brazil, on the way back.



Clockwise: 1. 1970 aerial view of 1100, 1110, 1120 and 1130 Lake Shore Drive (now DuSable Lake Shore Drive) 2. 1965 view north from roof of 1000 Lake Shore Drive with red brick 1120 Lake Shore Drive at the forefront 3. 1929 Oak Street Beach 4. 1968 view of John Hancock Center topping out (now 875 North Michigan Avenue) 5. 1928 Oak Street Beach bathers



Clockwise: 1. Mary and Bill Bowe at 451 West Belden Avenue 2. John, Martha and Margaret Casey on the 451 back porch 3. Bill, Mary and Julia Bowe with Chesley and Peter de la Chapelle 4. Anson and Alex Bowe 5. 451 West Belden Avenue 6. Mary Bowe at 451



Clockwise: 1. 1973 Sugar Loaf, Rio de Janeiro, Brazil 2, 1972 Pattaya, Thailand 3, 1973 On the Zambezi River, Zimbabwe 4. 1973 Durban, South Africa 5. 1972 Ruins of St. Paul's church, Macao, China 6. 1972 Temple near Denpasar, Bali, Indonesia 7. 1973 Treetops Lodge, Aberdare National Park, Kenya 8. 1973 Mt. Kenya waterfall, Kenya 9 1972 RMS Queen Elizabeth launched in 1938, retired in 1968 had recently capsized in Hong Kong harbor

A Personal Detour



451 West Belden Avenue, Chicago, IL

As I began to get my feet wet in private practice in the early 1970s, for the first time I felt I had stable employment for the long term and earnings sufficient to marry and have a family. While that remained a distant goal, it was still not a near term one for me my first three years out of the Army. In 1972, as I was settling into my life in my Belden apartment, Judy Arndt decided to leave her staff job on Capitol Hill in Washington, DC and move to Chicago. Initially she lived not far from my Belden Avenue apartment with her sister Connie and her husband, my law firm colleague Bill Singer. At this point we began to date one another again, though not exclusively.

Sometime later, she said she wanted to move along from her sister and brother-in-law's apartment and broached the idea of moving in with me, I thought that would be just hunky-dory, as long as both of us were free to still see other people. Living together in this fashion seemed to be a good idea to both of us at the time, but it worked only for a time and after a while she told me she wanted to move along from the relationship if it was not going to lead to marriage. Initially, I was shocked. That wasn't what we'd initially agreed to. However, as the reality of possibly breaking up with her sank in, I had to confront the depth of my feelings for her in a very direct way. I really didn't want to lose her. While I had been completely adverse to making a lifetime commitment to anyone up to that point, it gradually dawned on me that it was past time to get over my earlier wariness of marriage. Judy and I proceeded to inform our families of the news and we began planning a wedding.

We married in June 1974, but married life did not stay hunky-dory for long. My earlier dillydallying in arriving at the commitment to marriage seemed to have lit a slow burning fuse in Judy and before summer's end she abruptly moved out of our seemingly

happy home without a word of explanation. This gave me a whole new appreciation of the famous line in Paul Newman's movie *Cool Hand Luke*, "What we've got here is failure to communicate. Some men you just can't reach." The separation was followed in due course by counselling, a brief reconciliation, and a divorce. I was upset and mystified by the abrupt change in circumstance, but it happened to coincide with my leave of absence from Roan & Grossman to work on Bill Singer's mayoral campaign. There's nothing like the chaos of a political campaign to take your mind off a little chaos in your personal life.

Back on the Main Highway



Cathy and Bill Bove on their honeymoon 1979

In my case, the campaign had later significant and unforeseen carryover effects several years later. The former campaign treasurer later introduced me to a co-worker of hers, Cathy Vanselow. Cathy had grown up in Springfield, Illinois, and was then working at the headquarters of a chain of paint and wallpaper stores training employees. She was smart, funny, and ready for high adventure if the occasion called for it.

She proved this for me when on one occasion, with almost no notice, I asked her if she'd like to join me and immediately fly to Florida. I was a late invitee to a memorial celebration my new employer Rod MacArthur was having in honor of his recently deceased father, John

D. MacArthur. Cathy grabbed the last of what she needed for the trip at O'Hare Airport as we scrambled to get on the chartered jet to Palm Beach.

Cathy and I went on to marry in 1979. Our first son Andy was born prematurely the next year, and our second child Patrick came along in 1985. There hasn't been a day since we were married that I haven't felt lucky to have fallen in love with her and been able to share with her the joys and parental worries that inevitably come with family life. While I've made my share of mistakes in my life, the decision to ask Cathy to marry me was clearly the best decision I ever made.

Becoming a Lawyer



Starting Out at the Ross, Hardies Law Firm 1968

An Early Decision

At about the age of 14 or so, I decided that I would become a lawyer. I would follow in the path of my namesake father and his brother Augustine Bowe. I knew a little bit about what they did and had concluded it was a respectable way to earn a living, if not to get rich. I was acutely aware of the fact that my expensive private school education hinged on maintaining my scholarship. Legal work did seem to provide a solid living and should permit me to someday support a family of my own.

In later years, I sometimes wondered why I had cast my lot in this direction at a relatively early age. Part of the answer may lie in the fact that I had my own little basket of insecurities at 14. Getting rid of the question of what I would be when I grew up took one big uncertainty in my life off the table. Not worrying about that would free me to worry about other things, like my father's declining health or losing my scholarship if my grades faltered.

