



## Presidents' Columns

By Amanda Green Alexander  
*Past President*



### A View of our YEAR!!

This year's theme was *Leading and Inspiring Positive Change in Our Community and Our Profession*. Gandhi once wrote, "Be the change you want to see in the world." This

year, CABA and its members inspired great things in our community and our profession. As I reflect on the importance of CABA, I am reminded often that our organization is the largest local bar association in the state and as a profession and an association, we have both a tremendous influence and an enormous responsibility to lead. This year we reactivated and re-engaged our members to work together towards a common goal. We partnered with great bar associations that are doing great work, such as the Magnolia Bar Association, the MS Association for Justice and the MS Women Lawyers Association. We exceeded our membership projections this year. We welcomed new faces and treasured our regulars. We truly moved from the Bench, The Bar & Beyond.

By Mike Malouf, Jr.  
*President*



I am honored to serve as the President of the Capital Area Bar Association for the 2015-2016 year. We have a great Board in place, and we are eagerly seeking ways to improve our profession in the Jackson, Madison, and Rankin area.

I want to thank Amanda Green Alexander for her outstanding service as President of our association. During her tenure, CABA offered outstanding services to our members and to the community, including the Chamber Chats from the Bench & Bar committee, more opportunities for CLEs, a solo and small firm breakfast seminar, women's initiative events, golf and tennis tournaments, and the launch of the new Food from the Bar campaign. There is no doubt Amanda exceeded her goals of Leading and Inspiring Positive Change in Our Community and Our Profession.

During this next year, CABA will continue to emphasize civility, cooperation and high standards of professionalism towards clients

Continued on Next Page ...

## Inside

4

CABA Professionalism Award  
William Wright, 2015 Recipient

5

ABA President-Elect,  
Paulette Brown  
Featured at Evening Honoring the Judiciary

6

Evening Honoring the Judiciary  
View photos from this CABA event

10

Deciding King v. Burwell;  
Herein of the Proverbial Rose By  
Any Other Name

16

Roy Campbell to Serve As  
President of the Mississippi Bar

## Upcoming Events

### August 18

One-Hour CLE • 11:30 am, Capital Club

### October 20

Membership Meeting • Noon, Capital Club

### December 3

Christmas Social • 5:30 pm, Old Capitol Inn

The views expressed in the articles published are solely those of the authors and do not represent the views of CABA, its officers, directors, or staff.

# CABA Luncheon & CLE Meeting

August 18, 2015

11:30 am at the Capital Club

**\$15**

Lunch

for members & law clerks  
\$18 for guests



# Presidents' Columns

*continued from page 1*

## Amanda Green Alexander

Please take a moment to review Our Year at a Glance that outlines some of our great projects. To say we've been busy this year... well is a major understatement. I'm personally glad to have had a great board of directors who said sure we will jump in and sign off on MOST of the ideas. Thank you for the opportunity to serve this great organization. I anticipate that the upcoming year will be as exciting and I'm very excited to hand off the baton to Mike Malouf, Jr. who will continue to push CABA forward!!

Last, but certainly not least, I want to thank members of my firm who have experienced me running down the hall dashing off to CLE,

board meetings, etc. and to Amari Elizabeth, an honorary member of CABA, who has attended more golf tournaments, newsletter meetings and listened to far too many conference calls about CABA events than an eight year old should have to bear!!

When asked what it is required of us...it is to do justly, love mercy and walk humbly!

My kindest regard and thank you for the awesome privilege of serving as your President!

High Hopes and Great Expectations,  
Amanda Green Alexander,  
*Past President 2015-16* 🍀

## Mike Malouf, Jr.

and fellow attorneys. This has always been a mission statement of CABA, and we look forward to strengthening the relationship among our members with social events, community projects and membership meetings.

We also look forward to providing more community service projects. In addition to our annual projects, we will have several additional opportunities for you to get involved. These community service projects are invaluable to our community and to our association, so get involved! We look forward to a great year and we welcome your participation.

Thank you, Mike Malouf, Jr. 🍀

# OUR YEAR AT A GLANCE

By Amanda Green Alexander



CABA has truly moved from the Bench, The Bar & Beyond

### The Bench

How many times have you heard the complaint, "We have no idea what the judge wants." And how many times have you heard a judge say "You have no idea what I need, or what you are doing, do you?" Well, hopefully not.

But this year, our Bench & Bar Relations Committee, led by Judge Linda Anderson and Tianna Raby, kicked off a program to help us develop practical tips from the bench to aid in our practices.

The federal bench invited CABA members to participate in a series of quarterly "chamber

chats" which allowed us to visit with the federal court and engage in one on one interactions with the workings of the court.

Additionally, we teamed up with the Fifth Circuit Bar Association to co-sponsor a dinner chat with members of the Fifth Circuit and other federal judiciary.

As customary, we sought to honor our judges with our annual Evening Honoring the Judiciary. It is our culminating event of the year to honor our judiciary and members of the Bar who have maintained a commitment to the bar, the bench and beyond. There are more highlights of this great event in this issue of our newsletter.

### The Bar

CABA offered CLE's at every meeting thanks to Jennie Eichelberger and Marlena Pickering who help pull off the laundry list of CLE programs that mattered to me:

Our Legislative Update for the 2015 Session was all but calm as we heard from panelists Representative David Baria, Andy Taggart, Esq., and Jere Nash. Our panel was moderated by Moderator Jennifer Riley Collins, General Counsel/Executive Director of the ACLU of Mississippi.

We tackled intergenerational issues with a program titled "Tackling Intergenerational Management (or What to Do with Someone in Your Office That Has Never Seen Animal House)" by Will Manuel. While the room was filled with baby boomers, Gen Xers and millennials, we all seemed to take away many of the same thoughts — times are changing and we had better look up from our desks to explore more about each other.

Our solo and small firm practitioners voiced their concerns that they were overwhelmed in the practice and wanted resources, so this year, we embarked on the first installment of a new series entitled "Getting Help to Move Beyond

*Continued on next page...*

Administration to Enjoy the Practice.” Led by Gerald Mumford and Cody Gibson, the CABA Solo/Small Firm Committee held a one hour CLE with a great breakfast and vendors to assist in your practice including accountants, technology, insurance, banks and more.

Finally we wrapped up the year with a dynamic three hour CLE entitled “Shaking Things UP: A View from the Bench, the Bar and Beyond.” Of course that title could have described either a good CLE or a very interesting martini, but it was fantastic CLE. The panelists challenged us to not only consider our biases but to determine that they were both positive and negative biases that influence our decision making in our profession and our community. Panelists included members of the federal and state judiciary, practitioners, and even Judge Bernice Donald of the Sixth Circuit Court of Appeals, all of whom encouraged us to go beyond our profession and consider our impact as servant leaders. This event was co-sponsored by the Womens Caucus of the MS Association of Justice, Magnolia Bar and MWLA.

We also know how to party and network with each other. This year we welcomed new members to the bar with our Fall and Spring social and our women’s Initiative led by Wendy Ellard.

As all good leaders do, we ask people for help and as former President of the MS Women Lawyers Association, I knew we could depend on MWLA to co-sponsor great events. They

have been awesome! We also held a Women’s Initiative Social Collaboration with MWLA and the MAJ Women’s Caucus in the “Defense of Soles” Networking Event.

