

THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION

Volume XXIV, Number 1 • January 2017

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EVENTS AT A GLANCE

1/25	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club- Speaker: Jeffrey Gauger
1/27	Krewe of Justinian Bal at Horseshoe Casino Riverdome
2/18	Centaur Parade
2/22	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club- Speakers: Rannah Gray and Mary Jane Marcantel
2/26	Highland Parade



From The President

by Rebecca Edwards, President, redwards@caddoda.com

Welcome to 2017! I am honored and excited to be serving as president this year. We have a great bar association, and it keeps getting better thanks to you, our members. So many of you willingly volunteer your time and talent serving on our executive council and committees and participate in the programs and social events that the Shreveport Bar Association hosts each year. On behalf of the SBA, I thank you for your efforts and support. By now, you should have received your SBA membership renewal notice for 2017. We are looking forward to a tremendous year and want you to be a part of it. Your renewal ensures that you have the opportunity to benefit from all the SBA offers and to be counted as part of the best local bar in the state.

Like most things in life, you get back from bar membership what you put into it. Active involvement in our local bar gives back by building relationships among colleagues that go beyond the courtroom or the office. Good relationships with other attorneys who practice here enhance our profession and our professional lives. Through our educational programs and especially our networking events, the SBA fosters those necessary relationships that lead to a positive environment in which to practice law. Whether you are a solo practitioner or practice in a large or small firm, a governmental or public interest attorney, an attorney just starting out or one with many years of experience, membership and active involvement in the SBA will benefit you. That is why I hope you will start off 2017 by renewing your SBA membership, participating in all the SBA will offer this year, and building positive relationships with your colleagues in the SBA. So, please renew and get involved!

As the year kicks off, the SBA has two great events coming up that you will not want to miss. First is the membership luncheon on January 25 at the Petroleum Club. I hope you will join me in welcoming Jeff Gauger, the executive editor of *The Shreveport Times*, to our city. Mr. Gauger is a lifelong newspaperman, who took the reins at *The Times* in August after his stint as editor and publisher of the local paper in Greensboro, North Carolina. Drawing from his life in journalism, Mr. Gauger will discuss lessons he has learned while covering the courts, business and national defense, as well as the challenges to news teams from “the 24-hour news cycle, the Internet, and the decline of civil discourse on issues of national concern.”

Second is the Krewe of Justinian’s “A Tale of Two Cities” Grand Bal, which returns this year to the Horseshoe Riverdome on January 27, 2017. Captain John Bokenfohr and this year’s royalty – King Brady D. O’Callaghan, Queen Melanie Bain Johnson, Duchesses Natalie R. Howell and Allie Aiello, Dukes Mark Manno and Weber Hill, along with Prince Kip Haines and Princess Gabrielle Cox – have planned a spectacular night exploring London and Paris. You will want to have your passport in hand as you set out on this grand adventure with Justinian XXIII!

As you know, the Krewe of Justinian is a committee of the SBA, and its efforts allow for a yearly substantial contribution to Shreveport Bar Foundation. The *continued page 3*

SBA CHRISTMAS PARTY HIGHLIGHTS



SBF provides legal clinics and programs for the public, including the Pro Bono Project, and owns and operates the Shreveport Bar Center. We can be proud that the SBA and SBF were at the forefront of downtown revitalization with the purchase and rehab of the Bar Center building on Texas Street.

Included with your renewal notice was a letter about the SBF's new, improved fundraising initiative. Like every nonprofit organization, the SBF must raise funds to support its worthy projects. A Halloween costume party held the past couple of years did not develop the support needed to make it successful enough to continue. This year the SBF is streamlining its fundraising by asking each SBA member to make a \$20 donation when you renew your SBA membership and by asking that you participate in the Give for Good Campaign on May 2, 2017, which you will learn more about later in the year. This new initiative will greatly reduce fundraising expenses while maximizing the use of SBF funds for its core functions.

Your \$20 donation to the SBF is voluntary, tax deductible, and can be sent in with your SBA dues. Supporting the SBF is now simple and convenient, and your donation will help the SBF to continue its good work in our community. I hope that you join me in supporting the SBF this year by making a donation and by volunteering at least once this year for one of its community programs.