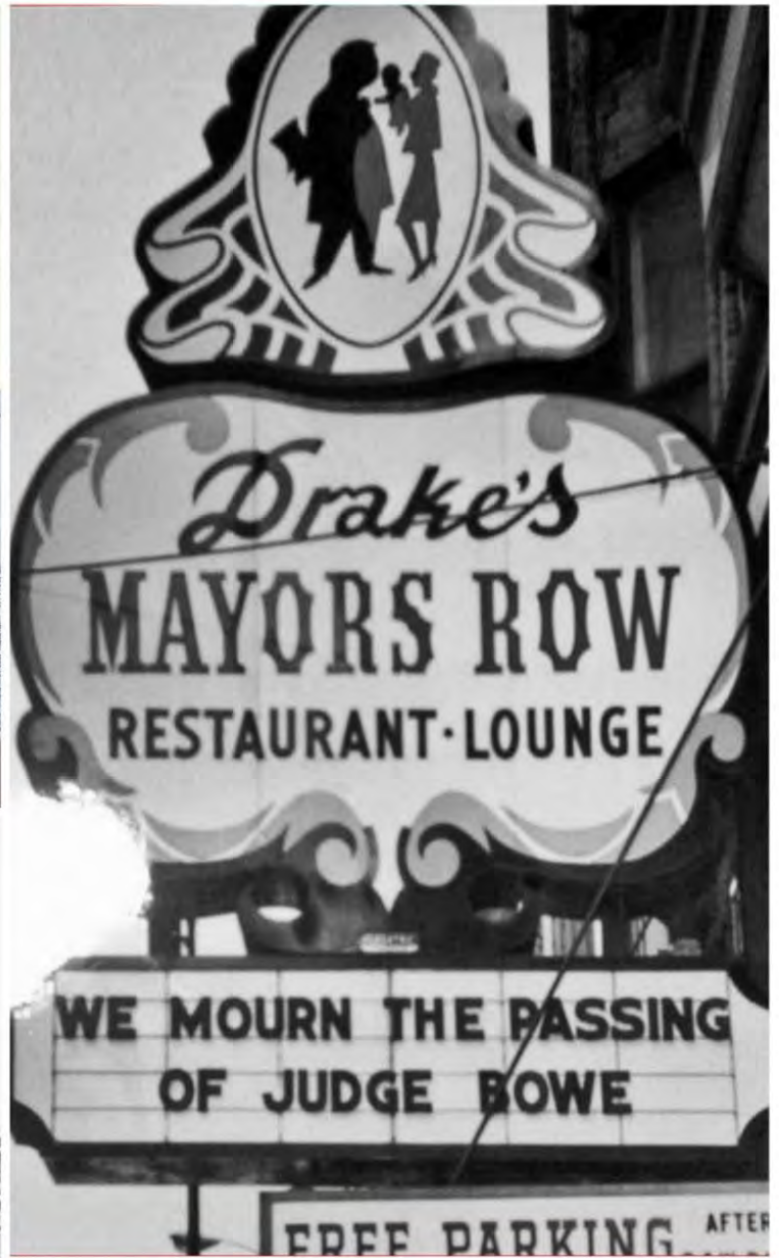
By the time I got to law school, I had to begin to give thought to what kind of lawyer I wanted to be. One possibility was to join the family law firm of Bowe & Bowe (later Bowe, Bowe & Casey). It had developed a leading practice in Workmen's Compensation law in Chicago early in the 20th century. These laws had come into effect to protect people who became injured or disabled while working at their jobs. The laws provided fixed monetary awards in an attempt to keep this class of cases out of a clogged, and relatively expensive court system. The Illinois law had come into effect just as my father Bill and his older brother

Gus and Bowe were graduating from Loyola Law School in 1913 and 1915. The firm of the two brothers had taken off from the get-go, and over its life course had supported their families, their sister Anna's family, their cousin John Casey's family, and by the 1960s, Gus's son John Bowe's family. I never gave this option serious thought, however.

My father Bill, Sr. and his brother Gus had their first law office in 1915 in the Unity Building at 127 North Dearborn Street. The 16-story building owned by John Altgeld. Altgeld was elected Governor of Illinois in 1893, two years after the Unity Building had been completed. Bill and Gus's uncle, Austin Augustine Canavan had graduated from Yale University Law School in the 1880s and already had an office in the building. I'm sure this accounts for the brothers working in the building even prior to their setting up shop there as Bowe & Bowe.

After decades of practice and service as President of the Chicago Bar Association, Gus Bowe had left Bowe & Bowe when he was elected in 1960 as Chief Justice of the Municipal Court of Chicago. By 1965, the courts had been restructured on a county-wide basis and he died that year as the Presiding Judge of the Municipal Division of the Circuit Court of Cook County. Across the street from the Unity Building was the newly built Civic Center court building (now the Daley Center). After Gus's death, the new building was covered for the first time in funeral drapery.

Over at the Unity Building, the letters of the Mayors Row restaurant sign above its entrance read, "We Mourn the Passing of Judge Bowe." In its last years, after the Bowe & Bowe offices had moved down the street to 7 South Dearborn, the Altgeld building looked out on the famous Picasso sculpture that first graced the Daley Center Plaza in 1967. The Unity didn't quite make it to 100-years-old mark, however. It was razed in 1989 as part of the redevelopment of what came to be known as Block 37.



Clockwise: 1. Unity Building before being razed in 1989 2. Mayor's Row restaurant sign noted former tenant Augustine Bowe's death 3. Postcard of Unity Building's 1892 construction 4. Bowe & Bowe Unity Building business cards 5. 16-story Unity Building in 1902



UNITY BUILDING IS A LEANING TOWER

Sixteen Story Office Structure Is
Discovered by Building Commis-
sioner Ericson to Be Nearly
Three Feet Out of Plumb.

AGENT IS NOTIFIED THAT
EDIFICE IS NOT SAFE

Work of Straightening the South
Wall by the Use of Jacks Can Be
Accomplished Inside of Sixty
Days.



Clockwise: John Vinci photo showing Unity Building list 2. Newspaper headline in 1911 regarding Unity's tilt 3. Unity Building seen behind Civic Center (now Richard J. Daley Center) under construction 4. John Vinci photo of surviving Commonwealth Edison station 7. Empty Block 37 8. 127 North Dearborn Street by Picasso sculpture in Daley Plaza

In spite of growing up in the midst of a storied family business like this, it was not for me. One of the reasons I never seriously considered joining the family law firm when I got out of law school was the fact that the business had been in decline from at least the 1950s. Partly this was due to my father's deteriorating health in that period, and partly with Gus's departure from the firm when he was elected Chief Justice of the Municipal Court. Beyond that, I had occasionally seen some of the intrafamilial conflict and jealousies that can arise in a family business and wanted to steer clear of Bowe, Bowe & Casey for that reason, as well.

While my career choice followed that of my father and uncle, I had ruled out becoming a litigator and spending my time in court arguing cases as they had. I thought that if I was going to be a lawyer like others in the family, I'd at least be a different kind of lawyer. In law school I briefly considered becoming a State Department lawyer, but in the end, I thought I would head into private practice as a business lawyer. While businesses seemed to be a big part of how the world worked growing up, I had learned next to nothing about how businesses themselves worked and I was very curious as to how they actually ran.

My 1966 summer clerkship at the Ross, Hardies law firm (then Ross, Hardies, O'Keefe, McDugald & Parsons) after my second year in law school had exposed me to the legal complexity and regulatory challenges of several different natural gas, electric and telephone companies. While this was a narrow exposure to what lawyering in the business world might be like, I was hooked on the path of becoming a business lawyer or one sort or another.

After graduation from the University of Chicago Law School in June 1967, I studied for the bar exam, passed it, and began to practice law as an associate lawyer at Ross, Hardies. The firm's offices were in the Peoples Gas Building at 122 South Michigan Avenue. As a newbie, I shared a 19th floor office with Bill Warnock, another young associate. Unlike the partners, whose offices enjoyed a Lake Michigan view, we were on the west side of Daniel Burnham's 1911 building. A summer outing of younger lawyers in the Indiana Dunes gave me a chance to get to know my new colleagues in a less formal setting.