- MWLA Holiday Mix and Mingle Event: A social promoting female leadership in the legal profession and a book drive for Mississippi Children’s Home Services.
- Establishment of a separate listing of female CABA members: This list will be used to publicize future female member-only events and solicit additional support for our Women’s Initiatives Committee.

The Diversity Committee, led by LaVerne Edney and Tammy Brown, helped to co-sponsor a much needed CLE on the Role of the Grand Jury in the wake of Ferguson.

CABA continued its commitment to minority scholarships at MC Law School and The University of Mississippi Law School, established by former president Tom Alexander and named in honor of my dearest mentor-Reuben V. Anderson.

This year our annual Golf tournament was held to benefit the MS Volunteer Lawyers Project (MVLP). We created a new “President Circle” donation level where we challenged prior Presidents of CABA to donate to MVLP to allow a total donation to MVLP at nearly \$10,000.

The “Battle of the Barristers Tennis Tournament” returned on September 19-21,

2014 under the leadership of tennis guru Venecca Green Mason and her Committee. Competitors enjoyed three days of fellowship and fun on the tennis courts, and the proceeds benefitted MVLP.

CABA members gave back to the community through the CABA “Food from the Bar” Campaign, a new CABA initiative to provide food donations and/or fundraising campaign for MS Food Network to assist needy families in our communities. Led by Hewitt Jones and Michael Bentley, this initiative allows summer feeding program where children have an opportunity to have at least one meal each day while they are out from school. Sadly enough this may be their only meal, and we appreciate your support to help in this effort.

We’ve had great support by our Communications Committee Dellwyn Smith and Tiffany Grove along with rockstars like Pat Evans and Debbie Riddick to help get the word out about all the great things we are doing. We began discussions of website and other social media that will assist in communicating to our members.

Led by Laura Lawthorne and Jim Rosenblatt, we continued our efforts to participate in the Essay Writing Contest where we had three great essays from local elementary school. More information about the winners is included in this issue as well. ➡



## CABA June Membership Meeting

Roy Campbell, President-Elect of The Mississippi Bar Association, was the speaker at the June Membership Meeting.

Pictured are: Mike Malouf Jr., 2015-2016 CABA President and Roy Campbell, President-Elect of The Mississippi Bar Association.

# WILLIAM WRIGHT

RECIPIENT OF THE CABA 2015 PROFESSIONALISM AWARD

By Collins Wohner, Jr.



The CABA Professionalism Award recognizes a CABA member who, as practicing attorney, has demonstrated consistent adherence to professional standards of practice, ethics,

integrity, civility, and courtesy. The recipient is chosen by a committee that includes the senior judges or their designees, from each of the state and federal courts in the tri-county capital area that CABA serves. The Award recognizes a lawyer who has encouraged respect for, and avoided abuse of, the law and its procedures, participants, and processes;



who has shown commitment to the practice as a learned profession, and to the vigorous representation of clients; and who has made a significant contribution to public service.

CABA received a large number of

qualified and impressive nominees this year. The committee initially bemoaned the task of choosing one among them. But then several judges and others spoke, based on years of personal observations, of the work, professionalism and unfailing courtesy of this year's honoree. After one preliminary vote, the decision was by acclamation.

This year's recipient has demonstrated the highest adherence to the standards of ethics, integrity, civility, and courtesy. He has done so consistently, for four decades and counting, in the emotional field of family law, including divorce and child custody cases, where these traits are not always easily demonstrated or maintained. He has consistently encouraged both the parties and their lawyers to have respect for the law and its processes.

William Wright was born in Jackson. He graduated from Murrah High School, received a B.A. and an M.B.A. from the University of Southern Mississippi, served as lieutenant in the United States Army with the 1st Infantry Division, and then earned his law degree from Ole Miss in 1974, where he was business manager of the Law Review.

He practices with Wright Law Firm, in Ridgeland, a firm of five lawyers with a statewide practice limited to the field of family law. William and his firm have been honored for their work in ways too numerous to list tonight. To mention just some of them, William is one of three Mississippi fellows in the American Academy of Matrimonial Lawyers, the state's only fellow in the International Academy of Matrimonial Lawyers, and one of only 100



U.S. family lawyers who are diplomats in the American College of Family Trial Lawyers. He was recently named a Fellow of the American Bar Foundation.

William's service to the bar includes: service on the Taxation Committee of the Family Law Section of the ABA; two terms as Chairman of the Family Law Section of the Mississippi Bar; service on the Board of Trustees of the Mississippi Bar Foundation, as a Mississippi Bar Commissioner, and on the Committee on Professional Responsibility. He is also a past President of CABA.

William has a long list of other public service, including service as Chairman of the Board the Metropolitan Jackson YMCA, and of the Downtown YMCA; and service on the boards of The Shepherd's Staff Counseling Center, the Neighborhood Christian Center, and Covenant Presbyterian Preschool.

William and his wife, DeAnn, are the proud parents of two daughters. Julia is a graduate student at Reformed Theological Seminary, and Anna is a pharmacy student at Ole Miss. 🏠

## CABA Professionalism Award

Each nominee for the CABA Professionalism Award must be a practicing attorney who demonstrates consistent adherence to the professional standards of practice, ethics, integrity, civility, and courtesy; encourages respect for, and avoided abuse of, the law and its procedures, participants, and processes; and shows a commitment to the practice as a learned profession, to the vigorous representation of clients, and to the attainment of the highest levels of knowledge and skill in the law and contributed significant time and resources to public service.

### Past recipients of the CABA Professionalism Award:

Beth Orlansky  
Steve Orlansky  
David Kaufman  
Robert Gibbs

Barry Ford  
John Henegan  
Ben Piazza  
Barry Powell

Christy Jones  
John Corlew  
Gee Ogletree  
William Winter

Louis Watson  
Tom Crockett  
Alex Alston  
George Hewes

William Goodman  
Reuben Anderson  
Harold Miller

# ABA PRESIDENT-ELECT PAULETTE BROWN

*Featured at Evening Honoring the Judiciary*



Paulette Brown, President-Elect of the American Bar Association, delivered the keynote address at the Capital Area Bar Association’s Evening Honoring the Judiciary on Tuesday, May 5, 2015.

CABA President, Amanda Green Alexander, described the evening as, “one of our culminating events...It is an opportunity to honor our judiciary and members of the Bar who have maintained a commitment to the bar, the bench and beyond.”

Much of CABA’s focus this year has emphasized the importance of recognizing and appreciating differences. The organization hosted many educational program that addressed communications across generation lines, tackling gender and implicit biases, and effective communications in and out of the court. Ms. Brown’s invitation to serve as the keynote speaker for CABA’s Evening Honoring the Judiciary continued the emphasis on recognizing and appreciating differences.

Paulette Brown is the President-Elect of the American Bar Association. She is a partner with the labor and employment division of Locke Lord Edwards, where she also serves as the firm’s chief diversity officer. Prior to joining Locke Lord Edwards, Brown was

in-house counsel to a number of Fortune 500 companies and also served as a municipal court judge. In private practice, she has focused on all facets of labor and employment and commercial litigation.

