REMEMBERING A GREAT DEAN: HAROLD L. "TOM" SEBRING

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I wish to thank the following people for their help in preparing this Article: Harold L. Sebring, Jr.; Harold L. Sebring, III; Kimberly J. Doud; Albert M. Witte, Professor, University of Arkansas College of Law and President of the National Collegiate Athletic Association, 1989–1991; Nancy Dobson, Executive Director of the Florida Supreme Court Historical Society; Carl Van Ness, University Archivist, University of Florida; Mary Mellstrom, *St. Petersburg Times*; Carrol Lowry Crocker, Birmingham, Alabama; Ellen Summers, National Collegiate Athletic Association; Mike Kern, Missouri Valley Conference; Brandy Hall, Rock-Tenn Company; Kenneth Kelly and Cot Cordell, Gardner, Kansas; Louie Adcock, Attorney, St. Petersburg, Florida; Pope A. Duncan, Chancellor, Stetson University; J. Ben Watkins, Apalachicola, Florida Attorney and longtime member of the Board of Overseers of Stetson University College of Law; Professors Thomas C. Marks, Jr. and William Eleazer, Stetson University College of Law; Thaddeus West and Thomas Krug, Stetson law students; Dorothy Bishop, Secretary to the Dean at Stetson University College of Law; Librarian J. Lamar Woodard, Associate Librarian Madison Mosley, Reference Librarians Pamela Burdett, Dorothy Clark, and Sally Waters; and faculty support services department members at Stetson University College of Law, particularly Connie Evans, Director of Faculty Support Services, Barbara Lernihan, and Sharon Gisclair.

INTRODUCTION

While a student at Stetson University College of Law in Spring 1959 and president of the Student Bar Association, I had the privilege of introducing Dean Harold Leon "Tom" Sebring to an audience of 100 or so lawyers and judges. I summarized Dean Sebring's background and finished by saying, "I now introduce to you Tom Sebring, a former judge of the Nuremberg war crimes trials, former justice and chief justice of the Supreme Court of Florida, the dean of our law school, and former head football coach of the University of Florida." As I said this, the audience burst into laughter. The dean stood, smiled at me, approached the podium, put his hand on my shoulder, and thanked me for the introduction. I had introduced Dean Sebring this way in all seriousness to emphasize how much he had achieved, but to the members of the audience it must have seemed inconceivable that the same person could have been a highly acclaimed jurist, a law school dean, and also the head coach of a national collegiate football power. Surely no one person could have such a multi-faceted career, they must have thought. However, Dean Sebring did all of this and much more. He is one of the most versatile figures in the history of our State and Nation, and to me and others who were his students, he was an outstanding teacher and a great dean.

SOLDIER, ATHLETE, AND COACH

The Early Years

In 1898 Harold L. Sebring was born in Olathe, Kansas, the son of John Thomas Sebring and Anna Lee Hayden Sebring, natives of the State of Kansas.[1] They lived in a farming area in Johnson County, Kansas, about twenty-five miles southwest of downtown Kansas City, which had been populated predominantly by farmers of Dutch origin.[2] Sebring's paternal ancestors were Dutch and had arrived in America in 1660.[3] Their name had been something like "Sebruek," but the name was anglicized — changed to "Sebring" — after the family arrived in this country. Most of his maternal ancestors also were of Dutch background, but at least one came to this country from England and settled in Massachusetts in 1632.[4] Sebring's maternal family moved from Massachusetts to Danville, Kentucky and then to Kansas in 1857.[5] His paternal grandfather had fought for the Union and his maternal grandfather for the Confederacy during the Civil War.[6]

When Sebring was very young, his father worked for the Santa Fe Railroad as a telegrapher. His father's job took the family to Colorado, and they lived there for a time. Sebring's father and mother divorced when he was six or seven years old. Then he, his brother, and his mother moved to Gardner, Kansas, a few miles from Sebring's birthplace. They lived on his mother's family farm, and there, his mother and her family reared him. His father died when Sebring was twelve.[7]

1. W.T. Cash, *The Story of Florida* vol. 3, 10 (Am. Historical Socy., Inc. 1938).
2. Telephone Interview with Harold L. Sebring, Jr., Dean Sebring's Son (Nov. 12, 1999).
3. Telephone Interview with Harold L. Sebring, Jr., Dean Sebring's Son (Nov. 28, 1999).
4. Telephone Interview, *supra* n. 2. Sebring's son said that one member of the Hayden family married a relative of John and Priscilla Alden. *Id*.
5. Cash, *supra* n. 1, at 10.
6. Norman Gelman, *To Stetson Law School President, Every New Job Has Been More Entrancing Than the Last*, 74 St. Pete. Times 4, 5 (Sept. 29, 1957).
7. Telephone Interview, *supra* n. 2.

From his family, Sebring inherited unusual athletic ability.[8] His mother was about five feet ten inches tall. His uncle, "Heavy" Hayden, was considered the strongest and fastest man in that part of Kansas. He stood 6 feet 4 inches tall and weighed 235 pounds. Hayden won feats of strength and was also a very fast runner who won races at various events held in the area.

His mother remarried and his stepfather, