THE FAMILY LAWYER

Brickbats for Teacher

Billy's grouchy grandfather took such a violent dislike to the boy's homeroom teacher that he wrote a special letter of denunciation to the board of education.

"This woman is ignorant, lazy, and totally uninterested in her job," he alleged. "She just sits there and collects wages."

As it happened, Billy's teacher was both capable and energetic. When she found out about the letter, she determined to sue the grandfather for defamation of character.

At the trial, he was unable to produce even a shred of evidence to sustain his charges. Result: liability. The court said teachers need not put up with malicious charges that blacken their professional reputation.

Most courts agree. Still, not every mistaken statement about a teacher will support a defamation suit. Like other public employees, a teacher must "take" a reasonable amount of criticism from those who are legitimately concerned with the school system.

In another case, a pupil's mother complained to the school board that a certain teacher was "not competent." But this time, even though the mother's complaint was exaggerated, she did have a substantial amount of supporting evidence.

The teacher sued — but the court ruled against her. The judge said that for the good of public education, some leeway must be allowed to its critics.

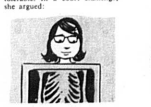
Nor is it defamation if the charge does not seriously reflect on the teacher's professional qualifications. Take this case:

A school principal, writing a report about a new teacher, described her as being "careless in writing on the blackboard." Was this statement, if untrue, enough basis for a defamation claim by the teacher?

A court ruled that it was not, because it did not really mean she was incompetent in her job. The court said it was perfectly possible for someone to be very bad at wielding chalk, yet very good at teaching children.

For Health's Sake

At a state university, all incoming students were required to have chest X-rays. But at least one young woman found this intolerable. In a court challenge, she argued:



"Having a chest X-ray is contrary to the principles of my religion. To require it is to violate my religious freedom, which is guaranteed by the First Amendment."

However, the court overruled her objection. Noting that X-rays can reveal tuberculosis and that tuberculosis is infectious, the court said:

"The regulation is purely for the purpose of discovery. It does not say you must be treated if you are ill; it only says if you are ill and (don't) know it, you cannot spread your infection to others."

Religious freedom, of course, ranks high in our constitutional system. But it does not outrank the necessities of public health. Said one judge:

"The health of the people is the first law."

Other freedoms, too, may be limited by considerations of health. In another case, a restaurant owner invoked freedom of enterprise to oppose the rules of sanitation laid down by city hall. But a court ruled that freedom of enterprise likewise must yield to the public weal.

"The danger to health," said the court, "renders the (restaurant) business a proper one for regulation."

Still, even health regulations must meet the test of reasonableness. One squeamish city council, worried about germs, passed a law flatly forbidding the sale of any second-hand clothes within the boundaries of the community.

But when this law was tested in court, it was held to be unconstitutional. The court said a total ban simply could not be justified, since lesser controls could protect the public perfectly well.

Putting the "health" label on an unreasonable law, said the court, did not make it reasonable.

An American Bar Association public service feature by Will Bernard.

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Kentuckians serve 69 years civil service

Mrs. Mabel S. Smart, Atlantic Region, chose June 23, 1972 to retire effective after completing nearly 30 years of Federal service.

Mrs. Smart began her Government service in the Department of Agriculture. Her geological survey career began in June 1942 with the Alaskan Branch, preparing and editing Aeronautical charts for the Army Air Corps. She transferred to the Atlantic Region in 1957 as a map editor in the Cartography Branch, the position she held to retirement.

L. Ray Smart, Washington Staff, chose June 23, 1972 to retire effective after completing nearly 38 years of Federal service.

Mr. Smart began his Government service in 1933 with the Department of Agriculture as a field surveys instrument man, advancing to Chief of Party. In February 1942, he transferred to the Geological Survey as an aeronautical chart preparation supervisor. In 1946, Mr. Smart was promoted to chief of the newly formed Plans and Production Section; subsequently, in 1959 he was reassigned as assistant chief, Map Information Office, the position he held to retirement.

It is believed that Mr. and Mrs. Smart are the first man and wife to retire simultaneously in the Topographic Division.