Brown has been named as a New Jersey Super Lawyer and by US News as one of the Best Lawyers in America in the area of commercial litigation. She received the Spirit of Excellence Award from the ABA Commission on Racial and Ethnic Diversity in the Profession, and she was honored with the Margaret Brent Women Lawyers of Achievement Award by the ABA Commission on Women in the Profession. Brown earned her J.D. at Seton Hall University School of Law and her B.A. at Howard University.

Amanda Green Alexander used Ms. Brown’s ties to Mississippi when extending CABA’s invitation. Brown immediately made her connection to Mississippi, noting that she had not returned to Mississippi since her son’s graduation from Piney Woods School in Piney Woods, Mississippi in 2003. During her visit to Mississippi, President Brown also met with local and state bar leaders and Deans at the two Mississippi law schools. “It is a great honor to have the President-Elect to participate in our marquee event, and it is a personal privilege to

welcome her to Mississippi,” said Alexander. Given the overwhelmingly positive response to Ms. Brown’s remarks at the Evening Honoring the Judiciary, CABA hopes that this will not be her last visit to Mississippi. ➡



**READ MORE!**  
[www.caba.ms](http://www.caba.ms)

The graphic shows a laptop displaying the CABA website. The website features a banner for a "CABA Luncheon & CLE" on August 21, 2012, from 11:30 a.m. to 1:30 p.m. at the State Law Library of Mississippi. Other sections on the website include "Who is CABA?", "Calendar", and "STATE LAW LIBRARY OF MISSISSIPPI".

# An Evening HONORING the JUDICIARY Banquet

The Capital Area Bar Association and the Jackson Young Lawyers Association held their "Evening Honoring the Judiciary" on Tuesday, May 5, 2015 at the Country Club of Jackson. CABA members, honorees, and guests enjoyed a reception at 6:00 p.m followed by dinner at 7:00 p.m. This annual event recognizes our judiciary and the critical role of this co-equal branch of government in ensuring and preserving the rule of law established under our Federal and State constitutions.

Paulette Brown, President-Elect of the American Bar Association, presented the keynote address for the event.

## Recipients recognized

Simon Bailey, JYL Pro Bono Award

Abram Orlansky and Sam Gregory,  
JYL Outstanding Service Award

Gretchen W. Kimble, CABA Outstanding Service Award

Spencer M. Ritchie, CABA Pro Bono Award

William R. Wright, CABA Professionalism Award



- A** Abram Orlansky and Sam Gregory each received the JYL 2015 Outstanding Service Award
- B** The Gavel was passed from JYL President, Lindsay Thomas Dowdle to Lane Staines, JYL President-Elect
- C** William R. Wright received the CABA 2015 Professionalism Award
- D** Spencer M. Ritchie received the CABA 2015 Pro Bono Award, shown with President Amanda Green Alexander
- E** Gretchen W. Kimble received the CABA 2015 Outstanding Service Award, shown with President Amanda Green Alexander
- F** The Gavel was passed from CABA President, Amanda Green Alexander, to CABA President-Elect, Mike Malouf, Jr., shown with Pat Evans, CABA Executive Director

An Evening HONORING THE JUDICIARY *Banquet*



An Evening HONORING THE JUDICIARY *Banquet*



# CABA's First Annual FOOD *from the* BAR Food Drive is a Success!

By Amanda Green Alexander



CABA has successfully completed its first annual "Food from the Bar" food drive, in partnership with the Mississippi Food Network, the food bank serving central Mississippi. Over thirteen capital-area law firms participated in the drive, which was conducted in May 2015. CABA raised 1,586 pounds of food and \$315 in donations — the equivalent of 3,534 meals. The Mississippi Food Network will distribute these donations to Mississippians in need of

nourishment, including senior citizens and children who are out of school during the summer months.

CABA recognized the top contributors to the Food from the Bar drive at its June luncheon meeting. In the large firm category, the top three contributors were: Bradley Arant Boulton Cummings LLP, Baker Donelson, and Adams and Reese, LLP. In the small firm category, the top three contributors were Markow Walker, P.A., Alexander Law, P.A., and Griffin Jones Law Firm PLLC.

The program was coordinated by CABA's Community Outreach Committee, co-chaired by Hewitt Jones of the Griffin Jones Law Firm and Michael Bentley of Bradley Arant Boulton Cummings LLP.

## The thirteen participating firms were:

Adams and Reese  
Alexander Law  
Baker Donelson  
Bradley Arant Boulton Cummings  
Brunini Law Firm  
Butler Snow  
Carroll, Warren & Parker  
Forman Watkins Tardy & Krutz  
Griffin Jones Law Firm  
Markow Walker  
Watkins & Eager  
Wells Marble & Hurst  
Wise Carter Child & Caraway



- A** Representing the Alexander Law Firm, Bradley Arant and Griffin Jones; Mike Malouf, Jr.; Hewitt Jones; Amanda Green Alexander; and Michael Bentley
- B** Representing the Jackson office of Adams and Reese, Laura Rose and Austin Stewart
- C** Representing Baker Donelson are Welch, Hauberg, Maron and Edney; Mike Malouf, Jr.; Scottie Welch; Robert Hauberg; David Maron; Amanda Green Alexander; LaVerne Edney; Michael Bentley and Hewitt Jones, Co-Chairmen of the Food from the Bar Committee

# Deciding *King v. Burwell*

HEREIN OF THE PROVERBIAL ROSE BY ANY OTHER NAME

By Jimmy Robertson



Over the past ten years, Chief Justice John G. Roberts, Jr. has been a consistent, cautious conservative in construing and applying the Constitution. His dissent in *Obergefell v. Hodges*, decided June 26, 2015, is only the latest in a long, largely unbroken line.

The Chief has also established an admirable record as a judicial craftsman when it comes to the many non-constitutional cases to come before the Supreme Court. It is in this regard that on Thursday, June 25, 2015, the craftsman was at his best.

John Roberts also has a twinkle in his eye. He takes a light jab at the Congress, quoting an old Felix Frankfurter article on statutory construction, describing a cartoon “in which a senator tells his colleagues ‘I admit this new bill is too complicated to understand. We’ll just have to pass it to find out what it means.’”<sup>1</sup> And by the time you reach the bottom of page 17 of the slip opinion in *King v. Burwell*, all you can think of is what you see whenever you see Roberts live in person or on television, that pleasant and slightly impish smile.

There Roberts lays last the last plank in the legislative fact platform supporting the best meaning that can be divined for the pertinent parts of the Patient Protection and Affordable Care Act (“ACA”). A quote from Justice Scalia’s three years ago dissent in *National Federation of Independent Business*, the first Obamacare case, *viz.*, “Without the

federal subsidies...the exchanges would not operate as Congress intended and may not operate at all.”<sup>2</sup>

You just know the John Roberts who hurls that zinger has well in mind Hamlet’s quip, of one being “hoist on his own petard.”<sup>3</sup>

By and large, the Chief Justice’s majority opinion in *King* is straight down the fairway statutory construction, the conventional canons carefully applied. *King* is so plain vanilla that it would be decided the same way in almost every State. This includes our Mississippi, given its accepted canons of construction which long predate the familiar summary set out in 1952.<sup>4</sup>

But this is getting ahead of the story.

## Thursday, June 25, 2015

By mid-morning on June 25, 2015, I’d heard that the Supreme Court had decided *King v. Burwell*, rejecting a textual attack on the ACA by a six to three vote.

