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COLLINS J. SEITZ

ARLIN M. ADAMS†

Writing an encomium for Chief Judge Seitz is a perplexing task, for the man who steps down as the administrative head of our Circuit has never sought publicity or praise. To declare, as we judges so often do in honoring a colleague, that the honoree embodies the virtues of Thomas More and the wisdom of Solomon is to do violence to the quiet humility that has made Judge Seitz's many achievements so remarkable.

Simply put, Collins Seitz is an uncommon man. He has never sought acclaim or the empty affirmation of others; he has led a life based on the kind of moderation that the ancients called noble. As a result, in a career filled with honors, there is little distinction between the public and private sides of Chief Judge Seitz. In each sphere he acts for himself, not in the egotistical manner we moderns have come to associate with self-centered activity, but according to the older and more lofty code that cautions above all else "to thine own self be true."<sup>1</sup> The effect is a life marked by courage and tempered by prudence and restraint.

Judge Seitz is one of those men who seek to avoid conflict, but

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† Circuit Judge, United States Court of Appeals for the Third Circuit. B.S. 1941, Temple University; LL.B. 1947, M.A. 1950, L.H.D. 1966, University of Pennsylvania.

<sup>1</sup> W. SHAKESPEARE, HAMLET, act I, scene 3, line 38.

who squarely face a crisis when their sworn duty makes them responsible to those who call for justice.<sup>2</sup> When praised, that kind of person blushes, a response so many of us have forgotten in our quest for fame and recognition. At the risk of causing such a blush, I must read the words of another Chief Judge, Lord Mansfield, and ask those who know Judge Seitz whether they recognize in this passage a reflection of the person the *Law Review* honors today.

I wish popularity: but, it is that popularity which follows; not that which is run after. It is that popularity which, sooner or later, never fails to do justice to the pursuit of noble ends, by noble means. I will not do that which my conscience tells me is wrong, upon this occasion; to gain the huzzas of thousands, or the daily praise of all the papers which come from the press: I will not avoid doing what I think is right; though it should draw on me the whole artillery of libels; all that falsehood and malice can invent, or the credulity of a deluded populace can swallow.<sup>3</sup>

Collins Seitz has meant many things to us, but above all he has been a model judge, a leader of this Circuit, and a good citizen.

As a judge, he has been intrepid in his concern for those seeking vindication of their fundamental rights as human beings. I will leave the details of that story to those more familiar than I with the role played by the young Vice-Chancellor of the State of Delaware in the historic struggles that have given content to the ideals underlying our democracy. My primary theme is Collins Seitz as a private, unassuming man, because one can expect and demand courage in troubled times only from someone who strives for virtue in the details of everyday life.

Collins Seitz has always striven to be a good judge, and to seek perfection in this role is to seek virtue. To be a good judge, one must attend to the sometimes petty details of a litigant's claim as though they involved the judge's own concerns; at the same time, the good judge must remain disinterested so as to be able to espy in ordinary disputes principles of justice that go beyond the controversies which litigants often bring to court. One of the great trial lawyers of our day saw these seemingly contradictory traits in Collins Seitz as he argued before the judge in a complicated securities case and pleaded that the law not become so hidebound through *stare decisis* as to lend its imprimatur to

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<sup>2</sup> See, e.g., *Belton v. Gebhart*, 32 Del. Ch. 343, 87 A.2d 862, *aff'd*, 33 Del. Ch. 144, 91 A.2d 137 (1952), *aff'd sub. nom.* *Brown v. Board of Educ.*, 347 U.S. 483 (1954); *Parker v. Univ. of Delaware*, 31 Del. Ch. 381, 75 A.2d 225 (1950).