One of my favorite quotes is from Katherine Hepburn. "As one goes through life, one learns that if you don't paddle your own canoe, you don't move." Renewing your SBA membership (or joining the SBA as a new member), making a small donation to the SBF, and committing to participate in the programs and events offered by the SBA are how we as attorneys can keep our local legal community and profession moving forward. So, grab your paddles, and let's move forward together!



Young Lawyers' Section

by: Thomas Pressly, President
thomas.pressly@cookyancey.com

The Young Lawyers' section of the Shreveport Bar Association is excited for the new year! Joining me as officers this year are Gahaghan Pugh, Vice-President/President-Elect; Shanerika Flemmings, Secretary; and Valerie Delatte, Treasurer. This year, YLS will be focusing on participating in the regional high school mock trial competition, Law Week, happy hours, and putting on a CLE for newly admitted attorneys in the fall.

The first upcoming event that YLS is excited to play a part in is the regional high school mock trial competition which will be held on February 11. Valerie Delatte has done a great job organizing and planning this year's regional competition. If you would like to volunteer or donate, please contact Valerie at vdelatte@la2nd.org.

The YLS officers and I are looking forward to a successful 2017 and hope you will join us in making this year great! If you are a young lawyer and are not receiving email updates from the YLS, please contact me at thomas.pressly@cookyancey.com to be added to our email list.

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Pro Bono Project Year in Review

by John Nickelson, President, Shreveport Bar Foundation, john.nickelson@nickelsonlaw.com

The Shreveport Bar Foundation Pro Bono Project had an extraordinary year in 2016 under the leadership of President Ben Politz. With the help of more than 60 volunteer attorneys, we served more than 450 indigent clients with a wide range of serious legal problems. Our volunteers are too numerous to name, but Ben Politz is an ever-faithful participant in our monthly Ask-a-Lawyer Clinic; Spencer Hayes handled numerous cases, as he has in past years; and Alex Lyons and Katherine Evans obtained protective orders for women whose lives were seriously threatened and could have ended in unspeakable tragedy. With the assistance of our dedicated and talented Pro Bono Project Coordinator, Nellie Walton, our volunteer attorneys continue to make a profound difference in the lives of the clients they serve.

The generosity of the Louisiana Bar Foundation, The Community Foundation and The United Way also enabled us to hire attorney Heidi Kemple Martin to represent domestic violence victims seeking protective orders in both juvenile court and district court. Heidi's work has been exemplary, and the stories of the clients she serves make clear the critical importance of ensuring that domestic violence victims receive the legal representation they so desperately need. In one case, Heidi represented and obtained a protective order for a woman whose boyfriend dragged her through a parking lot and badly beat her while she was pregnant, causing her to go into early labor. The boyfriend was arrested, and the woman's baby was born safely. In another case, Heidi represented a woman whose husband repeatedly threatened to burn down her house (with her and her daughter inside); destroyed her clothing, furniture, and other property; vandalized her home and filled its locks with glue; and rendered her car inoperable by pouring frying oil into its gas tank. Thanks to Heidi's efforts, her client obtained a protective order against further threats and abuse.

Our law licenses give us a monopoly on the provision of legal services. Only we can rise in court to speak for the most vulnerable and victimized members of our community—abused and neglected children, victims of domestic violence, the elderly, the mentally ill. If we do not help these people with their legal problems, no one will, and nothing we do as lawyers is more important than

giving voice to those who otherwise would have none. On behalf of the Shreveport Bar Foundation, I sincerely thank each of you for your continued support of the Pro Bono Project, and I look forward to working with you in the year ahead.



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Do you #GiveforGood? You can support your Shreveport Bar Foundation Pro Bono Project by giving to the SBF Pro Bono Project on May 2 for Give for Good day, a 24-hour online giving day. All you have to do is log on at <https://www.giveforgoodnla.org/> on May 2 to give. The minimum donation is \$10 and every gift will be AMPLIFIED by funds provided by the Community Foundation's Lagniappe fund.

More details about our 2017 Give for Good Campaign will be coming soon, so please mark this on your calendar and GIVE!

We value you and appreciate your support of the Shreveport Bar Foundation. Some of the programs that the Shreveport Bar Foundation provides are listed below.