At noon I sampled the news channels, listing to pundits and politicians hold forth, pro and con. I followed the Internet traffic off and on the rest of the day, and back to television reports when I got home from work that afternoon.

Most striking, I took in about an hour of Fox News as one curmudgeon after another blasted Chief Justice John Roberts for betrayal, treason and worse.

Then, in the quiet of the next morning, I read and reflected on the 21 page slip opinion that had been authored by the Chief Justice. Zero commonality between what the pundits and curmudgeons were commenting, arguing and raving about, and what *King* actually says.

Had Charles Krauthammer read the opinion before he started telling us that Republican Presidents need to be more careful about who they appoint to the Supreme Court?

Had I printed a hard copy of the right case?

Yes, the first page of the slip opinion read KING ET AL. v. BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.; No. 14-114. Argued March 4, 2015 — Decided June 25, 2015.

I had the right case. I read it again.

## Garden Variety Construction of a Complex and at Times Inartfully Drafted Statute

Chief Justice Roberts’ opinion for the six Justice majority is Ned and the First Primmer, statutory construction. His ground rules and approach are practiced everywhere, with little or no controversy or exception taken.

To be sure, *King* construes a very complex statute. The analysis is meticulous, carefully crafted, much more so than in most statutory construction cases. It is attention-to-detail tough sledding for the uninitiated. In any other case, most lawyers would find it boring.

Imagine that *King* concerned a complex statute concerning farm subsidies, estate tax restructuring, or whatever low profile matter, and key parts of the text were awkward, confusingly worded. Imagine that the SCOTUS engaged the same canons of construction used in *King* and upheld this hypothetical inartful act of Congress.

There would be no media coverage, past a listing of the decision. Few would know or care beyond the parties to the particular case.

1. *King v. Burwell*, No. 14-114, 576 U.S. --- (2015), slip op. at 15 (U.S. June 25, 2015).  
 2. *National Federation of Independent Business*

*v. Sebelius*, 567 U.S. ----, ----, 132 S.Ct. 2566, 2674, 183 L.Ed.2d 450 (2012) (Scalia, Kennedy, Thomas and Alito, JJ., dissenting)

3. Shakespeare, *Hamlet*, Act III, Scene 4, line 207.  
 4. *Thornhill v. Ford*, 56 So.2d 23, 30 (Miss. 1952).

For reasons historians will ruminate about and discuss for decades to come, the ACA is not just another of the many complex acts of Congress that have been confusingly worded, inartfully drafted, and then enacted.

### Obamacare Rests on a Three Legged Stool

Chief Justice Roberts matter-of-factly explains the three legged healthcare reform stool upon which the ACA rests. He identifies each leg and explains it.

“Guaranteed issue.” Insurers are barred “from denying coverage to any person because of his health.”

“Community rating.” Insurers are barred “from charging a person higher premiums for the same reason.”

“Tax credits.” All persons are required “to buy insurance or pay a penalty,” with “tax credits” to make personal health insurance affordable by lower income people.

“These three reforms are closely intertwined.”<sup>5</sup>

### Obamacare is Grounded in Legislative Experience in the States

*King* gives a nice summary of twenty years of health care insurance reform efforts in the States. Different States tried differing strategies. Only one seemed to work.

Learning from other States, Massachusetts adopted a three prong reform: “insurance market regulation, a coverage mandate, and tax credits.”<sup>6</sup> And “reduced the uninsured rate in Massachusetts to 2.6 percent, by far the lowest in the Nation.”<sup>7</sup> The ACA “adopts a version of the three key reforms that made the Massachusetts system successful.”<sup>8</sup> One recalls those twin towers, Holmes and Brandeis, on the great value of the States’ prerogative

to experiment, *viz.*, that we may all have the benefit of “social experiments that an important part of the community desires [made] in the insulated chambers afforded by the several states, ...”<sup>9</sup>

“It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”<sup>10</sup>

And so the Congress enacted the ACA, modeled after the three legged stool built and practiced in the home state of Holmes and Brandeis.

### The Health Benefit Exchanges

The ACA requires an American Health Benefit Exchange for each State.<sup>11</sup> If a State chooses not to establish an Exchange, the Secretary of Health and Human Services “shall... establish and operate *such Exchange* within the State. § 18041(c)(1) (emphasis added).”

Plaintiffs in *King* said the words “an Exchange established by the State,” now codified in Section 36B of the Internal Revenue Code, do not include Exchanges established and operated by HHS within a State that has elected not to establish its own exchange. Everyone agrees that Plaintiffs’ view — were it accepted — would have devastating adverse effects on any hope that the ACA over time might achieve its goals.<sup>12</sup>

In States with HHS operated Exchanges, this construction would have eliminated lower income persons from those eligible for the tax credits designed to make sure they never have to spend more than eight per cent of their taxable income for individual health insurance.<sup>13</sup> For a variety of political and practical reasons, thirty-four States have not established their own Exchange. Rather, these State have allowed HHS “to establish and operate such Exchange within the State.”

### The Yawning Begins; Ambiguity Vel Non

Like all other judges, state and federal, the Chief Justice starts by studying the statutory text at issue to see if it is ambiguous. On its face and isolated, “Exchange established by the State” is pretty plain. It excludes the States who have not established their own Exchanges. But you can’t stop there.

There is an important nuance to this starting point. “But oftentimes, the ‘meaning — or ambiguity — of certain words or phrases may only become evident when placed in context.”<sup>14</sup> Again, a settled and heretofore uncontroversial approach to statutory construction.<sup>15</sup>

In Part II. A. of his *King* opinion, the Chief Justice meticulously applies the settled standards to the ACA text. The discussion is as boring as it is elementary, *e.g.*, a citation to Black’s Law Dictionary for the meaning of “such.”<sup>16</sup>

In the end, interpreting “such Exchange” to include both State operated and Federal HHS operated Exchanges “fits best with the statutory context.”<sup>17</sup>

“The upshot of all of this is that the phrase “an Exchange established by the State under [42 U.S.C. §18031] is properly viewed as ambiguous.”<sup>18</sup>

After several readings, I find this discussion and conclusion persuasive. Not that there is ever speed limit precision in any inquiry into whether an inartfully drafted statute is ambiguous enough. Or what to do if it is.

### More Yawns

How next to proceed is similarly settled and familiar. “Our duty ... is ‘to construe statutes, not isolated provisions.’”<sup>19</sup> “A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme.”<sup>20</sup> A meaning that may seem “plain ‘when viewed

5. *King*, slip op. at 4 and 16.

6. *Id.* at 3.

7. *Id.*

8. *Id.* at 4.

9. *Truax v. Corrigan*, 257 U. S. 312, 344 (1921) (Holmes, J., dissenting).

10. *New State Ice Co. v. Liebmann*, 285 U. S. 262, 311 (1932) (Brandeis, J., dissenting).

11. 42 U.S.C. § 18031(b)(1).

12. *King*, slip op. at 15-18.

13. *Id.* at 18.

14. *Id.* at 9.

15. *See, e.g., FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132-133 (2000).

16. *King*, slip op. at 10.

17. *Id.* at 12.

18. *Id.*

19. *Id.* at 9; *Graham County Soil and Water Conservation District v. United States ex rel. Wilson*, 559 U.S. 280, 290 (2010).