The main building in view from my office was the Dirksen Building, the then new federal courthouse designed by Mies van der Rohe. After Martin Luther King's assassination in April 1968, that particular view to the west was dramatically overshadowed by the billowing smoke arising from the buildings set fire along West Madison Street. The race riots in Baltimore, Washington, D.C., and Chicago that followed King's death had all required the deployment of Regular Army troops to supplement police and National Guard forces. As I entered the Army to start my three-year enlistment that May, a city in flames was the image I carried with me. It was a strange coincidence of the day that within six months I would be a counterintelligence analyst in the Pentagon briefing military and civilian officials on the likelihood of Regular Army troops having to again perform riot control duties.



Clockwise: 1. Peoples Gas Building Offices of Ross, Hardies (on right) 2. Bill Warnock in shared office 3. Bill Bowe at his desk 4. Law firm outing to Indiana Dunes 5. Skipping stones before enlisting in the Army 6. On the wall is Augustine Bowe's Louis Sullivan architectural ornament from the Garrick Theater (later



Clockwise: 1. Office Manager Jenny Hasler at Roan & Grossman's Sarasota, Florida office opening 2. Firm offices at LaSalle National Bank Building at 120 South LaSalle Street 3. Susan Leith in costume 4. Bill Bowe office 5. Alex and Anson Bowe visit their uncle 6. Jerry Kaplan

Roan & Grossman



Bob Grossman and Frank Roan

The newly organized Roan & Grossman offices were on the 16th floor of 120 South LaSalle Street in the Loop. My office in the firm's space had a large window with a perfectly nice view of similar windows on the building's interior airshaft. While this was evidence of my low position on the totem pole, it beat one of my Pentagon basement office caves I'd worked in. That office space was so small and claustrophobic that my desk took up most of its area. I finally found a exactly the right poster I could put up on one of the walls to cheer me up. The poster looked like a large, open window looking out on a bucolic country scene on a sunny day.

In my brief time at Ross, Hardies before entering the Army, I had been assigned to work as a junior associate lawyer helping Jerry Kaplan,

then a senior associate at the firm. Having personally recruited me at the end of my Pentagon tour, it was a natural shift to return to my prior role in working under his direction. He was a fine lawyer and great mentor to me both at Ross, Hardies and now in his new role as a founding partner of the Roan & Grossman firm.

After graduating from UCLA, Jerry had gone to Harvard Law School, and then had gotten a master's degree in tax law from New York University. While that made him a specialist in the tax code, I quickly learned tax issues are just one of the myriad of problems corporate lawyers have to deal with. My earlier narrow exposure to utility laws and regulatory issues at Ross, Hardies was now expanded and I began to see to a broader range of day-to-day legal problems being faced by the small to mid-sized business clients represented by Roan & Grossman.

I also began to appreciate that while businesses are organized and operated under the corporate law statutes of the various states, corporate clients in an important sense aren't at all the abstract entities themselves.

The real clients are the flesh and blood humans who have the serious responsibility of making these businesses thrive in a highly competitive environment. Having technical competence as a corporate generalist or specialist is certainly an essential part of any corporate law practice, but the secret sauce of being a truly successful corporate legal advisor is securing the personal trust of the businesses' managers or owners.

That first means being able to listen very carefully to what people are saying, and sometimes to divine what they may not be saying. It also means that you have to be able to give an evenhanded and independent assessment of your client's situation. You can't pull your punches just because it's something the client would rather not hear.

I found out that learning how to deliver bad news to a client is every bit, if not more important, than learning how to deliver good news.

The Nature of the Law Practice



Jerry Kaplan and Maridee Quanbeck

I had traded the apparent security of the large Ross, Hardies law firm for what I thought would be a faster development as a lawyer in the more entrepreneurial environment of a small firm. Whereas Ross, Hardies at the time had large business clients such as a major automobile company and large natural gas, electric and telephone utilities, Roan & Grossman mostly represented small companies. Often that also meant separately representing their owners or managers in their individual capacities. This kind of clientele was often represented on a long-term basis, but sometimes there were short-term

clients who came to the firm for one-time transactional work, estate planning, buying a house, getting a divorce and the like.

Most of the businesses the firm represented needed a sophisticated understanding of the tax environment their business dealt with, as well as other corporate law advice. This made Jerry Kaplan, with tax as his specialty well suited to manage the client's corporate practice as a "billing partner." Initially, he would then typically deal with strategy or tax issues himself and then parcel out other parts of a client's legal problems to me. As the 1970s went on, the firm grew as Bill Cowan, from the University of Chicago Law School, and Maridee Quanbeck, from Harvard Law School, joined me as associates in the corporate law area.

Later, in the recession of 1991, Encyclopaedia Britannica went through a crisis with its banks that led to a change in ownership from the William Benton Foundation first to the University of Chicago and then to investor Jacob Safra.

The upshot was EB's Law Department along the way shrank to one, me. I was very fortunate that I had the opportunity at that point to again practice law with Maridee. By then she had married my early law firm mentor Jerry Kaplan and both of them had moved on from Roan & Grossman.

When EB's financial crisis passed, and the climate was once again cost effective for rebuilding the inside legal staff, I was fortunate when Maridee agreed to become my Assistant General Counsel and she was able to effectively jump into the task of handling many of the international law problems of the day.

Looking back, I was extraordinarily fortunate to have been able to work closely with both Jerry Kaplan and Maridee Quanbeck together and separately over many years. Both were exceptional lawyers, always self-possessed in any crisis of the day, and beyond their professional skills, great fun to be around in or out of the office.

Throughout the 1970s I had continued to practice law at Roan & Grossman. My one detour was the brief interlude in 1974 and 1975 when I took a leave of absence from the firm to serve as General Counsel and Research Director of Bill Singer's unsuccessful mayoral campaign against Chicago's long time mayor Richard J. Daley.

With that exception, I spent the decade nose to the grindstone learning my craft as a corporate law generalist. That meant I was learning to organize and dissolve corporations, merge them, and buy and sell them.

In the interim, I was learning how to write their business contracts, manage their litigation, and handle their copyright, trademark, trade secret and other intellectual property rights. While there was always an ebb and flow to the business, with both busy and dry spells, there were two continuing clients of the firm that I particularly enjoyed and spent lots of time on.

One was a steel company, and the other an alternative newspaper born in the generational disruption of the 1960s.

Fabsteel



Fletcher Thorne-Thomsen, President, Fabsteel

The Fabsteel Company was a steel fabricating business with operations in Waskom, Texas. My law firm had initially represented its general manager Fletcher Thorne-Thomsen. A Shreveport resident, the concern he headed was a subsidiary of Universal Oil Products. UOP (now Honeywell UOP) at the time was a leading international licensor of proprietary industrial technologies for the petroleum refining, gas processing, and the petrochemical production industries. It had become somewhat bloated in the 1960s as it grew into a conglomerate beyond these fields. It ended up owning businesses as diverse as fragrances, food additives, copper mining, forestry and was even manufacturing truck seats and aircraft galleys. Among these more extraneous assets in its portfolio, was its steel fabrication plant in Waskom.