<sup>3</sup> *R. v. Wilkes*, 98 Eng. Rep. 327, 347 (1770).

injustice. That which makes Judge Seitz so singular, that lawyer wrote, is a serenity that cannot "disguise his enthusiasm . . . as he listens to the argument with eager patience."<sup>4</sup> Never before had counsel seen "greater concentration in repose."<sup>5</sup>

Underlying that attentive repose, and perhaps just another way of describing it, is a kindness and gentility that all of us who have had the honor of working with him as Chief Judge have come to respect and admire. These virtues made it all the easier for Judge Seitz to lead his sometimes reluctant colleagues in keeping this Circuit abreast with the rapid changes of our day. Although the number of appeals filed annually has more than doubled during his tenure as chief administrator, no Circuit has a better record in hearing and resolving disputes. And most importantly, this efficiency has not come at the expense of the litigants. Under his leadership the Court has pioneered in the use of computers and electronic devices that make possible more effective communication among the chambers. Opinions can now be circulated to the full Court before they become public, and individual judges more readily come to understand and feel responsible for this Circuit as an institution. Only those judges know the importance of the chief administrator in the functioning of the Third Circuit, and only they know the grace and skill which Judge Seitz has shown in shouldering this considerable burden. He is responsible for shepherding a case from the time it is first filed to its ultimate disposition. Cases must be distributed to panels, motions must be ruled upon, panels assigned, arguments heard, and the underlying dispute finally resolved. We have a rule under which a written judgment must issue within ninety days of argument, and, largely through Judge Seitz's efforts, the Third Circuit has had more success than any other federal appellate court in meeting the salutary requirements of that rule.

Judge Seitz was also instrumental in having adopted our Internal Operating Procedures and, more significantly, in insisting that they be made public—the first time that the day-to-day mechanics of a major appellate court were disclosed to the bar, to the litigants, and to the public. Through his efforts, district court judges have come to participate significantly in our Circuit Conference and to sit regularly on our panels. He created the Lawyers' Advisory Committee, which has done so much to assist the bench and bar in understanding each other's problems, and he assumed leadership in establishing a set of rules by which complaints against judges can be investigated and determined.

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<sup>4</sup> L. NIZER, *MY LIFE IN COURT* 502 (1961).

<sup>5</sup> *Id.*

Many believe it is the best set of rules of its kind. He has also supervised the creation of a library system that has dramatically improved access to information, while saving taxpayers a substantial sum. None of these achievements will receive much public acclaim or even notice, but they are all valued highly by those who know their true import.

There is also an intangible aspect of his leadership role. Throughout his tenure he has revered the Court as an institution. He believes that its influence depends primarily on the thoroughness, integrity, and disinterestedness with which its members perform their duties. Force of reason, he insists, is the only dependable basis for the appropriate discharge of the Court's task. For these reasons, more than any other, the Court has been the overwhelming interest of his life over the past decade.

Finally, I must say a few words about Judge Seitz as a citizen of this Circuit. He has been a teacher at our law schools and an advisor to their administrators. He was state chairman of a presidential conference on children and is an active member of his church. He is a loving husband, a tender father, and a staunch and warm friend. I suspect that much of Collins Seitz's good works can be traced to a quiet piety based on a deep faith and grounded in a sense of religious duty to his fellow men and women. He exercises a unique influence over the lives of men and women, young and old, who come to him seeking advice and inspiration. More often than not, he revives their faith that, in a world beset by declining standards, right, justice, and truth are still the guiding principles of human behavior.

I am personally thankful for having had the opportunity to be associated with one who stands so high in our profession, with one who stands out so clearly in the community. I have had the opportunity, as few others have, to see those "little, nameless, unremembered, acts [o]f kindness and of love," which, in Wordsworth's phrase, mark "that best portion of a good man's life."<sup>6</sup> The fact that few others have had the occasion to see what Collins Seitz has meant to this Circuit does not diminish the quality of his achievement, though it certainly enhances the stature of the man. Instead of a public image crafted and controlled, he leaves behind a legacy of justice and compassion. Judge Seitz has been content to do the good, and for that we should all be grateful.

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<sup>6</sup> W. WORDSWORTH, *Lines Composed a Few Miles Above Tintern Abbey*, in *THE POETICAL WORKS OF WORDSWORTH* 206 (T. Hutchinson ed. 1939).