20. *King*, slip op. at 15; *United Sav. Assn. Of Tex. v. Timbers of Inwood Forest Associates, Ltd.*, 484 U. S. 365, 371 (1988).

in isolation,’ ... [may] turn[] out to be ‘untenable in light of [the statute] as a whole.’”<sup>21</sup> “A fair reading of legislation demands a fair understanding of the legislative plan.”<sup>22</sup> Nothing out of the ordinary here.

Mississippi’s version of these common sense premises is that the court should look to “the statute as a whole and ... the language used therein.”<sup>23</sup> The “statute should be given a reading ‘most coherent in principle, given the entire statutory scheme and the other valid rules in the field.’”<sup>24</sup>

*King* cites another sensible nuance to the proper approach to finding meaning in the context of ambiguity, *viz.*, where “only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.”<sup>25</sup> “We cannot interpret federal statutes to negate their own stated purposes.”<sup>26</sup> Surely this is unexceptionable.

In the end, the Chief Justice has left no doubt of his pedantic purpose, *viz.*, to discern from text and history what Congress was trying to do when it enacted the ACA, the reasons why Congress so enacted, and whether Congress could reasonably have “meant” the results that would most likely follow, if Plaintiffs prevailed.<sup>27</sup>

“It is implausible that Congress meant the Act to operate in this manner,”<sup>28</sup> after setting out the effects of Plaintiffs’ position. In the end, “Section 36B can fairly be read consistent with what we see as Congress’s plan, and that is the reading we adopt.”<sup>29</sup>

### Mississippi Canons of Statutory Construction Point to the Same Result

Less than an hour on Lexis or Westlaw should reassure Mississippians of *King*’s legality. If anything, canons of statutory construction in our state are more expansive than the federal canons.

For one, “we must read statutes sensibly even if it means correcting the statute’s literal language.”<sup>30</sup> It is settled Mississippi law that, “[i]f there exists ambiguity in the meaning of a statute, a court must uphold the legislature’s intent”<sup>31</sup> even though the letter of the statute is violated.<sup>32</sup>

For another, the Supreme Court of Mississippi long ago admonished that “In construing a statute of doubtful meaning, the consequences or any particular construction should be considered, whether they be good or bad.”<sup>33</sup> This constructional principle was still being recognized as recently as the late 1990s.<sup>34</sup>

The point has been put in other words beginning in the 1990s, *viz.*, “When construing a statute, all possible repercussions and consequences of the construction must be considered.”<sup>35</sup> This is just common horse sense.

Plaintiffs argued that the view *King* adopted would violate the canon against surplusage, *i.e.*, declaring the words “established by the State” unnecessary. The Chief Justice answered that the “canon against surplusage is not an absolute rule,” and explained why the canon was no impediment to *King*.<sup>36</sup> Our state takes the same view of the surplusage canon.<sup>37</sup>

### Where Avoidable, No Statute Should Be Construed to Defeat Its Purpose

In the end, *King* declares that “Congress passed the Affordable Care Act to improve health insurance markets, not to destroy them. If at all possible, we should interpret the Act in a way that is consistent with the former, and avoids the latter.”<sup>38</sup>

More than sixty years ago, the Supreme Court of Mississippi said essentially the same thing. “[I]f susceptible of more than one construction, ... a statute] must be given that which will best effect its purpose, rather than one which would defeat it, ... ”<sup>39</sup> As recently as 2010, the Court reiterated that powerful policy preference, and enforced it with effect.<sup>40</sup>

The Chief Justice has a nice finish in *King*. “In a democracy, the power to make the law resides with those chosen by the people ... [I]n every case we must respect the role of the Legislature, and take care not to undo what it has done.”<sup>41</sup>

Plain vanilla is still the best ice cream flavor.

### Chief Justice Roberts, a Postscript and an Object Lesson

On Friday, June 27, 2015, the SCOTUS handed down *Obergefell v. Hodges*, the same-sex marriage case. Nothing in Chief Justice Roberts’ dissenting opinion in *Obergefell* should have surprised anyone. Nor should his

21. *King*, slip op. at 20; *Department of Revenue of Ore. v. ACF Industries, Inc.*, 510 U.S. 332, 343 (1994).  
 22. *King*, slip op. at 21.  
 23. *Bailey v. Al-Mefty*, 807 So.2d 1203, 1206 (¶11) (Miss. 2001).  
 24. *Estate of Davis v. Davis*, 706 So.2d 244, 247 (¶12) (Miss. 1998). This idea is present in *Thornhill v. Ford*, *supra*, only in more turgid prose, vintage 1952.  
 25. *King*, slip op. at 15; *United Sav. Assn. Of Tex. v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371 (1988).  
 26. *King*, slip op. at 15; *New York State Dept. Of Social Servs. v. Dublino*, 413 U.S. 405, 419-420 (1973).  
 27. *King*, slip op. at 15, 16-17.  
 28. *Id.* at 17.  
 29. *Id.* at 21.  
 30. *Sheppard v. Mississippi State Highway Patrol*, 693

So.2d 1326, 1330 (Miss. 1997).  
 31. Yes, I still gag at the inapt metaphor “legislative intent” unless it is made clear that this connotes an objective standard for discerning the meaning of the statutory text. In a prior life, I often said “We do not inquire what the legislature meant; we ask only what the statute means,” *Stuart’s, Inc. v. Brown*, 543 So.2d 649, 651 (Miss. 1989), quoting Holmes. Occasionally others followed. See, e.g., *Rivers v. Board of Trustees, Etc.*, 876 So.2d 1043, 1053 (¶41) (Miss. Ct. App. 2004) (Griffis, J., dissenting).  
 32. *Allred v. Webb*, 641 So.2d 1218, 1222 (Miss. 1994), citing *Hendrix v. Foote*, 38 So. 2d 111, 117 (Miss. 1948).  
 33. *L. H. Conrad Furniture Co. v. Mississippi State Tax Comm’n*, 133 So. 652, 656 (Miss. 1931).

34. *Board of Law Enforcement Officer Standards and Training v. Voyles*, 732 So.2d 216, 221 (¶16) (Miss. 1999); *Pegram v. Bailey*, 708 So.2d 1307, 1314 (Miss. 1997).  
 35. *Chandler v. City of Jackson Civil Service Commission*, 687 So.2d 142, 144-145 (Miss. 1997), citing precedent back to *Quitman County v. Turner*, 18 So.2d 122, 126 (Miss. 1944).  
 36. *King*, slip op. at 14.  
 37. *Sheppard v. Mississippi State Highway Patrol*, 693 So.2d 1326, 1330 (Miss. 1997).  
 38. *King*, slip op. at 21.  
 39. *Thornhill v. Ford*, 56 So.2d 23, 30 (Miss. 1952).  
 40. *Delta Regional Medical Center v. Green*, 43 So.3d 1099, 1103 (¶13) (Miss. 2010).  
 41. *King*, slip op. at 21.

opinion in *King* have been a surprise. Nothing in Roberts' *Obergefell* dissent is inconsistent with his majority opinion in *King*.

It would strike me as plausible that Roberts may have exercised his prerogative as Chief Justice to keep *King* for himself, because he knew an affirmance could be written within the traditional statutory construction template. He could head off any flourishes that other Justices might use that could plant seeds for a right to healthcare, or a less restrained regulatory state.