- *Shreveport Bar Center* is located at 625 Texas Street, houses the offices of the Pro Bono Project and Shreveport Bar Association. The SBC has a mediation center that is available, call the SBA office for availability for your next mediation or deposition.
- *Ask-A-Lawyer* is held on the third Monday of every month. Volunteer Attorneys are available to provide free legal advice to the public.
- *MLK Day of Service-Living Wills and Medical Power of Attorney*, held in January is a community outreach open to the general public.
- *Legal Representation for Victims of Domestic Violence Project* provides a free attorney to appear in Caddo Parish District and Juvenile courts to assist victims of domestic violence obtain restraining orders and related orders.
- *Pro Se Library* is available to provide legal forms to the public that can't afford legal representation but do not qualify for free legal services.

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Inns of Court Update

by Hal Odom Jr., rhodom@la2nd.org

Combined Inns explore “Ethics and Beyond”

“Bigger and better” may well sum up the local American Inns of Court experience in December. Four Inns from north and central Louisiana – the Harry V. Booth-Judge Henry A. Politz (Shreveport), Judge Fred Fudickar Jr. (Monroe), Crossroads (Alexandria-Pineville) and St. Denis (Natchitoches) Inns – convened for a festive holiday celebration and joint meeting in Natchitoches on December 7. Some 133 members and guests were present for the dinner and presentation.

Lauren Laborde, president of the Alexandria Inn, opened the meeting by introducing the special guests, La. Supreme Court Justice Scott J. Crichton, the speaker, U.S. Fifth Circuit Chief Judge Carl E. Stewart, president of AIC, and Pam Wittmann, AIC Chapter Relations Director. Lauren also recognized the presidents of the other participating Inns, Brian Landry (Shreveport), Barrett Beasley (Natchitoches) and David Nelson (Monroe), for their work in coordinating this large, first-of-its-kind meeting.

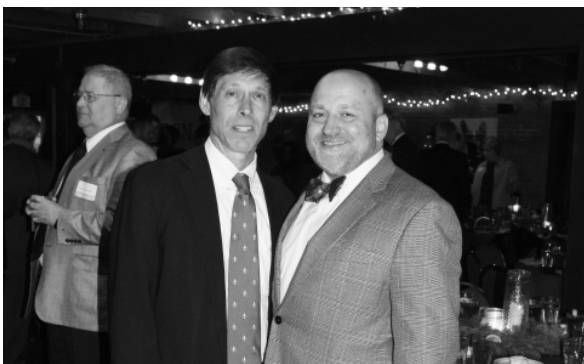
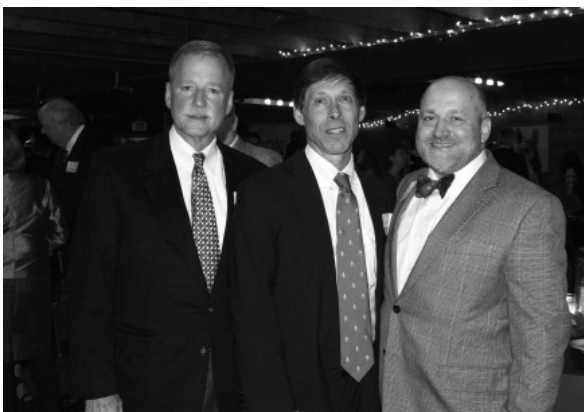
After the dinner, Justice Crichton presented the program, “Ethics and Beyond.” The Supreme Court, he lamented, must consider four or five lawyer disciplinary matters *per week*, proving the need for expanded ethics education. He summarized the 2015 and 2016 amendments to the Rules of Professional Conduct, with special attention to Rule 7.2(c)(5), “Communications of Fields of Practice.” This now permits a lawyer to advertise that he or she is a *specialist* or *specializes* in a particular field of practice. This expansion of commercial speech, Justice Crichton cautioned, is subject to Rule 7.2(c)(1), which prohibits “false and misleading” claims. He asked, hypothetically, how many personal injury cases must a lawyer handle before he can consider himself a specialist in the field? In the same vein, does the ad slogan “One Call, That’s All” comply with the rule, given the need for proof and evidence? No advisory opinion was given! Finally, he stressed that the LSBA Lawyer’s Oath now includes a pledge of civility “not only in court but in all written and oral communications.”