Part of its specialized work was turning steel mill products such as ingots, slabs, sheets, beams, and rebar into the peculiar shapes needed to build complex industrial facilities. The fabrication process took the different steel mill products and cut them into strange, curved shapes that could end up being welded together into the maze of vessels, towers, ladders, and pipes that make up an oil refinery or plant producing plastics. Fabsteel's niche in the market was the very high component of labor needed for each ton of the steel it fabricated.

When UOP's earnings in the 1970s had begun to slide, it decided to stick to its knitting and it sold off most of its forays into non-core businesses. When its Waskom property was

to be sold, the most logical buyer was its manager. Whoever it was sold to would likely entail UOP loaning the buyer much of the purchase price to the buyer, hoping it got paid back someday. With Jerry Kaplan in the lead of the transaction, I was in the trenches travelling to Waskom and spending days at a time shuffling between Fletcher's home in Shreveport, Louisiana, and the Waskom plant, a short drive across the Red River in East Texas.

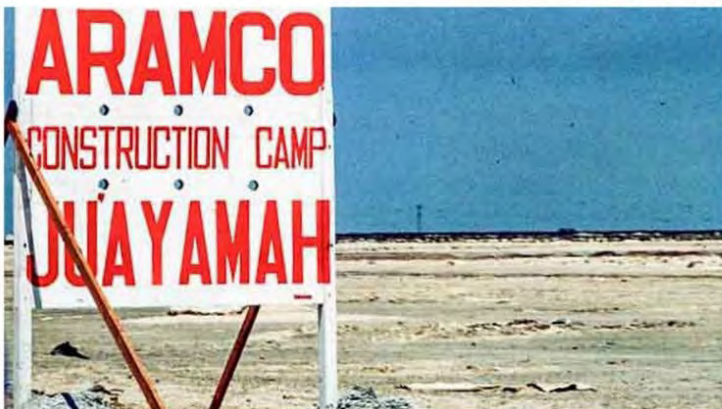
After he bought it, Fletcher had renamed the UOP subsidiary The Fabsteel Company. To represent Fabsteel's interests properly I had to understand the business from the bottom up. What fun that was! For most of the 1970s, I regularly flew to Shreveport and back on my legal work. From there I would visit fabrication plants it had acquired there, in Mississippi and or Indiana or head out to the nearby Waskom plant.

These facilities were enormous, high-ceilinged open structures, with overhead cranes used to move the heavy steel pieces that were being fabricated. The noise could be deafening as torches cut complicated shapes out of the raw steel, and welders were at work everywhere. Periodically, large, finished components would be taken by an overhead crane to a large vat of molten zinc. One dip into the pool of zinc and the piece would be lifted out with a thin galvanized finish that would be ready to last a lifetime outdoors in a refinery or like destination without ever rusting. For me, leaving my spare lawyer office in Chicago to travel to Saudi Arabia or ramble about one of Fabsteel's plants in Texas, Louisiana, Mississippi, and Indiana was always something I enjoyed. Worksites where the finished products ended up needed to be visited as well.

I vividly remember clambering up ladders on stacks and vessels and crossing narrow platforms high above an oil refinery in Houston's Chocolate Bayou. While this was regarded by some to be grungy work, to me it was truly the high life.



Clockwise: 1. Galvanizing steel at Fabsteel plant in Waskom, Texas 2. Sandblasting in the yard 3. Fletcher and Barbara Thorne-Thomsen with Jerry Kaplan 4. Dick Bowe at O'Hare International Airport with twins Alex and Anson and Johnsie Edwards seeing me and Fletcher Thorne-Thomsen off to Saudi Arabia in 1977 5. Fabricated steel in Waskom



Clockwise: 1. Fabsteel's Fletcher Thorne-Thomsen and Fouad Abdullah Fouad 2., 3. Desert Pipelines 4. Fletcher Thorne-Thomsen in oil field 5., 6. Deserted areas formerly populated 7. ARAMCO Construction Camp sign; 8. Fletcher Thorne-Thomsen by Saudi Industrial Development Fund sign

The Reader



The *Chicago Reader* was an alternative newspaper that sprang up in Chicago in the 1970s and recently celebrated its 50th anniversary. I worked on some of their corporate issues from time to time and the firm regularly reviewed its content for possible libel exposures. These First Amendment issues were frequent year in and year out and were dealt with by a new litigator with the firm, David Andich. *The Reader*'s five owners had started it on a shoestring shortly after graduating from college. They were uniformly fun to work with and some became longer term friends long after I ceased to represent their enterprise.

The paper was always given away for free and was completely dependent on advertising. *The Reader* was only eight pages long in its early days and in 1975 the paper only earned \$300,000. However, by 2000, its revenue was on the order of \$20 million, and it had gotten fat enough with advertising to resemble one of the mainstream Sunday papers. The paper was more than trendy in this period. It became a must read for anyone wanting to keep up with Chicago's ever-changing restaurant, cultural and entertainment scene, and it did a fair if offhand job in keeping its eye on local politics and the media. Throughout, it maintained a reputation for publishing long, interesting articles on an astounding array of unusual topics.



**Tom Rehwaldt, Bob Roth, Tom Yoder and Bob McCamant
1979 and 2021**

Becoming a General Counsel

Legal Training



University of Chicago Law School

I had only been at Ross, Hardies 11 months before I left for the Army. When I left the Army, I was convinced I'd forgotten whatever it was I might have learned in law school or Ross Hardies. As I started the new chapter of my working life at The Bradford Exchange, I began to see I'd gotten all of this wrong. I began to realize that the intellectually rigorous education of the University of Chicago Law School and the role models of its extraordinary faculty of the day, had ingrained in me fundamental habits of applying reason and logic to the messiest problems presented to me by my legal clients.

I began to think of the practice of law as simply applying high level common sense to the most tangled legal problems faced by a business. While technical competence in the various laws that might underly a problem was an ongoing requirement, I learned that you can always take time to study and master that, but you always have to pour that learning through a sieve of common sense and a practical assessment of how other people and courts might deal with your insights and recommendations.

Ross, Hardies had represented Peoples Gas, utility magnate Samuel Insull's flagship and Chicago's major supplier of natural gas for its cold winters. It also had the Northwestern Railroad, a host of major automotive enterprises, and highly regulated electric and telephone utility companies for clients. Newly minted lawyers hired into law firms with these kinds of clients needed rigorous

early training if there were to grow into valuable senior attorneys and partners at the firm. With the high fees able to be charged these large clients, the larger law firms were able to construct serious post- law school training programs for their youngins.

Because of this structure, and to my great lifelong benefit, I received a first-class education in post graduate legal skills at the very beginning of my career at Ross, Hardies. This meant learning how to pay close attention to the smallest of details and the ability to digest enormous mounds of paper in search of the rare legal truffle that might be hidden within. On the Do Not Under Any Circumstances side of this training, you were clearly warned of the consequences of errors of any sort or of any magnitude.

The high end of the penalty scale was dismissal or perhaps denial of an expected bonus. These penalties tended to be reserved for obvious and unforgivable misstatements or misjudgments on legal matters. This went both to research provided by young associates to partners and, God forbid, having these no-nos presented to clients. The low end of the penalty scale, reprimands, and pedestrian legal assignments was reserved for poor proofreading and the consequent escape of misspellings and typographical errors in legal research memoranda or letters.

Though at the time I hadn't thought I'd learned much of anything in my first legal job before entering the Army, in later years I realized that in fact I'd had a first-rate hands-on education. It fell to me to organize the legal structure of Bradfords nascent international expansion in Europe. Working with outside lawyers specializing in international tax law exposed me to a new area of expertise that would become particularly useful in later years when I served as General Counsel for Encyclopaedia Britannica, Inc.

EB had probably 50 or so subsidiaries in many different countries of the world and a highly complex international organization both in how it was managed, and also in how its businesses were legally structured. The latter factor was in many cases at least partly driven by the desire to minimize the payment of taxes. Getting this part of a business right meant knowing the difference between tax avoidance, every person's, or company's natural goal and right, and tax evasion, which is illegal and can result in severe civil or even criminal penalties everywhere.

Recruitment as a General Counsel



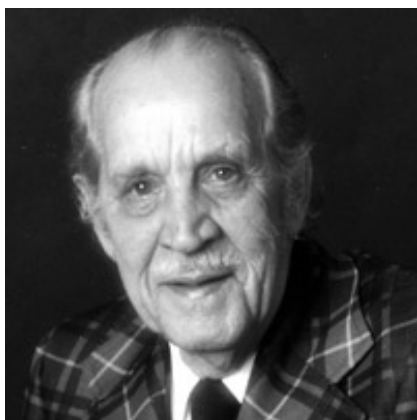
Rod MacArthur and I at my wedding 1979

Roan & Grossman had grown modestly in the 1970s. I was made a partner sooner than many of my law school peers in large law firms, notwithstanding my three-year absence in the Army. I'd sometimes get antsy when business slowed down and I didn't have enough work to do. When I was busy, I was always a happy camper.

My mother had died in early 1979, and Julia Bowe had left their apartment by then for a nursing home. Single again, I had moved from Belden to a nearby townhouse I purchased on Larrabee Street in the Lincoln Park neighborhood. It had two units, a duplex that I lived in upstairs, and a one-bedroom garden apartment below that I rented out. Thus began my long career in life as a part time landlord. In my social life, I had been dating Cathy Vanselow for a while and I was thinking seriously of asking her to marry me.

This was the lay of the land when a litigator friend at Roan & Grossman sprung on me a job opportunity he thought I would fit me. He said one his former professors at Northwestern University Law School had asked him if he knew anyone who might be interested in becoming general counsel of a fast-growing direct mail company. He said he had immediately thought of me, and I should let him know if I was interested. I was initially curious about the opportunity, but not particularly excited when I learned the company mostly sold plates of some kind or another.

Then I learned that the business involved was owned by the son of John D. MacArthur, reportedly the third richest man in the country when he recently died. The son, Rod MacArthur (J. Roderick MacArthur), was also a director of the John D. and Catherine T. Mac Arthur



John D. MacArthur

Foundation, the beneficiary of most of the senior MacArthur's estate. Rod's main business at the time was the direct marketing of collector plates. It had grown very rapidly in recent years and was now at a size where it would be more economical for it to have lawyers in-house rather than remain completely reliant on outside law firms.

Of particular interest to me was the fact that Rod wanted a lawyer at hand to advise him on his burgeoning dispute with his fellow Foundation directors. The prospect of being involved in this indirect way at the birth of one of the country's largest foundations was an attractive aspect of the work. All of these

items made the situation interesting enough to look into further. In short order I met with 58-year-old Rod MacArthur and his 31-year-old Executive Vice President Kevin McEneely.

The heart of the business of The Bradford Exchange at this time was selling decorative collector plates that were to be displayed on a wall or put on a knickknack shelf. They were not to be eaten off of or, God forbid, put in a dishwasher.

The rampant inflation afoot at the time was having a wonderful effect on the collectibles business of Bradford. With a modest aftermarket in the sale of collectible plates, the plate you bought for \$29 the year before was often worth considerably more the next year. This was not entirely a surprise. With the bill coming due for the extraordinary national expenditures during and after the Vietnam War, inflation in 1979 was running at over 11%. President Jimmy Carter would lose the election the next year in consequence.

Rod MacArthur was delighted the way the business was taking off, though with his father's recent death, he was increasingly devoting his attention to his role as a director of the John D. and Catherine T. MacArthur Foundation. When his father had died at the age of 81 in 1978, most of his wealth had been left to the Foundation. He made his longtime attorney, William Kirby, the first head of the Foundation. I knew a little bit about Kirby, having known his daughter when both of us were attending the University of Chicago Law School.

The Foundation is mostly known for its annual program of giving large cash grants to creative individuals with no strings attached. The idea behind the program came from a noted internist and heart specialist at Tulane University, Dr. George Burch. While those receiving these grants are formally known as MacArthur Fellows, the media consistently refers to the stipends as the "genius grants."

In 1989, Kirby gave a lot of credit to Rod MacArthur as he explained how the program come into being in the early days of the Foundation with John D. MacArthur newly deceased:

Immediately after his death, our small Foundation Board discussed possible programs, and I told them of Dr. George Burch's idea... From the very beginning, Rod MacArthur was enthusiastic about the idea and supported it vigorously. No doubt about it, I am happy to testify, Rod MacArthur was the chief implementer of the details of the Fellows Program, and its strongest supporter throughout the remainder of his life. I don't mean the other Directors were not fully supportive, but the dynamism and dedication burned brightest in Rod. One can say, in all honesty, the MacArthur Fellows Program, as it stands today and as all of you have benefited from it, is a tribute to both George Burch and J. Roderick MacArthur. Rod, as you know, died in 1984.



Ken & Cheryl Hope 1979

This is certainly my recollection as well, as I remember many meetings in Rod MacArthur's open office at The Bradford Exchange as he consulted with a disparate group about the best way to structure the program. The people he met with included Ken Hope, his assistant and later the first director of the MacArthur Fellows program, as well as a number of academics and administrative experts. I also recall being detailed one day to pick up Gloria Steinem and a Ms. Magazine colleague at O'Hare airport. I drove them back to meet with Rod and sat in on the discussion. I remember they seemed more interested

in soliciting grant money than pondering how the Fellows program might be set up. However, they did make it perfectly clear they had important and valuable ideas about possibly sharing details of favorable tax arrangements they were familiar with if grant money was on the table.