He could write an opinion in *King* that five years from now the overwhelming majority of American lawyers and knowledgeable non-lawyers could read and recall, "that's nothing new."

To my mind, the Equal Protection Clause is solid grounding for *Obergefell*. I was surprised

and a bit dubitante that the majority claimed double support in the Due Process Clause.

More practicably, there are cautionary tales in our constitutional history where many are known to be passionate. Capital punishment was slowly dying a natural death until 1972 when *Furman v. Georgia*, five to four, held it unconstitutional as practiced. Who can doubt that hundreds (if not thousands) more men have been executed in the last forty years than if *Furman* had been decided as *Gregg v. Georgia* was in 1976?

There are enough more such experiences in our recent past that I am reluctant to condemn the Roberts approach in *Obergefell*, though I think it legally incorrect (on Equal Protection grounds).

After all, a kid will always fight harder for the cookies or candy his mother says he can't have.

John G. Roberts, Jr., has been consistently conservative in the almost ten years he has served as Chief Justice. He was just as conservative on June 26, 2015 as he would be the next day. It is a sad commentary on the quality of public discourse that so few seem to see this.<sup>42</sup> Or that, recalling Roberts' famous umpire analogy at his Senate confirmation hearing, an umpire who is consistent is usually one ball players can live with. ➡

42. The New York Times comes close with Adam Liptak's "Angering Conservatives and Liberals, Chief Justice Defends Steady Restraint," The New York Times, page A13 (June 27, 2015) and Jeffrey Rosen's, "John Roberts, the Umpire in Chief," The New York Times Sunday Review, page 4 (June 28, 2015).

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# CABA ESSAY CONTEST

**1<sup>st</sup>** **William Janous**  
1st Place Winner



**2<sup>nd</sup>** **Will Whitfield**  
2nd Place Winner



**3<sup>rd</sup>** **Charlie Gautier**  
3rd Place Winner



All Winners pictured with: Jim Rosenblatt, Law Related Co-Chairman; Mike Malouf Jr., CABA President; Winners parents; Lauren Lawhorn, Law Related Chairman

## 1st Place Essay

To what extent should a school be able to regulate the use of a cell phone during school hours by its students? What interests are involved (property, safety, emergency, privacy, disciplinary)?

There are several reasons why schools should be able to regulate students' cell phones during school hours. School is a time to learn and get prepared for future life. Students may sometimes get off task and worry about their cell phones at school. For example, if a student has a cell phone in class, he may be worried about playing his favorite game on his phone. This could distract the student from learning and he would never get anything out of the class. Each student has to be responsible and not be concerned about his/her cell phone when he/she is supposed to be learning in class. Not only is it disruptive to the student with the cell phone, but it can be distracting to classmates. Also, during a test, a student may be tempted to look up answers, which is considered cheating. These are some valid

reasons why a school should regulate cell phone use during school hours.

There are just as many reason why schools should not regulate cell phones. One of the biggest reasons why students should have access to cell phones during school hours is safety. For example, it allows students to communicate with parents, especially during an emergency. It also helps with coordinating schedules for after-school activities or appointments. Some students might have a problem with a school restricting the use of property that is owned, and was purchased, by the student/student's family. Because the school did not contribute to the purchase of the cell phone, some believe the school should not be able to limit the use of it. Lastly, if the school makes students turn in their phone before class, there

could be some privacy issues. The teacher or the school could look at a students private information on his/her cell phone. These are good examples of why schools should not be able to restrict the use of cell phones entirely during school hours.

In my opinion, I think schools be able to regulate the use of cell phones, but they should have some hours for cell phone use in case of emergencies or for safety reasons. I think that each student should turn off his/her cell phone and put it into his/ her backpack or somewhere out of reach during class time. If the student uses a cell phone during an unauthorized time, the cell phone should be taken and put in a place where others cannot access the information on the phone. The student would be able to retrieve his/her phone after school hours. I think that students should enjoy the benefits and advantages of cell phones, while complying with the school's policy on cell phone usage. This is necessary to ensure that all students get the most benefit from attending school. 🏆

# » On Computing

Focused on the Contemporary Lawyer



By Joel Howell



Thanks to the usual sources, this issue considers a potential upgrade as well as a view of a little known part of the Internet.

If you are using Windows 7 or any version of Windows 8, you have undoubtedly received Microsoft's invitation asking you to reserve your free upgrade to Windows 10. This will give you some food for thought (you have actually until July 29 when Windows 10 ships in final release form).

Conventional wisdom says it is never a good idea to change to a new operating system until it has been out for some time (say six months to a year). The question then becomes whether you want to upgrade at all. Windows 7 SP1 will be fully supported by Microsoft for at least four more years. If you already have a Windows 7 machine you will probably want to upgrade your hardware in that period of time, so it will come with a new operating system anyway.

If you're running Windows 8x, it supposedly fixed many of the underlying platform improvements of predecessor versions. With so many people used to the old start menu, Microsoft released Windows 8.1 to address that concern. Windows 10 has a new Start menu and universal apps that run in Windows-form side by side with other apps. Then there are some advances: a re-notification center, a voice-based digital system (Cortana), better interface with X-Box consoles, and a virtual desk-top feature.

Remember, you can always reserve the Windows 10 upgrade and then defer it. That may be the better part of wisdom at this point

in time. However, if you're in an environment with multiple machines available and want to experiment, take one which is not in primary use, install the upgrade, and see how it suits you.

You may think you know a lot about the Internet, but have you ever heard of the Dark Web? While it is part of the public World Wide Web, it exists on darknets, websites that are publicly visible but hide the IP addresses of the servers that run them. (Don't try using a search engine; it won't work.)

Almost all websites on the Dark Web hide their identity using the Tor encryption tool. You can use Tor to hide your identity and spoof your location. To visit a site on the Dark Web, you will need Tor. To do this, go to [www.torproject.org](http://www.torproject.org) and select the Tor Browser Bundle. Download, choose an extraction location, open the folder, and click start with Tor Browser. The Vidalia Control Panel will automatically handle the

randomized network setup.

While much of the dark web is innocent, a portion is dedicated to providing a marketplace for anything (read: use your imagination for anything illegal). As noted above, the difficult thing is knowing where to look since the Dark Web is not accessible thru typical search engines.

Specialist sites like DeepDotWeb and All Things Vice provide information about dark web sites and services. The Hidden Wiki also provides a considerable number of directories of content.

There are plenty of legitimate uses. People operating in China, for example, use the Dark Web to communicate with the outside world since its encryption lets you hide a lot of things. Nevertheless, a closing cautionary note: This is intended as a guide and not an endorsement or encouragement. ➡



## Questions or comments?

Drop me an email: [jwh3@mindspring.com](mailto:jwh3@mindspring.com)

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# ROY CAMPBELL TO SERVE AS PRESIDENT OF THE MISSISSIPPI BAR

By Kathleen O’Beirne



Former CABA President Roy D. Campbell, III, will take the helm as President of the Mississippi Bar Association this month at the 2015 Annual Meeting in Sandestin, Florida. A partner at

Bradley Arant Boult Cummings LLP and a fellow of the American College of Trial Lawyers, Roy has more than forty years of experience litigating primarily insurance and product liability cases in state and federal courts.