## COLLINS JACQUES SEITZ

WILLIAM J. BRENNAN, JR.†

Few judges ascend the bench of an important court at the youthful age of thirty-one. Collins J. Seitz, fresh from an outstanding scholastic record at the University of Virginia Law School, including editorship of its *Law Review*, and a short stint of practice in Wilmington, did so when in 1946, at the age of 31, he was appointed Vice Chancellor of the Delaware Chancery Court. That court is widely known and respected for the way it functions as an equity court with original jurisdiction over a vast range of legal problems affecting the multi-million-dollar lifelines of vast corporations organized under Delaware law. Vice Chancellor for over five years, and elevated to Chancellor in 1951, Judge Seitz crowded brilliant achievements in corporate law one upon another. He authored a large number of opinions covering the broad spectrum of corporate issues that erupted in a constant flow during his tenure. Those opinions, lucid and learned but eschewing legalese, earned him national recognition as "preeminent among the state judges of the nation as the consummate arbiter of corporate law."<sup>1</sup>

But it may be that most will regard his discharge of another vital Chancery Court responsibility—the protection of the civil rights of Negroes—as his still greater achievement. For he was the first state judge by court order to desegregate a state-financed university at the undergraduate level. His consideration of the case—*Parker v. University of Delaware*<sup>2</sup>—was perforce within the "separate but equal" restraints of *Plessy v. Ferguson*;<sup>3</sup> however, with courage rarely displayed by judges in those anxious times, after personally visiting the state's white and colored colleges, and finding the colored one "grossly inferior," he ordered the black plaintiffs admitted to the white university. His courage was noteworthy in that his nomination for promotion to Chancellor was shortly to be acted upon by the State Senate, and there were many of that Chamber who disapproved not only of the *Parker* decision but also of his many public statements which made known with clarity and directness his insistent support of desegregation movements. The State Senate, after some uncertainty, finally approved his nomination as Chancellor.

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† Associate Justice, United States Supreme Court. B.S. 1928, University of Pennsylvania; LL.B. 1931, Harvard University.

<sup>1</sup> R. KLUGER, *SIMPLE JUSTICE* 431 (1976).

<sup>2</sup> 31 Del. Ch. 381, 75 A.2d 225 (1950).

<sup>3</sup> 163 U.S. 537 (1896).

Four months later he was to preside in two separate Delaware cases brought by the NAACP to test the legality of segregated schools, one a combination grade school and high school, the other a primary school.<sup>4</sup> Originally filed in the United States District Court and transferred to the State Chancery Court, he justified his orders in the two cases on the ground that "when a plaintiff shows to the satisfaction of a court that there is an existing and continuing violation of the 'separate but equal' doctrine, he is entitled to have made available to him the State facilities which have been shown to be superior."<sup>5</sup> This was a breakthrough of significant proportions, leaving no doubt as to the constitutional unacceptability of segregation. The Delaware Supreme Court affirmed<sup>6</sup> and the United States Supreme Court included the two cases among the group that were argued with *Brown v. Board of Education*.<sup>7</sup> Both cases were affirmed, the only judgments of the entire group. We cannot know how influential Judge Seitz's views were in bringing the Court to its unanimous result in *Brown*; we can only feel assured that they played a persuasive role.

After more than twenty years on the Delaware bench, Judge Seitz came to the Federal Court of Appeals in 1966. He has been Chief Judge since 1971. His eighteen-year tenure on the Court of Appeals has been marked by his continued brilliant judicial performance. His colleagues and the bar are one in their respect and affection for him. Punctiliously fair and extremely kind, sensitive to the larger function of law in our turbulent and rapidly changing society, this friendly, modest man is more embarrassed than happy with praise. I happily declare, however, that I fully share the sentiment of his legion of admirers that Collins J. Seitz's thirty-eight years of outstanding judicial service have richly earned him his assured place in the pantheon of the eminent judges of our time.

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<sup>4</sup> *Belton v. Gebhart*, 32 Del. Ch. 343, 87 A.2d 862, *aff'd*, 33 Del. Ch. 144, 91 A.2d 137 (1952), *aff'd sub. nom. Brown v. Board of Educ.*, 347 U.S. 483 (1954).

<sup>5</sup> *Id.* at 359, 87 A.2d at 869.