Justice Crichton also reviewed recent ethics cases in some detail. One striking case was *In re Williams*, 2016-1253 (La. 12/6/16), __ So. 3d __, in which an assistant

district attorney was disbarred after pleading guilty to federal charges of conspiracy to commit bribery; the bribery included accepting autographed New Orleans Saints hats, and bicycles and clothing, in exchange for “immediate 894 pleas.” A more typical case was *In re Bullock*, 2016-0075 (La. 3/24/16), 187 So. 3d 986, in which the lawyer failed to advise her client that (1) the tortfeasor was uninsured and that (2) the lawyer failed to file a timely lawsuit, even after multiple requests. Suspension of a year and a day was imposed. Justice Crichton also cited his own separate opinion in *State ex rel. Morgan v. State*, 2015-0100 (La. 10/19/16), __ So. 3d ___, in which a 17-year-old armed robber received a 99-year sentence; 16 years later, he sought review of his sentence under the new rule of *Graham v. Florida*, 560 U.S. 48, 130 S. Ct. 2011 (2010), prohibiting life without parole for juvenile offenders. The defendant contended that 99 years without parole is the “functional equivalent” of life with parole; the prosecutor argued it was not. The Supreme Court agreed with the defendant, ordering a *Graham* hearing. Justice Crichton’s separate opinion upbraided the prosecutor for denying that 99 years was the same as life: this “stunning position” and “constitutionally untenable” argument violated Rule 3.8, under which an attorney is not simply an advocate but a “minister of justice.”

After the program, U.S. District Judge Maurice Hicks and Chief Judge Stewart spoke, commending Justice Crichton’s lifelong dedication to ethics and again thanking all the Inn officers for making the historic joint meeting possible. Larry Pettiette adjourned the meeting at about 9:15 pm.

The meeting was held at Bon Ami, a bar and grill located over The Landing Restaurant, on Front Street, in the historic district. Turnout was so strong that elbow room was at a premium. Members from Shreveport took a charter bus for the 65-mile ride to Natchitoches; those from Monroe had a nearly two-hour drive. All benefited from the useful program, fine dinner, one hour of ethics CLE credit and opportunity to visit with members from other Inns.



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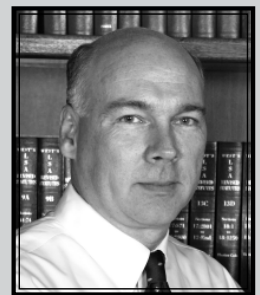
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Anna Julia Cooper

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8:00 ROYALTY PRESENTATION
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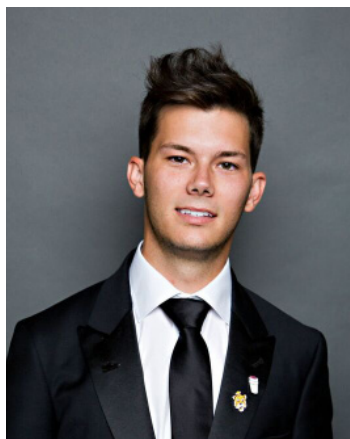
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Shreveport Crossword Dec. 2016
Our Historians
 by Hal Odom Jr.



Mark Your Calendar



JANUARY 25

SBA Member Luncheon

12:00 Noon at the Petroleum Club (15th Floor)

Speaker: Jeffrey Gauger, Executive Editor

The Times / The News-Star / USA Today Network

JANUARY 27

Krewe of Justinian Bal

Horseshoe Casino Riverdome

FEBRUARY 18

Centaur Parade

Krewe of Justinian Participates

FEBRUARY 22

SBA Member Luncheon

12:00 Noon at the Petroleum Club (15th Floor)

Speakers: Rannah Gray and Mary Jane Marcantel

Co-Authors of *Familiar Evil*

FEBRUARY 26

Highland Parade

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Legal Hist

by Arthur R. Carmody, Jr., ACarmody@wcglawfirm.com

LOOKING FOR PRECEDENTS IN THE NINETEENTH CENTURY: How Case Law was Reported in Louisiana before the Arrival of the Southern Reporter and West Publishing Company