Roy comes from a long line of Mississippi lawyers. After undergrad at Davidson and law school at the University of Mississippi, he followed his father and grandfather into the practice of law at Campbell DeLong in Greenville, Mississippi. It was during this time that Roy forged his legendary work ethic. He often tells younger lawyers that when he first

started, if you showed up to work a minute after 7 am, you were already late. Roy has many colorful stories about his practice of his early legal career — especially working on cases involving the large amount of barge traffic in and out of the port city.

Roy would eventually leave Greenville and head to Nashville, Tennessee — a move precipitated by his wife Nancy’s later-in-life decision to attend medical school. Always supportive, Roy practiced there until the two of them decided to return to Mississippi — this time to Jackson. The Campbells are active members of the capital area community. Roy served as Chairman of the Board of Trustees of the Mississippi Museum of Art, and you could usually find him and Nancy dining at

the Mayflower on Friday nights. Roy also led Bradley Arant’s Products Liability Practice Group and is well-known for his mentoring and teaching of associates and younger partners alike.

Roy is a past president of the Capital Area Bar Association and a recipient of its Outstanding Service Award. He is a member of the American Bar Association, the Tennessee Bar Association, he served on the Board of Governors for the 5th Circuit Bar Association and as member of the Charles Clark Chapter of the Americans Inn of Court. In addition to volunteering as an attorney with the Mississippi Volunteer Lawyers Project, he co-chaired the MVLP’s 2010 Capital Campaign. He is a facilitator in the James O. Dukes Law School Professionalism Program, and



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*Continued on next page...*

he has judged moot court competitions locally, regionally, and nationally. He is a member of the International Association of Defense Counsel, the Defense Research Institute and the Mississippi Defense Lawyers Association.

A dedicated family man, Roy is most proud of his three daughters: Larrison (Courtenay)

of Los Angeles; Martha of New York City; and Liz of New York City. At press time, Roy and Nancy eagerly anticipate the arrival of their first grandchildren—twins!—to Larrison and Courtenay.

It is safe to say that the Bar is extremely lucky to have the talented Roy Campbell

taking its reigns. His approachable manner and dedication to public service will certainly make him an effective leader. Roy is the textbook definition of a Gentleman Lawyer and will serve the role well. 🟩

# THE MAGNA CARTA CELEBRATES ITS EIGHT HUNDREDTH BIRTHDAY

By Marlane Chill Dove

On June 15, 1215, at Runnymede—in a meadow by the Thames near Windsor Castle, King John I of England affixed his royal seal to Magna Carta (The Great Charter). This venue was chosen because the land was such a bog that neither the King nor the barons would be able to bring their armies. Although the language of the King and the barons was French and the illiterate peasants spoke English, Magna Carta is written in Latin on parchment. Four copies of the 1215 document exist—two are in the British Library, one at Salisbury Cathedral and one at Lincoln Cathedral.

English historians have not been kind to King John I. The youngest son of Henry II and Eleanor of Aquitaine and the brother of the much-loved Richard the Lion-Hearted, he is considered to be one of England's worst kings. It is noteworthy that no subsequent English king has taken the name, "John." He certainly suffered by comparison to his older brother. Richard I (1189-1199) spent only six months of his ten-year rule in England; early in his reign, he led the Third Crusade in an attempt to recapture Jerusalem from Moslem occupation. Richard I spent the last half of his monarchy winning back the parts of France (formerly held by the English) which had been lost to Philip, the French king. By the time he

died in 1199 (shot with a cross-bow at a battle near Limoges), he had succeeded in recovering all of the lost French territory for England.

John I ascended to the English throne upon the death of his brother Richard in 1199. Lacking his brother's military prowess, he lost many more battles than he won—by 1207, Anjou, Aquitaine, Normandy, Maine, Touraine, Brittany and Poitou were all lost. John I levied steep taxes against the barons to finance his re-conquest of France. When the nobles would not pay, he imprisoned their sons. The loss of his French possessions was a tremendous blow to the prestige of John I, and, importantly, it meant that from that time forward, he became solely an English king.

John I battled with Pope Innocent III over the Pope's appointment of Stephen Langton, a scholar and theologian to the Archbishopric of Canterbury—the Pope excommunicated John I in 1207 (John I was the first English monarch to receive this punishment; later Popes excommunicated Henry VIII and Elizabeth I). John I struck back by taxing the Church and seizing Church property. Langton remained in exile in France until 1213, when John I, facing an invasion by the French and an uprising in Wales, decided to accept Langton's appointment and, hopefully, win the Pope's favor and support. On May 17, 1215, the barons, in a state of open rebellion

against the King's tyrannical rule, supported by the citizenry, captured the city of London. When John I realized the strength of his opposition, he agreed to meet with the barons in order to negotiate a peace.

Early in 1215, Stephen Langton, the Archbishop of Canterbury and the barons led by Robert Fitzwalter met at St. Albans Abbey (twenty miles north of London) and drafted the Articles of the Barons. John I arrived at Runnymede on June 10, 1215. After negotiations with the barons and with his back against the wall, John I agreed to affix his royal seal on June 15, 1215, to the document that then became known as Magna Carta.

Magna Carta stands for the principle that no one is above the law—even the King. At Runnymede, the barons presented King John I with a list of demands—in large part they were abuses by the King of his powers as a feudal lord. The barons' primary objective was to make the King observe his side of the feudal contract. Historically, the most important sections are:

Article 29: "No free man is to be arrested, or imprisoned... save by the lawful judgment of his peers or by the law of the land."

Article 38: "In future no official shall put any one to trial merely on his own testimony, without reliable witnesses produced for this purpose."

*Continued on next page...*

Article 39: “No free man shall be arrested or imprisoned or deprived of his freehold or outlawed or banished or in any way ruined, nor will we take or order action against him except by the lawful judgment of his equals and according to the law of the land.”

Article 40: “To no one will we sell, to no one will we refuse or delay right or justice.”

Under the terms of Magna Carta, John I granted “to all free men of our kingdom and their heirs in perpetuity written liberties to be held by them and their heirs.” In England in 1215, a “free man” was a nobleman.

John I regarded the agreement made at Runnymede merely as a means of buying time. In July, 1215, he appealed to the Pope to annul Magna Carta; in a papal bull issued in August, 1215, it was declared “null and void of all validity forever.” The charter was amended in 1217 and, cut by one-third in its 1225 amendment. Subsequent monarchs confirmed Magna Carta nearly fifty times, but only because they knew that there was no mechanism for enforcement; it was rarely honored. By the time it was first printed in 1534, Magna Carta was little more than a curiosity.

What is the importance of Magna Carta? Did it make a difference? The answer is that, historically, it has been viewed as being of greater importance and more of an influence on the American legal system than that of Great Britain. The British have no written Constitution and in the 21st century, the monarchy is flourishing. Today, in Great Britain only four of the original sixty-three articles of Magna Carta remain on

the statute books: one defends the liberties and rights of the English Church; another confirms the liberties and custom of the City of London and other towns; and the third and fourth give all English subjects the right to justice and a fair trial.

In 17th century England, Sir Edward Coke (jurist, Chief Justice of the King’s Bench) is the person most responsible for reviving interest in Magna Carta. Describing it as his country’s “ancient constitution,” his interpretation of Magna Carta applied the protections guaranteed in the document not only to the nobles, but to all subjects equally. “Magna Carta is such a fellow that he will have no sovereign.” As the distinguished American legal scholar Roscoe Pound (dean of the Harvard Law School) pointed out, “American lawyers see Magna Carta through [Edward] Coke’s spectacles.”