<sup>6</sup> *Gebhart v. Belton*, 33 Del. Ch. 144, 91 A.2d 137 (1952), *aff'd sub. nom. Brown v. Board of Educ.*, 347 U.S. 483 (1954).

<sup>7</sup> 347 U.S. 483, 487 n.1, 494 n.10 (1954).

## COLLINS SEITZ: A NOBLE CAREER

STEPHEN B. BURBANK†

One who would honor Collins Seitz faces two problems at the outset: the lack of space in which to do justice to a very long and very distinguished career in the service of the law—a career that, happily, will continue—and the inadequacy of testimonial rhetoric to capture that career. The constraints of the forum render the first problem insurmountable, although in combination these tributes suggest the measure of the man's accomplishments. The answer to the second, it seems to me, lies in following Chief Judge Seitz's example by letting his actions speak for themselves.

## I

In 1950, as the young vice chancellor of Delaware, Collins Seitz was the first judge in the country to order the desegregation of the undergraduate programs of a state university.<sup>1</sup> In 1952, Seitz was the first judge in the county to order a segregated white public school to admit black children,<sup>2</sup> in a decision that Thurgood Marshall hailed as "the first real victory in our campaign to destroy segregation of American pupils in elementary and high schools."<sup>3</sup>

We would say that, given the temper of those times, such decisions required courage. Spinoza would say that they demonstrated nobility.<sup>4</sup> That Collins Seitz is possessed of uncommon courage, as well as uncommon commitment to the goal of racial justice, is plain from a bit of history not made by his opinions:

To pay tribute to the work of Father Lawless, lay Catholic Collins Seitz addressed the commencement exercises at Salesianum in early June of 1951—an event that on its face should have been no more newsworthy than 10,000 other

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† Associate Professor of Law and Associate Dean, University of Pennsylvania. A.B. 1968, J.D. 1973, Harvard University.

<sup>1</sup> *Parker v. University of Delaware*, 31 Del. Ch. 381, 75 A.2d 225 (1950).

<sup>2</sup> *Belton v. Gebhart*, 32 Del. Ch. 343, 87 A.2d 862, *aff'd*, 33 Del. Ch., 144, 91 A.2d 137 (1952), *aff'd sub nom.* 347 U.S. 483 (1954).

<sup>3</sup> R. KLUGER, *SIMPLE JUSTICE* 449 (1976).

<sup>4</sup> "I classify under courage those activities that are directed solely to the advantage of the agent, and those that are directed to the advantage of another I classify under nobility. So self-control, sobriety, and resourcefulness . . . are kinds of courage; Courtesy . . . and Mercy . . . are kinds of nobility." B. SPINOZA, *THE ETHICS*, Part III, Prop. 59, *reprinted in* B. SPINOZA, *THE ETHICS AND SELECTED LETTERS* 141 (S. Shirley trans., S. Feldman ed. 1982).

such graduation-day speeches given at that time of year across America. But the words of the vice chancellor of Delaware proved electric. He spoke out, as he was wont to do in his court opinions, with clarity and directness on a subject that was one of Delaware's great taboos—the subjugated state of its Negroes. What made Seitz's words more than rhetoric was the risk they entailed for their speaker: the vice chancellor had just been nominated by the governor to become the new chancellor of Delaware—an appointment that had to be approved by the State Senate. And the Senate remained, as it had historically been, in the grip of anti-black downstaters.<sup>5</sup>

To those who are aware of this history, it comes as no surprise that, many years before the Judicial Conference of the United States went on record in favor of the adoption of affirmative action plans for court personnel, Chief Judge Seitz had such a plan in operation in his court.

## II

In 1980 Congress passed a statute establishing a formal mechanism for considering complaints of misconduct or disability against federal judges and magistrates.<sup>6</sup> Bills on this subject had been vigorously opposed by many federal judges since Watergate and its attendant concern for public accountability revived the legislative effort. Congress sought to accommodate concerns about separation of powers and judicial independence by fashioning a vehicle for self-regulation and by hewing as closely as possible to the existing model of decentralized judicial administration.<sup>7</sup>

The efforts of the judicial councils of the circuits in implementing this statute to date are, on the whole, seriously deficient. Quite apart from the councils' rules, their rulemaking processes and provisions for public information bespeak insularity and lack of candor.<sup>8</sup> The Third Circuit Judicial Council, led by Chief Judge Seitz, has proved a notable exception. Chief Judge Seitz retained reporters to assist the council in drafting rules; he established a special committee, including members

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<sup>5</sup> R. KLUGER, *supra* note 3, at 432.

<sup>6</sup> Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, Pub. L. No. 96-458, 94 Stat. 2035 (1980) (effective Oct. 1, 1981).

<sup>7</sup> See Burbank, *Procedural Rulemaking Under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980*, 131 U. PA. L. REV. 283, 291-308 (1982).

<sup>8</sup> See *id.* at 340-43.

of the bar, to work with the reporters and to make recommendations to the Council; he caused a draft of the rules with commentary to be published for comment; and he ensured that the rules approved by the Council were made widely available (they have recently been published with the rules and procedures of the Court of Appeals and the Judicial Council).

As one of the reporters of the Third Circuit Council's rules, I was impressed by the clarity of Chief Judge Seitz's vision that public accountability need not be inconsistent with—and indeed may help to ensure—judicial independence. Since that time, I have come to realize that, however unusual his efforts in the context of implementing this statute, they were but the logical extension of his quest for broadly based consultation in the formulation of procedure and for the public accessibility of consequential legal rules and policies.<sup>9</sup>

Collins Seitz once taught at this school. Student evaluations, if they ever existed, do not survive. But those of us who have been fortunate to know Chief Judge Seitz—through his opinions and in person—are all his students. He teaches us that it is still possible for one decent and clear-thinking individual to make a difference. In honoring Collins Seitz, we thank him as well for imparting more effectively than any course could this most important lesson.

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<sup>9</sup> See Burger, *Collins Seitz and Judicial Administration*, 132 U. PA. L. REV. 1284 (1984).

## COLLINS SEITZ AND JUDICIAL ADMINISTRATION

WARREN E. BURGER†

Following a distinguished twenty-year career as a state court judge in Delaware, Collins J. Seitz was appointed to the Court of Appeals for the Third Circuit on June 9, 1966. Five years later he became Chief Judge of that Court. Thus, for more than two thirds of his federal judicial service, Chief Judge Seitz has borne the responsibility for leadership of his court in matters of administration. That leadership has been extraordinarily innovative, and his innovations remarkably successful.

Shortly after Chief Judge Seitz took office, his court, faced with a sharp increase in appellate filings, undertook a time study with the assistance of the Federal Judicial Center. For a year, each judge and law clerk kept detailed time records, keyed to case numbers and divided into functions, in order to determine how the real time available to judges was being spent, and how that process could be made more efficient. This was the first such study ever undertaken by an appellate court, and the results were relied upon in revising the court's internal operating procedures. Federal judges, in particular, are notoriously independent in how they work, and it is due in large measure to Chief Judge Seitz's qualities of tact and persuasiveness that the participating judges agreed to submit, for a year, to the discipline of an organized time study of their operations.

Results of the time study suggested other Third Circuit innovations; in particular, its practice of having the panel responsible for disposition of the case determine whether or not oral argument should be required, and its practice of disposing of many cases that lack precedential value summarily by judgment order rather than by published opinion. These practices enabled the court to increase the number of cases submitted to each panel, while keeping the number of panel sittings within reasonable bounds.

In another innovative collaboration with the Federal Judicial Center, his court, with judges residing in several cities, was the first in the country to use electronic mail in the federal system. Combining word processing flexibility with instant telecommunications, electronic mail within the court has increased efficiency and collegiality. This pioneering experiment is now being put in practice in other Courts of

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† Chief Justice, United States Supreme Court. LL.B 1931, LL.D 1964, St. Paul College of Law (now William Mitchell College of Law).

