

COLLINS J. SEITZ

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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*;¹ the battle for control of the Loew's (MGM) motion picture empire, *Campbell v. Loew's Inc.*;² and the longest trial in Delaware corporate history, *Bata v. Hill*,³ in which the fate of the world-

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

² 36 Del. Ch. 563, 134 A.2d 852 (1957).

³ 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.⁴

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."⁵

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*⁶ 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.

⁴ L. NIZER, *MY LIFE IN COURT* 502 (1961).

⁵ R. KLUGER, *SIMPLE JUSTICE* 431 (1976).

⁶ 31 Del. Ch. 381, 75 A.2d 225 (1950).

That same conviction was expressed again, just two years later, in *Belton v. Gebhart*,⁷ 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."⁸ 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*,⁹ that "[s]eparate educational facilities are inherently unequal."¹⁰

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."¹¹

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."¹² 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."¹³ 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

⁷ 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).

⁸ 32 Del. Ch. at 349; 87 A.2d at 865.

⁹ 347 U.S. 483 (1954).

¹⁰ *Brown*, 347 U.S. at 495.

¹¹ R. KLUGER, *SIMPLE JUSTICE* 449 (1976).

¹² *Id.* at 431.

¹³ *Id.* at 436.

seems to be born and made for friendship."¹⁴ 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.

¹⁴ 3 THE EPISTLES OF ERASMUS 391 (F. Nichols trans. 1918).