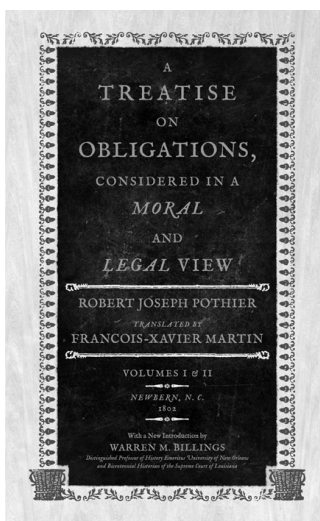
For the first 91 years of Louisiana history, prior to typewriters, recording devices and computers, there was no West Publishing Company, nor any other commercial entity, interested in publishing the printed opinions of our appellate courts, essential indeed to the practice of law. Yet from 1811 until the beginning of the 20th century, a talented and dedicated group of men saw to it that the decisions of the Superior Court of the Territory of Orleans, and later the Supreme Court of Louisiana, were collated, digested, indexed and published, usually with the name of the reporter listed on the spine of the books, which ultimately resulted in the *Louisiana Annual Reports*. This then is their story.

Frequently, more than one reporter put his handiwork into print and it was bound and published under their several names. For this reason the term “Official Reports” was freely used and is often encountered. Those reports are the most voluminous. They are “official” only because they were prepared at the direction of the legislature.

During the last nine decades of the 19th century, 17 men served as reporters. They came from Louisiana, New England, the upper South, the Mid-Atlantic States and Europe, all versed in the common law; only a few in civil. All were lawyers and all called New Orleans home.

The first of these reporters was probably the most notable. He was François Xavier Martin, one of Professor Baier’s “heroes,” whose *Orleans Term Reports* marked the beginning of case reporting in Louisiana. Born in France, he served with a North Carolina regiment in the latter days of the Revolutionary War. While still living in that state he learned the trade of a printer and translated and published the French Commentator Robert Pothier’s *Treatise on Obligations*. He read law in North Carolina, passed the bar, and then was appointed by President Madison to a judgeship on the Superior Court for the Territory of Orleans. This position caused him to reconcile Anglo-American and civil law into a system that would best work in Louisiana.

Soon Martin discovered a lack of “correct information” in



An early (and influential) publication by Louisiana’s first reporter of opinions, François Xavier Martin, 1802

regard to printed decisions of the Superior Court. He corrected the situation by collecting earlier briefs and pleadings, collating, summarizing and publishing the decisions. This resulted in Volume I of the *Reports*.

Following service as the first Attorney General of Louisiana, he was named a Supreme Court justice in 1815 by Governor Claiborne. Over the next 15 years, in addition to his work on the court, he compiled 17 volumes of reports. (It seems incongruous for a justice of the Supreme Court to also summarize, interpret and index the decisions of his court, but that was the norm at the time.) He retired from the court in 1847, at the age of 84, after a 31-year tenure, much respected for his contribution to the early jurisprudence of the state. Martin was a prodigious worker as well as a significant scholar. He reported on each case, summarizing the issues and the arguments of counsel, and recorded the opinions in full. The

reporter’s task, as well as that of the court, was made more onerous by Act 96 of the Louisiana legislature of 1821 which required that each judge prepare a written opinion on each and every case, to be delivered according to seniority. This nonsensical provision would be repealed the following year. There is no record of it being complied with. A businessman as well, Martin secured legislation authorizing him to sell his reports and retain the proceeds.

Martin was followed by Branch C. Miller, who was appointed by the governor under conditions specified by the legislature. For an annual salary of \$1,200 he was to prepare “a clear statement of the facts ... the points made by counsel ... the authorities cited ... the opinion of the court ... lucid marginal notes ... and a copious index ... of every appellate decision.” Once printed, 75 copies of the book were to be delivered to the Secretary of State, who distributed them to the courts and various state officials. Other copies could be sold to the public, following the practice started by Martin. Miller served as the reporter from 1830 until 1838 and was followed by Thomas Curry. Curry served for nine years, reporting out 13 volumes and compiling the first set of state statutes. He resigned in 1841.