The senior MacArthur had two children with his first wife Louise, Rod and his sister Virginia. Until Kirby dissuaded him with the idea of a foundation, MacArthur's fortune was due to be split with half to his then wife Catherine, and half to his children from his first marriage. He had divorced Louise when Rod was 14 and married his then secretary, Catherine T. Hyland in 1937.

The second Mrs. MacArthur was closely involved in the growth of his insurance empire and real estate investments. For many years towards the end of his life, MacArthur conducted his widespread business affairs from a booth in the Colonnades Beach Hotel coffee shop, in Palm Beach Shores, Florida. At his death he owned more than 100,000 acres of prime real estate in Florida, much of it in Palm Beach County.

John MacArthur served in the U.S. Navy and Canadian Royal Air Force in World War I. He then had started working in an insurance company owned by his brother Alfred. A gifted salesman, during the depression he had bought a failing insurance company. He later grew this into his estate's main asset, Bankers Life and Casualty Co. Over the decades that followed, with multiple

acquisitions and shrewd real estate investments, he had turned Bankers Life into a successful and enormous insurance giant.

In the course of my interviews with both Rod and Kevin, I was treated to their thrilling tale of how Rod had started the company while working for his father at Bankers Life. When the little collector plate company began to take off, Rod had to wrest control of the enterprise away from his father.



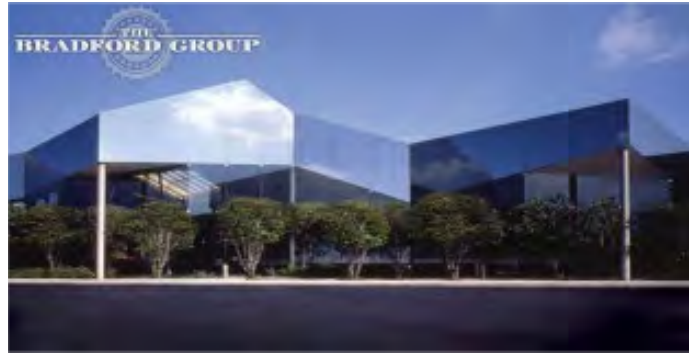
The struggle had included hijacking plate inventory from a warehouse and, in the telling, ultimately freeing Rod in his middle years from decades of subordination and tight control by his father.

While the story supposedly had a happy ending, with father and son fully reconciled before his death, I had my doubts. It smacked of being a better tale for public consumption than the likely reality. Rod's stories of his life working for his father were mostly focused on his having consistently achieved business breakthroughs that went unrecognized and unrewarded by his father. Rod MacArthur's struggles with the Foundation's initial board of directors loomed large following his father's death and it certainly appeared a major dispute over the management of the Foundation would be unfolding.

I was also intrigued and attracted to the idea of leaving private practice and getting more closely involved in the running of a business. Also weighing in the balance was the fact that staying with the law firm was not without risk itself. Roan & Grossman in the 1970s had not grown at an exceptional pace, and, after being defeated in his run for mayor in 1975, Bill Singer had left to join the Kirkland & Ellis law firm. This had taken away one of the firm's better business getters for the future. Given that there was a real risk the firm might struggle in the future, I had to take that into serious consideration also in deciding whether to accept the offer to become The Bradford Exchange's General Counsel.

Finally, much like my decision after leaving the Army to join Roan & Grossman instead of returning to Ross, Hardies, I decided to again leave the certainty of a prior, known experience for the unknown world of what lay ahead. Keeping a toe in my last pond, I acceded to Roan & Grossman's unforeseen request that I remain Of Counsel to the firm following my departure. While fully committed to my career change, I figured that if life in my new position somehow went awry, keeping some form of tie to my old firm couldn't hurt. On this basis, I began my new job as General Counsel of The Bradford Exchange.

Hiring Lawyers



The Bradford Exchange Headquarters, Niles, Illinois

I also got my first taste at Bradford in managing litigation outside the United States. Bradford's collector's plates were usually made from isolated kaolin clay deposits in China, Japan, and Europe. With application of artwork applied, they were then fired in limited, numbered volumes and delivered to Bradford in the U.S. for sale around the world. Bradford would then export them from the U.S. for sale by its own subsidiaries or other local dealers. When the plates crossed the border at this point, a custom's declaration of their value was made when the imported plates came in bulk into the country of ultimate sale.

At one-point Canadian customs authorities disputed the value assigned to Bradford's imports, claiming it was losing customs duties that were due as a result. After concluding the Canadian valuation calculation was faulty, I went shopping in Canada for a lawyer there who could represent the company in putting forth its arguments. At the time in Canada and other British Commonwealth countries, lawyers weren't just lawyers, they were either solicitors or barristers and never the twain did meet. Solicitors generally only did office work, though they might appear as an advocate in lower courts. Barristers were trial lawyers and had a monopoly on trying the bigger cases in the trial and appellate courts. This meant I needed a barrister.

Early in my search, I discovered a subset of barristers known as Queen's Counsel. This group turned out to be where I found my lawyer. These advocates are appointed by the

Canadian Minister of Justice. All were senior trial lawyers who were recognized for their contributions to the legal profession and public service with the Queen's Counsel (Q.C.) designation. Later in my career with Encyclopaedia Britannica, I also had a chance to be similarly guided through major disputes in trial and appellate courts of The United Kingdom and Australia.



Burt Jenner

Before Rod MacArthur sued his fellow directors of the John D. and Catherine T. MacArthur foundation, he had asked me for guidance in finding a premier trial lawyer. I took Rod on a round of interviews with several of Chicago's most prominent attorneys. I began by introducing him to Burt Jenner, a founder of Jenner & Block law firm. Jenner struck both Rod and me as not right for the job. He clearly seemed to be in declining health and lacking the mental acuity of his better days.

Kirkland & Ellis was also on the list to talk to. When I was in law school and beginning to interview firms for a clerkship, my father's brother, Augustine J. Bowe, had left the Bowe & Bowe law firm to become the Chief Justice of the Municipal Court of Chicago. He suggested I ask for an appointment with one of the Kirkland's founders, Weymouth Kirkland. When I expressed doubt as to whether Kirkland would take time to see lowly me, Gus said not to worry. He said he and Weymouth had known each other for decades. I later discovered that these contemporaries had met not as leading Chicago lawyers who might have met as allies or adversaries, but because Gus and his wife Julia had bumped into Kirkland and his wife Louise on summer trips to France in the 1920s. Kirkland did indeed see me



Weymouth Kirkland

in his office in the late 1960s, though, like Burt Jenner on my later visit with Rod, he was also in declining health.