## Appeals.

Because he is a firm believer in making the operations of the judiciary as open to public scrutiny as is consistent with the requirement of the deliberative process, Chief Judge Seitz encouraged the court to agree that its operating procedures should be published and distributed to the bar. His court was the first Circuit Court to take that step, which has been greeted in the profession with universal approval. In 1982 Congress made this innovation mandatory for all Courts of Appeals. He is also committed to the principle that those directly affected by decisions on court administration should have an opportunity to participate in formulating policies and procedures. Early in his tenure as Chief, he encouraged the court to adopt the practice of publishing proposed rules and asking for comment from the bar before they were adopted. He also encouraged the Circuit Council, which is responsible for the administration of the business of the courts in the Circuit, to adopt formal published rules of procedure. Finally, he encouraged the creation of a Lawyers Advisory Committee, the membership of which includes active practitioners in each of the District Courts. Again, in 1982 Congress passed legislation requiring all Courts of Appeals to appoint advisory committees for the study of their rules of practice and internal operating procedures.

Under Chief Judge Seitz's leadership, the judges have achieved the notable distinction, over the years, of having the lowest number of cases under submission after argument for more than sixty days of any of the circuits. At the same time, each active Circuit Judge participates in an extraordinarily high number of fully briefed appellate dispositions. This dedication to consistent individual effort is due in no small measure to the Chief Judge's qualities of leadership. He leads by persuasion and example, and as a result the court, although well known for vigorous debate on substantive issues, functions with remarkable harmony in matters of administration. Occasionally a voice is heard arguing that justice and efficiency in judicial administration are incompatible goals. Collins Seitz's distinguished career is proof that, in sensitive hands, efficiency is the servant of justice.

For more than a decade Collins Seitz, as Chief Judge, represented his Circuit on the Judicial Conference of the United States where his quiet voice and thoughtful analyses contributed much to that body. We shall miss his wise counsel.

## COLLINS J. SEITZ

## EDMUND N. CARPENTER, II†

Distinguished jurist, eminent scholar, and accomplished court executive, Chief Judge Seitz was the pride of Delaware long before his tenure on the United States Court of Appeals even commenced. Our admiration for his many achievements has been amplified by the warm affection felt for him by the members of the Delaware Bar. Judge Seitz had already established a brilliant reputation in our own Delaware Court of Chancery prior to his elevation to the Federal Court of Appeals in 1966. During his long service on the Delaware Court (1946-1966), his distinguished opinions in all areas, but most especially in the fields of corporation law and civil rights, created an unsurpassed legacy. That service as Vice Chancellor and as Chancellor in this state, where he was the youngest appointee to the State Judiciary in over 100 years, would have made him a preeminent figure in Delaware's legal history even if he had gone no further. Now he has added to those achievements by his outstanding work on the United States Court of Appeals for the Third Circuit.

Chief Judge Seitz's service to the cause of justice and his talent for developing new ways of improving the availability of justice for all people has never been confined to the courtroom. He was Chairman of the Delaware State Bar Association Committee which recommended the creation of the Legal Aid Society of Delaware, a new idea at the time. For many years he was a trustee and a treasurer of that organization, a forerunner of the Community Legal Aid Society, Inc., which today continues to provide legal service to those unable to afford needed professional guidance. And he was a very active participant in the creation of the Delaware Lawyers Reference Bureau which, for the first time, provided an organized plan for locating an attorney for a person otherwise unable to find one.

That tradition of service continues even today, despite the crushing burdens of the United States Court of Appeals for the Third Circuit. Chief Judge Seitz is currently a member of the Board of Directors of the American Judicature Society, a nationwide organization dedicated to the improvement of the administration of justice.

Delaware lawyers join with jurists, attorneys and citizens every-

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† Past President, Delaware State Bar Association. B.A. 1943, Princeton University; LL.B. 1948, Harvard University.

where in applauding Chief Judge Seitz's distinguished tenure as the leader of the United States Court of Appeals for the Third Circuit.

## COLLINS J. SEITZ

WILLIAM DUFFY†

I am honored, and very pleased, to join with the *Law Review* in this celebration of Chief Judge Seitz. He has long been the leader of a great Court of the United States, but I know him best as a cherished friend and a brilliant Delaware lawyer, and I write from that vantage point.