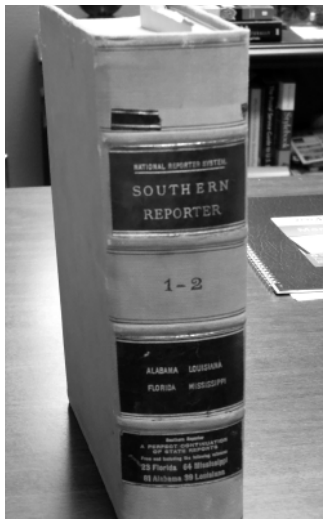
In that year, Merritt M. Robinson, a prominent lawyer, and Emile Johns, a leading printer, received a more generous appointment from the legislature. However, for the first time, the reporters were also required to make “concise notes at the head of each case, of the points decided” and were also required to record “all decisions of the Court at length.” Robinson soon found that important cases were getting buried with trivia and he complained. His voice was heard and the “all cases” requirement was removed by the 1846 legislature, which also drew up specifications for the *Louisiana Annual Reports*. For the first time cases of relative unimportance could be omitted from the bound volumes.

Robinson was followed by three other reporters before the work of reporting cases was terminated by the commencement of the Civil War, the early occupation of New Orleans by federal troops and the departure of the Supreme Court to safer, if less comfortable, environs. S.F. Glenn was appointed in 1862 but performed no work, as no court was held and no cases decided. He made an effort to organize the records of the 1861 and 1862 undecided cases but gave up, saying the records were “thrown into almost inextricable confusion.”

Glenn was followed in 1872 by Jacob Hawkins, who completed five volumes of the reports before being replaced by Charles E. A. Gayarré, who came out of retirement to take his place. A lawyer, author and active politician, Gayarré had published in 1856 a five-volume history of Louisiana which received more acclaim outside the state than within. Born near New Orleans in 1805, he had a long public career, serving as attorney general, secretary of state, member of the state legislature and as a district court judge. His political affiliations touched all bases: first as a Democrat, then a member of the Know-Nothing Party and finally a Reconstruction Republican who lost his position as recorder when Governor Francis T. Nicholls and the state Democratic Party returned to power in 1877.

Nicholls’s Supreme Court appointed Percy Roberts as the new reporter. He yielded to Henry Denis in 1880. Denis remained until 1894, publishing another 15 volumes. Two more reporters would follow before the office was eliminated in 1900. At that time the legislature empowered the state printer, with the approval of the Supreme Court, to contract the reporting tasks out to the lowest bidder provided he was a “competent attorney.” At that time the Supreme Court ordered the entire series renamed the *Louisiana Reporter* and renumbered in sequence. Thus volume 52 of the *Louisiana Annual* series concluded the Old Series and volume 104 of the *Louisiana Reporter* begins the New Series.

This concludes our discussion of the Official Reporters. Before closing we should note that several eminent lawyers



In 1887, West’s National Reporter System finally came to the Gulf Coast, with 1 Southern Reporter (1887).

and jurists of that time, especially Thomas C. Manning, J. Burton Harrison, Judah P. Benjamin and Thomas Slidell all sponsored reports which were generally as good as, and often superior to, the official versions. These reports are collector’s items today.

Thanks to these recorders, when the 20th century began, Louisiana had a complete set of reports which not only contained the opinions but summarized the facts and argument of counsel, inserted head notes and were indexed – topics not found in the legal systems of most states at that time. Most opinions of those times did not contain statements of the facts. They had to be gleaned from the pleadings.

In the 1900s, the nature of recording and reporting changed. With the typewriter came quicker reporting and, some observers say, longer opinions.¹ John West entered the field in 1887 and by 1900 had his National Reporter System established and indeed flourishing throughout the country. In 1903 the Supreme Court assigned to West Publishing Company the reporting of its opinions and thus an era closed. The last Louisiana Supreme Court decision reported in the *La. Reports* by West was in 1940 when the practice was stopped, since the same cases were and are also being reported in the *Southern Reporter*, which was a staple for most lawyers before the computers arrived.

Thanks and Credits to:

A Law Unto Itself - Essays in the New Louisiana Legal History, edited by Warren Billings and Mark F. Fernandez. 2001, Louisiana State University Press.

Tucker, John H., *The Dictionary of Louisiana Biography, Source Book of Louisiana Law, Tulane Law Review*, Vol. 8, p 396-405, Vol. 9, p. 244-267.