Mr. Smart will continue in Government service, on a part time basis, as a consultant, representing the Department of Interior at the Office of Emergency Preparedness, Executive Office of the President.

Mrs. Smart is the former Mabel Glenn Storm, the daughter of the late Samuel Logan and Cora Lee Storm of Latonia and Corbin. She graduated from Holmes High School in Covington and attended the University of Kentucky and Fugazzi Secretarial College in Lexington.

Mr. Smart is the eldest son of Mrs. Minerva Lou Sugg and the late George Tilman Smart of Carlisle. He attended George Washington University in Washington, D.C. He is a registered professional engineer and land surveyor in the Commonwealth of Kentucky. They are both Kentucky Colonels.

The Smarts helped organize a youth (teen) club in northern Kentucky in 1930 and Ray served as its first president with about 60 charter members.

For nearly 30 years Mr. and Mrs. Smart have been active in club, church, garden club, educational, civic and charity affairs in the metropolitan Washington area, and in national and international engineering, surveying and cartographic societies. They are both charter members of the Falls Church Garden Club.

Mrs. Smart has served as a Sunday School teacher for 17 years; chairman of many garden club committees, Cherry Blossom Princess chairman for two terms, and chairmanships in professional organizations. She has been honored twice with the Presidental Citation of Meritorius Service in these societies. She is listed in Whos Who of American Women. She is also listed in Two-Thousand Women of Achievement, London, 1972.

Mr. Smart served two terms as president of the Kentucky Society of Washington in the 1960's and is the new president of that society for 1972-73. He served two separate terms as president of their Civic Association and received the Outstanding Citizen Award of his community in 1970. He also served as president of the Falls Church, Va. Elementary and the Falls Church Junior High School P.T.A. He served as a director of the American Society of Photogrammetry and later organized and served as the first president of the Potomac Region of that society. He was the director general for the International Congress on Photogrammetry held in Washington in 1972, and an officer of that organization for four years.

He gave a professional paper at the Univerasity of Kentucky Surveyors Conference in Lexington in February. As president of the National Conference of State Societies in 1966 he was awarded the Distinguished Service plaque. He taught Sunday School for 12 years at the Columbia Baptist Church in Falls Church. He also served as president of his Golf and Country Club for six terms.

Mr. and Mrs. Smart have one daughter, Jan Logan, who represented Kentucky as their Cherry Blossom Princess in 1966, and later married (1968) her Marine Corps Escort, Captain James T. O'Kelley Jr. of Asheville, N.C. Mrs. O'Kelley received her B.S Degree in Education from George Mason College of the University of Virginia, and now teaches in the Leesburg, Va. school district. Both are Kentucky Colonels. They are committee members of the Kentucky Society of Washington.

Mr. O'Kelley received his B.S. in Civil Engineering from Duke Univeraity and his Masters Degree in Computer Science from George Washington University and is now pursuing his Doctora Degree in the same field. He served two years in Viet Nam and is the recipient of the Purple Heart. He is now a Marine Corps Reserve and is employed by the Department of Commerce as a Management Specialist in their Computer Division. The O'Kelleys live in Fairfax, Va., and are active in the Methodist Church.

The Smarts will attend the International Congress on Photogrammetry in Ottawa, Canada July 23 thru Aug. 4. They will both be active as deputy directors of the International Congress of Surveyors and Geodesists to be held in Washington in early 1974.

The Geological Survey honored at a banquet on June 19.

In Service

Army Private Virgil C. Shearer Jr., 18, son of Mrs. Devonia Shearer, Main Street, Carlisle, recently completed nine weeks of advanced individual training with the 194th Armored Brigade at Ft. Knox, under the army's new unit of choice recruiting program.

During his training, he learned the duties of a tank crewman, including the firing of the tank's armament and small weapons. He also received instruction in field radio operation, map reading and tank maintenance and repair.

Pvt. Shearer, who enlisted specifically to serve with the 194th, is now guaranteed a minimum of 16 months of service with the unit.

He entered the Army in February 1972, and completed basic training at Ft. Knox.

The Private's father, Virgil C. Shearer Sr., lives at the Joplin Hotel, Elizabethtown.

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with daddy
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