English colonists coming to America in the 17th century brought with them the Common Law system of governance. The Virginia Company and Massachusetts Bay Company that founded the first settlements in America promoted Magna Carta and its stance against arbitrary power as a way of drumming up settlers. By the 1760’s colonists were relying on Magna Carta in their opposition to taxes imposed by Parliament. Thomas Paine in “Common Sense” urged Americans to write their own Magna Carta. However, at the Constitutional Convention in 1787, Magna Carta was barely mentioned - the United States had no king that needed restraining. In 1789, the Bill of Rights (the first ten amendments to the Constitution) drafted by James Madison was adopted; of the twenty-seven provisions contained therein, only four, primarily concerning due process, can be traced to Magna Carta.

Notwithstanding, Magna Carta was on its way to becoming an American icon. In 1935, King

John I affixing his seal to the charter appeared on the door of the United States Supreme Court Building; during World War II, it served as a symbol of shared values between the United States and Great Britain. The American Bar Association erected a memorial at Runnymede in 1957.

Magna Carta has taken on a significance that King John I and the barons could have never imagined. As Harvard Law professor Noah Feldman observed “It’s precisely from the capacity it’s had over this 800-year period of functioning as a rallying cry, a symbol, an ideal of the rule law that is important. No other document in world history has been able to function in so many times and places as the epitome of that ideal.” Our adulation of Magna Carta comes from what we believe it to have been in hindsight — not what it was in 2015.

On June 15, 2015, Magna Carta’s 800th birthday was observed with an extravagant ceremony at Runnymede. Present were 500 American lawyers traveling with the American Bar Association, a host of England’s foremost jurists and scholars, the British Prime Minister David Cameron, United States Attorney General Loretta Lynch and—and as a sign of how far monarchs have come since medieval times — Queen Elizabeth II, attending not on sufferance, but of her own free will. The London Symphony Orchestra played a new work by composer John Rutter sung by the Temple Choir (Church of the Knights Templar, the London base of King John I in 1215). And, the American Bar Association rededicated its 1957 memorial led by its president, William C. Hubbard. “The idea that the law comes from the people, and it’s not the law of the king, is fundamental. And, there you have it. To think that those principles have survived 800 years gives me great hope for the future.”



## IT'S A BOY!



CABA congratulates our Newsletter Editor, Kate Margolis and her husband, Thomas Fisher, on the birth of their son, Finn Andrew Fisher, born on May 18, 2015, weighing 9lbs 8oz and 23” long. CABA thanks Laura Glaze, CABA Past President 2011-12, for serving as interim Editor of the newsletter while Kate is adjusting to her new work/life balance as lawyer and mother.

# CAPTAIN EQUITY

## The Bold New Convention City

The following predictions by Captain Equity first appeared in the CABA Newsletter on August 15, 1989. Read on for hit-or-miss predictions about The Bold New City, especially with regard to the Jackson Convention Center Complex and the King Edward Hotel.

Imagination + Marketing = Magic. If you don't believe it, just look at Brian Bosworth or Geraldo or even Kane Ditto. Where were they only a few short years ago? And what does this have to do with anything, you ask. Well, I for one think it provides a valuable object lesson for the City of Jackson and the Mississippi State Bar. Dream with me for a minute, will you?

It's a Tuesday in April, 1990. The mail has just arrived. CLE junk mail, bills... wait, is that the bar convention mailer? Trembling hands rip at the oversize envelope. Six minutes of unfolding later, there it is, smack in the middle of the poster-sized info sheet. It is my imagination or does this thing really get that much bigger every year?

### 1990 Mississippi State Bar Announces Jackson as Site

Not inconceivable. There is no law that says lawyers have to have sailboats and salt water within eye view for an annual meeting. Imagine the choices available to the Kansas or Nebraska insurance defense bar when they want to pass resolutions on Tort Reforms or the need for Pro Bono tax credits. We read on.

Jackson's fabled "Crossroads of the South Convention Complex and Entertainment Centre" will serve as the focal point for this year's annual meeting. Resort style hotel accommodations, four star dining, state-of-the-art meeting facilities and an unlimited range of recreation and shopping options promise to make this year's meeting memorable.

Sound good? And that's before we even total up the tax revenue and calculate the economic impact. Before you dictate a letter to Larry Houchins to champion the nomination of the Bold New City as a future convention site, let me assure you that magic is within the grasp

of every reader. Just apply the simple formula (Imagination + Marketing) and begin to realize the benefits in your own life. However, a few details remain. For one, it might be a good idea to pinpoint the Crossroads of the South Convention Complex etc. before we messenger the meeting notice over to the printer. Now I know this is a tougher assignment than coming up with compelling ad copy, but I do have an idea that would merely require a little refurbishment and the outlay of a few bucks to some bright, young idea man to capture just the right sales spin. Just imagine next year's giant announcement poster.

*The Terry Road Entertainment Corridor and the Highway 80 Miracle Half Mile provide conventioners with just the right blend of Southern Hospitality and No-Nonsense Convenience against a backdrop of urban elegance.*

Do you think lawyers in Bay Springs or Corinth would buy it?

### Resort Hotels

*The Old Scottsdradle Alamo Plaza*—Deluxe private bungalows with a rustic, Southwestern flavor.

*The Trump Tarrymore*—Manhattan sophistication blended with Deep South style and comfort. Visit our Hong Kong inspired Tai Hong Restaurant or just splash in our fabulous City Scape Pool.

*The Royal Hawaiian Redwood Court*—The islands beckon out-of-towners to enjoy this resort locale favored by Hollywood stars which include Oscar Nominee Gene Hackman.

### Restaurants

*The Krystal Palace*—Hamburgers are the rage here.

*Mr. George's Celebrity Cafeteria*—This

Raymond Road gem is unlike any cafeteria you've ever been to. If you're lucky, Mr. George himself may spin one of his years as you dine on southern fare.

*Café Le Chef Sports Restaurant*—Gourmet offerings in a setting that was once home to Hall of Famer Dizzy Dean's far flung business and restaurants holdings.

*The Hill*—Nightlife at its best perched on a promontory overlooking Jackson's prime transportation artery (I-20). Meet great gals like Kandi and Boots at Jackson's Own Top of the Mark.

### Shopping

*Mart 51 Galleria*—Fifth Avenue Rodeo Drive...okay, they might be a little more stylish, but they're certainly not in walking distance of the convention. This is!!

### Special Events

*King Edward Hotel Gala Welcome-Rooftop Open Grill*—Convention goers are invited to kick off the 90's with this unusual barbecue employing a unique new cooking technique developed by a former arsonist turned special events chef. Steaks, chops, and seafood are lovingly placed on the asphalt roof as members of State Bar Welcome Committee pack the rooms below with worn radials sautéed in a kerosene-ethanol solution. Add flame and presto. Your Mississippi State Bar Open Grill will be ready to savor before the first hook and ladder makes its appearance at this downtown Jackson Hot Spot.

Executive Director Houchins, State Bar President Elect Crosthwait, Mayor Ditto and economic development minded members of the Hinds County Bar—what do you think? ➔



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