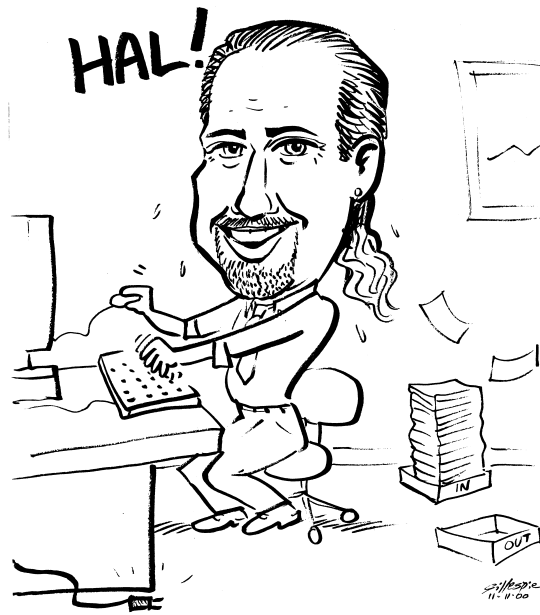
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¹ As a matter of interest, two selected volumes, 173 years apart, are interesting to compare. Volume 9 of *Martin’s Reports* covers three full years (1827-1829) of decisions of the Louisiana Supreme Court. Some 374 cases were decided with an average page length of two printed pages per case. One random volume (770-771 So. 2d) covers a time span of approximately three months and contains 137 cases decided by the Supreme Court and five appellate courts, with an average length of six pages per case. Whatever conclusions are formed, it is quite evident that Louisiana was and is a litigious place, with the courts writing longer and longer opinions.

How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

Run it off the road. The latest index to *Restatement (Second) of Torts* (Oct. 2016) contains this entry under Defamation / Evidence: “Falsity, proof of negligent or *wreckless* disregard of.” It has been a while since this misspelling of *reckless* popped up. A legal encyclopedia had noted that an employee might not recover damages from his employer for injuries sustained trying to protect the employer’s property, “where the employee *wrecklessly* attempts to do something for the supposed protection of the employer’s property without any true necessity for doing so,” 53 Am. Jur. Proof of Facts 3d 373 (1999); and a court had quoted, without correction, the plaintiff’s allegation that statements were “false and * * * made with malice and with *wreckless* disregard of the truth[.]” *Desormeaux v. Romero*, 560 So. 2d 658 (La. App. 3 Cir. 1990).



Other courts have been more careful in handling sloppy transcripts, as when the Second Circuit quoted a deposition in which the plaintiff stated “he had appeared in Open Court at Blanchard and Orally moved for an appeal of the conviction of Careless and *Wreckless* [sic] Driving[.]” *Sanders v. City of Blanchard*, 438 So. 2d 714 (La. App. 2 Cir. 1983). (This passage has the bonus of illustrating excessive and incorrect capitalization, which the court left intact.)

A moment’s thought should show that if such a word existed, *wreck + less* would mean *without wrecking* or *causing less harm*, the exact opposite of *reckless*. In addition, Spell Check instantly sends a red alert (actually, a wavy red underscore) when a user tries to enter *wreckless*; perhaps this is why it’s on the wane. Don’t be *reckless* in spelling.

And slam this one shut. Another odd misspelling recently made an encore. In a termination of parental rights case, the expert family therapist testified that in foster care the children had begun to lead normal lives. “I *shutter* [sic] to think what will happen to them if they are removed from their safe havens and placed in a dysfunctional home environment.” *State in Interest of PF*, 50,931 (La. App. 2 Cir. 6/22/16), 197 So. 3d 745 (*sic* in court’s opinion). In an earlier opinion, the EEOC failed to note the problem when it wrote, “The Postmaster stated that she did not feel she could trust complainant, and that she ‘*shutter*[ed] to think how he would deal with the Postal customer.” *Black v. Potter*, 2006 WL 3256360 (11/2/2006).

A *shutter* is a cover that you *shut* to protect the window; as a verb, it means to *go out of business*, as presumably the owner would close the *shutters* before he left for the final time. A person does not *shutter* to think.

The word intended is *shudder*, meaning to *shake physically*, especially from horror, fear or cold. It is correctly used here: “We strongly disagree with this contention and *shudder* to think of the potential chilling effect such a conclusion would have on encouraging cooperation between parents with joint custody.” *Cormier v. Cormier*, 2012-1340 (La. App. 3 Cir. 4/24/13), 112 So. 3d 1073. Let’s firmly

shut the door on this unusual error!