Don Reuben

With the Kirkland firm on my list for the current assignment, I introduced him to its most prominent litigator of the day Don Reuben. Reuben was much in the public eye, having such diverse clients as the Chicago Tribune and Time Inc., and sports teams such as the White Sox, Cubs and Bears. Add to them, the Illinois Republican Party, the Catholic Archdiocese of Chicago, and Hollywood personalities Zsa Zsa Gabor, and Hedda Hopper. Reuben wasn't hired then, but several years later, when Rod finally did sue his fellow MacArthur Foundation directors, Rod was represented by other Kirkland & Ellis trial lawyers. Reuben was out of the picture at that point, because not long after Rod and I met with him, he had been canned by the firm in what the Chicago

Tribune called, "an act of back-stabbing plotted while Reuben was on a European vacation."

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ASHTON DRAKE  **The Hamilton Collection**
A Division of The Bradford Exchange

The marketing of collector's plates involved a good deal of intellectual property law. The plate designs were mostly protected by copyright laws that prevented the artistic work from being copied. Bradford had created a magazine concerned with the hobby. Its content needed copyright protection, too.

These were done with filings in the Copyright Office of the Library of Congress. Then there were the names of the many subsidiary companies that sold the various collector plates. "Bradford" and the names of these businesses had to be trademarked. This was accomplished with filings in the Patent and Trademark Office of the U.S. Department of Commerce and with various state government offices. This concentration and hands-on training helped guide my later career as an intellectual property lawyer when I later served as General Counsel with United Press International, Inc. and Encyclopaedia Britannica, Inc.

During my tenure, Bradford had substantial litigation over copyright and trademark issues of the day. This marked the real beginning of my learning to manage complex intellectual property disputes. At Bradford these disputes usually involved lawsuits either asserting copyright or trademark infringement or defending against these kinds of



claims. In the landmark copyright case, *Gracen v. Bradford Exchange*, 698 F.2d 300 (7th Cir. 1983). Judge Richard Posner's opinion for the 7th Circuit Federal Court of Appeals, upheld Bradford's defense of a copyright infringement claim against it.

The lawsuit involved a painting of actress Judy Garland in MGM's famous movie, *The Wizard of Oz*. Posner's opinion was memorable both for its erudition and its setting of an important legal precedent.

Hammacher-Schlemmer



Hammacher-Schlemmer 147 East 57th Street, New York, NY

As I began work for Bradford in 1979, Rod MacArthur was directly engaged in the management of the company, but he was increasingly spending his nine to five hours doing other things, including working on his growing dispute with his fellow directors of the Foundation. By the time I left the company, he was spending less and less of his time on Bradford matters and turning up less and less at the company's offices in the Chicago suburb of Niles. Nonetheless, during this period he had acquired the well-known New York City based retail and catalog business of Hammacher Schlemmer & Co.



Catalog

At the time, Gulf + Western was one of America's largest companies. As we entered the building, we passed through a group of nuns protesting outside. They were apparently unhappy with Gulf + Western's policies in the West Indies. The company owned thousands of acres in the Dominican Republic, replete with sugar plantation

and cattle. When Bradford had won the auction for Hammacher, Gulf + Western's president, David (Jim) Judelson asked the two of us to join him for lunch in his private dining room at the top of the building. As the elevator arrived at the executive suite, two armed security guards with weapons drawn were there to greet us. If the nuns downstairs weren't the threat, Gulf + Western certainly thought it had bigger unseen enemies lurking about.



The small dining room had large windows offering spectacular views of Manhattan. At the time, Gulf + Western was only a tenant in the building, not its owner. Its owner oddly enough was Bankers Life & Casualty Co., the massive insurance corporation established by John D. MacArthur. It was the primary asset willed to the MacArthur Foundation upon his death. Knowing that Rod was MacArthur's son and a director of the Foundation, Judelson joked that if the window blinds needed to be repaired, he now knew who to call.

Not long after Bradford closed the purchase of Hammacher that day, the Foundation, under a legal requirement to divest its operating businesses, sold the Gulf + Western Building and 18 other New York properties for over \$400 million. In time, Gulf + Western fell apart, and in 1994, architect Philip Johnson oversaw the renovation of the building and it was reopened as the Trump International Hotel and Tower.

Bradford Then and Now



Hammacher-Schlemmer 147 East 57th Street, New York, NY

Rod MacArthur had primarily bought Hammacher to expand its mail order catalog business. Founded in 1848, Hammacher remains America's oldest running catalog. Before long, he had added to Hammacher's sole retail operation retail stores on Chicago's "Magnificent Mile" on Michigan Avenue and on tony Rodeo Drive in Beverley Hills, California. Today, only the Manhattan retail store on 57th Street survives. The company's original collector plate mail order business has been vastly expanded to a whole range of other collectibles. The product line now includes décor, jewelry and watches, apparel, bags, shoes, miniature villages and trains, music boxes, die cast cars, Christmas ornaments, dolls, coins, \$2 bills, personal checks and stationary. Not to be left out, you'll also find Disney, Star Wars, NFL and Harry Potter collectibles. Along the way, the company has also changed hands, from MacArthur's heirs to its employees. A Bradford history written in 2006 explained the company's origins this way:



Contrary to popular opinion, J. Roderick MacArthur, the entrepreneur and marketing genius who founded the Bradford Exchange more than three decades ago, did not invent collector plates. When, in a characteristically bold move, he launched what would become his Bradford Exchange by liberating his merchandise from his insurance-mogul father's locked warehouse, what Rod MacArthur did was to understand the plate market in a new way. When the Bradford Exchange issued its first "Current Quotations" in 1973, listing the current market prices of all the most traded Bradford Exchange collector's plates, it re-defined plates as a unique art commodity that is actively traded, with uniform buy/sell transactions, on an organized market. The original mission of the Bradford Exchange was

simply to monitor the plate market... The ideal, however, was to create an electronic bid-ask marketplace, operating much like a securities market, where transactions could be made instantaneously. In 1983, such a computerized marketplace became a reality. However, with the new ease and increased volume of trading, the emphasis at the Bradford Exchange gradually shifted from monitoring the secondary market to creating and marketing an ever-growing variety of collectibles.

Of course, this version of the company's history sugarcoats the reality of what was really going on in the late 1970s early 1980s. Bradford's marketing targets in selling collector plates were people with modest incomes who now could not only buy art like a real collector, but then they could sit back and watch their wise plate investment go up in value.

Furthering the idea of plate scarcity, collector plates were primarily sold at the time as "limited editions," never to be made again. The marketing of the collector plates before I arrived had been sufficiently aggressive to cause the federal Securities Exchange Commission to launch an investigation into whether Bradford was failing to comply with the securities laws.



**Bottom of "The Storyteller"
Collector Plate**

The idea was that by implying the value of collector plates would likely increase in value without any effort on the part of the buyer, the plate might meet the definition of a security. Bradford had dialed back its advertising and avoided formal SEC action. In fact, it found an unexpected marketing upside to the SEC threat. Its promotional material could now proudly announce that collector plates were "not securities!"

However, the 2006 company history rewrote history when it claimed that Bradford had to diversify its product line beyond plates after 1983 because the ease and increased volume of trading on its computerized marketplace for secondhand plates, "tended to

depress market prices."