In character, learning, and personality Collins Seitz is, in my view, the ideal judge. I have known him for more than forty years, but I have never heard him express any professional goal as lawyer or judge. Indeed, it is apparent from his life and work that his only personal goal is to serve others through the judicial system. And he has done and is doing that in a distinguished manner rarely matched in the history of our State.

My first memory of Collins is that of a lively senior at the University of Delaware, a campus leader whose good nature was accompanied by an alert and inquisitive intellect. Then, as now, his eyes and his face instantly indicated when his mind was engaged or his curiosity aroused. Then, as now, he spoke directly but gently (usually!) about his convictions as to principles, issues, or people. And the energy and discipline required for a successful career at the Bar were already apparent.

After only a few years in the practice of law, at age thirty-one, Collins was appointed to the office of Vice Chancellor—our youngest jurist in more than a hundred years. Neither gold nor the allure of other public service ever attracted him and, happily for Delaware and the Nation, Collins has remained a judge for some thirty-eight years.

He served for over twenty years in the Delaware Court of Chancery, fifteen of them as Chancellor, and thus the chief trial judge in the State. During his tenure, Collins presided over some of the most complex corporate cases in our history, including the contest for command of a great circus, *Ringling v. Ringling Bros.-Barnum & Bailey Combined Shows*;<sup>1</sup> the battle for control of the Loew's (MGM) motion picture empire, *Campbell v. Loew's Inc.*;<sup>2</sup> and the longest trial in Delaware corporate history, *Bata v. Hill*,<sup>3</sup> in which the fate of the world-

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† Justice (Retired), Supreme Court of Delaware. A.B. 1940, University of Delaware; LL.B. 1948, University of Pennsylvania.

<sup>1</sup> 29 Del. Ch. 318, 49 A.2d 603 (1946), *modified*, 29 Del. Ch. 610, 53 A.2d 441 (1947).

<sup>2</sup> 36 Del. Ch. 563, 134 A.2d 852 (1957).

<sup>3</sup> 37 Del. Ch. 96, 139 A.2d 159 (1958), *aff'd with modifications*, 39 Del. Ch. 258, 163 A.2d 493 (1960), *cert. denied*, 366 U.S. 964 (1961).

wide Bata Shoe Company was at stake.

Louis Nizer represented the directors of MGM in the Loew's litigation and in an autobiography, *My Life in Court*, he wrote at some length of his experience in that case. In part, he wrote this about Collins:

Chancellor Collins J. Seitz is remarkably young to have attained a judicial post of such eminence. He is about fifty years of age and his neatly side-parted, straight, shining black hair and clean-cut, pale, even features made him look even younger, if not at times boyish. His chief characteristic is serenity, but even it cannot disguise his enthusiasm for the task as he listens to the argument with eager patience. Even if one had not read his lucid and learned opinions in other cases, one would be deeply impressed with the Judge before him.

. . . .  
I have never seen greater concentration in repose.<sup>4</sup>

That judgment was certainly shared by many other lawyers around the country, a point made by Richard Kluger in *Simple Justice* in which he discussed Collins's judicial work after appointment: "He would eventually become pre-eminent among the state judges of the nation as the consummate arbiter of corporate law, and his court was sought out by attorneys eager to find a judge capable of untangling particularly labyrinthine disputes."<sup>5</sup>

But the Delaware Court of Chancery is more than a commercial law court. It is a common law court of equity and, sooner or later, many community controversies are litigated there. The Court is, as someone has said, a "crisis" court. Racial prejudice generated such controversies and lawsuits while Collins Seitz was Chancellor.

In 1950 in *Parker v. University of Delaware*<sup>6</sup> he ordered the University of Delaware to admit Negroes at a time when the State Constitution required separate schools for black and white students and when segregation was a fact of life in movie theatres, hotels, restaurants, and employment. The Trustees of the University accepted the order by Chancellor Seitz and did not appeal his decision. A young judge, driven by his sense of what was right, Collins thus began the process which turned the State around after two hundred years of segregated education.

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<sup>4</sup> L. NIZER, *MY LIFE IN COURT* 502 (1961).