The right way? Legal writers like to be consistent in spelling and punctuation, so the question arises: how to punctuate the common term for the predial servitude of right of passage – is it *right-of-way* (hyphenated) or *right of way* (not)?

Our cherished font of real property law, the Civil Code, is not consistent. Three articles (691, 692, 780) spell it with hyphens; two others (652, 706) spell it without. The solid rule, obviously, is to copy the original. “An estate cannot have upon another estate *part* of a right of way[.]” La. C.C. art. 652 (emphasis added). “The owner of the enclosed estate may not demand the right of passage or the right-of-way for the utility anywhere he chooses.” La. C.C. art. 692. “In 1991, some

of the subdivision’s residents requested the City-Parish abandon the Homestead Way right-of-way.” *Lafayette City-Parish Consol. Gov’t v. Person*, 2012-0307 (La. 10/16/12), 100 So. 3d 293.

Outside of direct quotes, the authorities preponderate in favor of *right of way*, no hyphens. Bryan A. Garner, *A Dictionary of Modern Legal Usage* 2e (New York: Oxford U. Press ©1995); *American Heritage Dictionary of the English Language* 5e (New York: Houghton Mifflin Harcourt, ©2016); *The Chambers Dictionary* 13e (London: John Murray Learning ©2014). However, a cursory look at the statutes and the recent Louisiana cases will find about a 50/50 split in usage.

To complicate matters, the standard rule is that a compound expression used as an adjective in front of the noun it modifies must be hyphenated: a *right-of-way agreement*, various *right-of-way covenants*. This explains why the phrase can appear both ways in the same document, as in *Pollock v. Talco Midstream Assets Ltd.*, 46,302 (La. App. 2 Cir. 5/18/11), 70 So. 3d 835.

Good luck! Quote statutes accurately, strive for consistency, hyphenate compound adjectives that precede the nouns they modify. Do these things, and your readers will give you some right of way.

And now, some easement. The plural of the above is *rights of way*. Do not go astray just because you occasionally see something like the overlay project “did not reflect current *right of ways*, did not require purchase of additional *right of ways*, and required no work on the existing shoulder slope.” *Forbes v. Cockerham*, 2008-0762 (La. 1/21/09), 5 So. 3d 839.

The big tent. *Canvas* is a coarse material of which tents are made, or on which artists paint. When police go around the neighborhood *soliciting* information about a crime, it’s a *canvass*. When a court recently wrote, “Det. Pardo * * * delegated certain police personnel to *canvas* the area,” the reader could reasonably think, Now *that’s* a big tent! *State v. Lewis*, 2012-0803 (La. App. 4 Cir. 9/25/13), 125 So. 3d 1252. It was a big *canvass*, at least.

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When: Wednesday, January 25 from 12:00 Noon to 1:00 p.m.

Where: Petroleum Club (15th floor)

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Jeffrey Gauger is a longtime newspaper editor with deep experience in leading watchdog reporting projects and in lifting news teams to greater digital competence and confidence. He has been executive editor of *The Times* of Shreveport, part of the *USA Today Network*, since August 2016. He previously served as editor and publisher of the *News & Record* in Greensboro, N.C. (2012-2016), and of *The Repository* in Canton, Ohio (2007-2012). Earlier, he was managing editor of the Rockford (Ill.) *Register-Star* (2005-2007). He worked at the Omaha (Neb.) *World-Herald* for 17 years (1985-1995 and 2000-2007) as a reporter, metro editor and assistant managing editor for news. As a reporter while at the *World-Herald*, he was sent to Saudi Arabia to cover the first Gulf War.

Jeffrey and his wife, Elizabeth, owned and operated two weekly newspapers in Leavenworth and Cashmere, Wash., from 1995 to 2000. They still hold a minority interest in the company, which now publishes four community weeklies and one business monthly. Jeffrey grew up in Washington State. He holds a bachelor’s degree in history from the University of Puget Sound in Tacoma, Wash., and a master’s degree in journalism from Northwestern University in Evanston, Ill. He and his wife have two teenage daughters.

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