The truth was that the plate market went south because the rampant inflation in the country that hit 22% a year briefly in Jimmy Carter's one-term presidency was plummeting by 1983 under his successor Ronald Reagan. Inflation fell from 10.3% in 1981 to 3.2% in 1983. The attendant recession of Reagan's first term, coupled with inflation being tamed, simply killed the marketing theme that limited edition collector plates were likely to rise in value over time.



**Norman Rockwell's "A
Young Girl's Dream"
Collector Plate**

The collector plate runs were typically called “limited editions” because they were limited by number of “firing days.” Left unmentioned was that the industrial scale kilns used in the transformation of clay blanks into decorative plates could produce in the specified firing days tens if not hundreds of thousands of plates.

Bradford sold collector plates in the 1970s and 80s that were largely decorated with artwork in the public domain. This was to save the expense of having to pay commissions to an artist to create fresh works. Also, you could sell more plates if you put on plates preexisting pieces of art that were already know to the public. Fortunately for Bradford, it could use many of the illustrations executed by the well-known American master Norman Rockwell.

Earlier in the century, Rockwell had drawn covers for the Saturday Evening Post that had fallen out of the 28-year protection of the copyright law. Thinking there was no value in old magazines, their copyrights had not been renewed.

To sell its Rockwell collector plates, MacArthur decided to create a company other than Bradford to market them under a different name. Thus, he resurrected the name of a long defunct West Virginia-based dinnerware maker. Soon the Edwin M. Knowles China Co., was selling the Norman Rockwell plates from the “Oldest Name in North American Fine China.” This was true enough even though the plates were actually fired in China.

The downside was that lots of other collectible companies were selling Rockwell adorned merchandise as well. To distinguish itself from the crowd and elevate its Rockwell plates above the hurly burly competition, Rod struck a deal with Rockwell heirs through The Norman Rockwell Family Trust to endorse the Knowles commercial effort.



Bottom Certification of “A Young Girl’s Dream”

Though the images remained in the public domain, paying a royalty for this Rockwell-related endorsement paid off handsomely for all concerned. With Rockwell recently deceased, and his work more popular than ever, selling the “Authenticated” Rockwell plates with the new Knowles trademark was wildly successful.

By 1983, Rod MacArthur’s was spending less and less time on Bradford business as his attentions had continued to focus more and more on Foundation affairs. Responsibilities for the day-to-day management of the company increasingly fell to his young steward Kevin McEneely, by then 35-years-old. Their relationship had been forged when McEneely had abandoned the Bankers Life mother ship with Rod and helped him spirit away the Bradford inventory from Rod’s father a decade before. While McEneely had had no specialized business training, he was personable, and in a smooth sailing ship with Rod calling the shots on the direction of the company it was smooth sailing. With a financially astute President with an accounting background in place, McEneely

had proven up to the job of being Rod's second banana. However, when Rod abruptly fired Bradford's current President, it quickly became clear that McEneely was not remotely capable of filling the gap. The concern began to drift and problems built up.



Edward M. Knowles China Company Certificate of Authenticity

As General Counsel, I reported directly to Rod, not McEneely. I increasingly thought that I had a duty to alert Rod to the gap I saw, because it was one that was already beginning to have negative consequences. Initially, Rod was very concerned about the message I had conveyed to him and had arranged for a third party to take a deeper look at the state of the senior management. When interviewed as to what I thought the solution was, I said that besides the obvious option of an outside hire, the company had recently hired an executive to manage Hammacher and I thought he had the skill set and breadth of experience to serve as the company's chief operating officer under Rod.

While not privy to the discussions Rod had with others, when he did circle back to me on the subject, he made it clear that he was not going to replace his stalwart, at least not at that time. That meant that I was going to be hitting the road. Not wanting to wait for the axe, I quickly told him that it appeared he had lost confidence in my advice and that I was offering my resignation. He seemed as relieved as I was that the conversation had been as brief and trouble free as possible.

As fate would have it, shortly after I left, Rod was diagnosed with pancreatic cancer and died after a brief illness. My own diagnosis of the management issue the company faced just months before appeared to be confirmed when the first thing his family did after his death was remove McNeely from the business and install the person I had pointed to as the only sensible

candidate to replace him. While not right for Bradford at the time, McNeely went on to have an otherwise normal career with several other Chicago area companies.

After leaving Bradford, I briefly went back to private practice in the Loop. I had by that time dropped my affiliation with Roan & Grossman as Of Counsel and became Of Counsel to a firm recently started by two of my former partners there, Bill Cowan and Charles Biggam. I wasn't there long, as I soon moved to Nashville with Cathy and Andy when I took on the job of organizing United Press International's first internal law department as UPI's Assistant General Counsel.

At the time, I was unhappy to have my work as Bradford's General Counsel short circuited in the way that it was. My brief return to private practice gave me time to rethink what my professional goals should be at that point. I almost immediately decided to pursue another position as an in-house counsel.

As it turned out, the Bradford experience led to a wild and demanding time guiding UPI's legal course as the company collapsed into bankruptcy. When I departed after two years, at least UPI was headed towards a reorganization and not a liquidation. UPI in turn directly prepared me for the much more challenging role as Executive Vice President, General Counsel and Secretary of Encyclopaedia Britannica and my related work as Secretary of the William Benton Foundation which supported the University of Chicago.

The exciting and fulfilling 28 years I spent at Britannica would never have come about without my first having left private practice for Bradford. I had a chance to function in a business roll as well as a legal role as President of Encyclopaedia Britannica Educational Corporation, and I briefly headed up another Britannica subsidiary, the premier dictionary publisher of American English, Merriam-Webster.

When Britannica's CD-ROM encyclopedias began to be counterfeited in China and elsewhere I had Britannica join a Washington, D.C. not-for-profit trade association devoted solely to combating product counterfeiting and piracy. The IACC members included a cross-section of business and industry – from automotive, apparel, luxury goods and pharmaceuticals, to food, software and the motion picture industry. After serving on the IACC's board of directors, I was elected its Chairman. In that role I interacted with law firms, investigative and product security firms, government agencies and intellectual property associations here and abroad. In addition to experience on Capitol Hill lobbying Senators and Members of Congress, I travelled to mainland Europe, China, Hong Kong and Taiwan urging officials there to strictly enforce intellectual property laws and to stop the pirating and knockoffs of American products.

Britannica also had me separately travelling all over the world to its many international operations. EB did significant business in most of the European countries, as well as Turkey, Israel, Egypt, Australia, China, Taiwan, Japan, South Korea, and India.

With this in mind in retrospect, it's hard not to conclude that my unplanned departure from Bradford was the best thing that ever happened to me in my entire legal career. After all, had I stayed, I would have missed all that great fun and spent decades instead in the not so interesting professional life as general counsel of a one-time plate company that later expanded into other knick-knacks.