<sup>5</sup> R. KLUGER, *SIMPLE JUSTICE* 431 (1976).

<sup>6</sup> 31 Del. Ch. 381, 75 A.2d 225 (1950).

That same conviction was expressed again, just two years later, in *Belton v. Gebhart*,<sup>7</sup> in which he concluded that the separate but equal doctrine should be rejected because the result was that black children received "educational opportunities which are substantially inferior to those available to white children otherwise similarly situated."<sup>8</sup> Given the then prevailing law established by the United States Supreme Court, Chancellor Seitz based his ruling, not on his conclusions as to segregation *per se*, but on the right of black children to immediate admission to white schools shown to be superior. His conclusion as to segregated education, however, anticipated the ruling made when, on appeal, the case reached the Supreme Court of the United States, which determined, in *Brown v. Board of Education*,<sup>9</sup> that "[s]eparate educational facilities are inherently unequal."<sup>10</sup>

In *Simple Justice*, which is a detailed study of the cases leading to the decision in *Brown*, Richard Kluger wrote this about Collins's opinion in *Belton*: "For the first time, a segregated white public school in America had been ordered by court of law to admit black children. 'This is the first real victory in our campaign to destroy segregation of American pupils in elementary and high schools,' Thurgood Marshall announced to the press."<sup>11</sup>

The ruling came from a judge who Kluger described as calm, clearheaded, with "uncommon intellectual capacity" and with an "ability to write in easy-to-follow non-legalese on even the most complex of topics."<sup>12</sup> And recognizing the realities of community opinion, Kluger noted particularly the need for a courageous judge but, he continued, "Collins Seitz [was] a man whose courage seemed to need little shoring up."<sup>13</sup> Delaware lawyers who have known Collins Seitz over the years certainly agree with that assessment.

If these comments suggest that Collins is his own man, that is correct. He most certainly is. But if they suggest that he is an iconoclast or that he is indifferent to the impact of the judicial system on others, that is not correct.

Erasmus wrote of St. Thomas More, the *Man for All Seasons* who was the first layman to serve as Chancellor of England, that "[h]e

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<sup>7</sup> 32 Del. Ch. 343, 87 A.2d 862, *aff'd*, 33 Del. Ch. 144, 91 A.2d 137 (1952), *aff'd sub nom.* *Brown v. Board of Educ.*, 347 U.S. 483 (1954).

<sup>8</sup> 32 Del. Ch. at 349; 87 A.2d at 865.

<sup>9</sup> 347 U.S. 483 (1954).

<sup>10</sup> *Brown*, 347 U.S. at 495.

<sup>11</sup> R. KLUGER, *SIMPLE JUSTICE* 449 (1976).

<sup>12</sup> *Id.* at 431.

<sup>13</sup> *Id.* at 436.

seems to be born and made for friendship."<sup>14</sup> And so with Collins. He is the most natural of men with persons of all circumstances. And it is his capacity for friendship which, I think, has made him sensitive to the special problems of people who become involved with the judicial process. He has never been an ivory tower judge. Indeed, he has always been in agreeable contact with the community and the Bar. And no one in our State has been more available to the public and to lawyers for the discussion of law, the judicial process, and the administration of the business of the courts. Working out an accommodation between the detachment required for independent judicial judgment and involvement in community life is not easy for a judge in a relatively small state. But Collins has managed it well for many years. Perhaps his ability to laugh at himself is in perfect balance with an independent spirit that is somehow understood by lawyers and laymen alike. But whatever the reason, he has made the tough decisions as judge while earning the affection of many, many people.

Some years ago Raïssa Maritain wrote an essay on what she called the ascent of conscience from Abraham to Moses. It seems to me that Chief Judge Seitz's view of the law, its processes, and its administration visualizes a similar evolution; that is, an ascending standard by which we govern our interpersonal, our community, and our governmental lives. In our State, no one has done more than Collins Seitz to raise those standards through use of the judicial process. And no one has given more to judicial service than he—and no one has sought less from it.

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<sup>14</sup> 3 THE EPISTLES OF ERASMUS 391 (F. Nichols trans. 1918).