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TELLING STORIES:

Ron Lansing's Approach to Legal History

Editor's Note: *In our Summer 1993 issue of Oregon Benchmarks, we ran a brief review of Ronald B. Lansing's new book, Juggernaut: The Whitman Massacre Trial, 1850. In that review we talked about how this history departs sharply from the traditional scholarly account, which often relies on the author's narration and carefully qualified language to get at historical truth.*

In Juggernaut, Lansing departs from tradition by letting an imaginary eyewitness, mountain man Eli, recount—in his own homey lingo—the trial of five Cayuse Indians for the murder of fourteen men, women, and children at the remote Whitman mission on the Columbia River.

Each reader will have to judge how well Lansing's approach works. For my part, I wanted to find out how and why he wrote as he did. So I met with him one day in his faculty office at the Northwestern School of Law of Lewis & Clark College, turned on my tape recorder, and settled back to hear a fascinating account of one man's way with words.

Buan: *As I compare your book to most of the histories I've read, I must say your eyewitness storyteller approach is unique. I can't help wondering how a mild-mannered law professor like you did this "Clark Kent-like" about-face.*

Lansing: I don't know that it's all that radical a difference to write a history than to write about law. There are many jurisprudential schools in law, one of which certainly is the history perspective. Oliver Wendell Holmes said about the life of laws that it is experience, not logic, meaning that to understand how things got the way they are is a better understanding of law than is pure syllogistic, logical analysis. Obviously, both are important.

History and law are pretty much compatriots. It's not unusual for lawyers to be very interested in history and historians to be interested in law. Common law, particularly, is based on precedent—how did the courts decide things yesterday? So to look to yesterday is a constant source of lawyer research. You're always going back.

And you're always looking at stories. Common law begins with a case: Joe the tiler went after James the tailor with a sword. Then it comes before the judges and they write opinions about it and they say you have to pay him money or you have to go to jail. But it begins with a story. The story becomes the law, rather than the law becoming the story.

Buan: *What prompted you to write about the Whitman massacre trial?*

Lansing: I happened to be researching another book at the Oregon State Archives when I came across what would today be called the transcript of this 1850 trial. It's called the Bill of Exceptions—old "parchmenty" paper on some blue stationery. It was just a summarization. They didn't have verbatim reporters then—at least not here on the frontier. It told what each of the witnesses said in the Cayuse murder trial. And I thought, "This will be an interesting article." I'd read a lot about the Whitman massacre but never anything that told what happened at the trial.

I thought I'd write a short article. It grew and grew and it turned into a book-size manuscript. You can't keep a good lawyer down.

Continued on page 4



Ron Lansing in his office at the Northwestern School of Law of Lewis & Clark College. His Juggernaut: The Whitman Massacre Trial, 1850 has been a popular book during the Oregon Trail Sesquicentennial.

President's Message

By Outgoing President Katherine O'Neil



Katherine O'Neil

When **George Fraser**, new president of our society, was president of the Multnomah Bar Association in 1960, about 1,000 attorneys practiced in Multnomah County. An additional 1,500 practiced elsewhere in Oregon. In 1960 MBA members met in monthly luncheon gatherings, a community of friends and professionals.

With the explosive growth in bar membership, Oregon's attorneys have begun to find a community of friends in other, smaller, specialized groups such as our U. S. District Court Historical Society.

Noreen Saltveit reflected on this phenomenon in the last issue of the Oregon State Bar magazine, and I've thought about it during meetings, dinners, picnics, and other gatherings of our society. Our members range from law clerks to senior judges, drawn together by our practice in federal court and our interest in the history of the institution. We know one another personally, see one another frequently, and actually rejoice in our work celebrating and recording the history of our court.

As I transmit my quill pen and file folders to George Fraser, it's time for me to thank society members and others who have made special contributions to our community.

- ◆ **Carolyn Buan**, editor of this newsletter and our book, *The First Duty*, for professional skill and for personal interest and commitment to our society;
- ◆ **The Hon. Owen Panner**, chair emeritus, who has hosted numerous boisterous executive committee meetings in his chamber, for his continued interest and support;
- ◆ **Jim Westwood** and **Joyce Hyne** for persistence and dedication in keeping our oral history project on target;
- ◆ **Al Bannon**, treasurer, and **Laura Hashimoto**, staff, for keeping track of our finances;
- ◆ **Greg Chaimov**, secretary (the actual keeper of the quill pen), for keeping the history of our meetings and proceedings straight;
- ◆ **Jeff Batchelor**, membership chair, for keeping our flock together and growing;
- ◆ **Adair Law**, assistant to Chet Orloff at the Oregon Historical Society, who has graciously welcomed our society to the OHS facility for some of our events—and to the Bybee-Howell House for our 1993 picnic;
- ◆ **Kirk Hall** and his assistant **Marvis Gillnet**, who have handled distribution of several hundred individual orders for *The First Duty*; and
- ◆ **Bill White** and **Caroline Stoel**, who served on our Book Committee and offered both their good ideas and their help in marketing our book.

District Court Histories Donated to Franklin High School's Law Magnate Program

In addition to donating copies of *The First Duty* to high school libraries and educational service districts around the state, our society recently provided free copies to every teacher in the Portland Public Schools Law Magnate Program at Franklin High School. The following letter of thanks was sent to Katherine O'Neil by the program's coordinator:

Dear Ms. O'Neil

I would like to express my appreciation for your part in sending us copies of the book, *The First Duty*. When I first saw information about the publication, I had no idea that it was more than a pamphlet. Imagine my delight when I saw what a beautiful book it turned out to be. As I began reading it, I was surprised to find that it was not filled with arcane concepts of law, but really held my interest as a non-lawyer history buff. Please extend my thanks to all who had a part in the book's distribution to schools. Oregon needs more such information about the development of its institutions.

Sincerely,
Joel E. Daniels
Law & Public Service Coordinator, Franklin High School

1993 Annual Meeting and Election Results

The 1993 annual meeting took a different form this year, as members and guests gathered at the Madison Room of the Oregon Historical Society for wine and hors d'oeuvres rather than dinner. The meeting was held Tuesday, November 9. The program featured a delightful talk by Professor Ralph James Mooney about Judge Matthew Deady—an historical figure about whom Mooney has written widely.

New officers elected at the annual meeting are **George H. Fraser** (President), **Joyce Hyne** (Vice President and President-elect), **Albert J. Bannon** (Treasurer), and **Gregory A. Chaimov** (Corporate and Executive Secretary).

Also elected were three new board members: Chet Orloff, as the representative from the Oregon Historical Society, and—for two-year terms—Martin Hansen, an attorney in Bend, and Diane Rynerson, executive director of Oregon Women Lawyers.



Chet Orloff has been executive director of the Oregon Historical Society since 1991, having served in earlier years as the society's development director. From 1986 to 1991, he was founding di-

rector of the Ninth Judicial Circuit Historical Society and editor of *Western Legal History*. Orloff holds undergraduate and graduate degrees in western archaeology, Pacific Northwest history, and historical agency management. He has served on numerous community boards, including the City-County Bicentennial Commission, the Nature Conservancy, the Portland Planning Commission, the Portland Landmarks Commission, and Artquake.

Martin E. Hansen is a partner in the Bend firm of Marceau, Karnopp, Petersen, Noteboom & Hubel, focusing his practice on civil and commercial trial practice, including insurance defense, banking law, and land-use law. A native of the San Francisco Bay Area,



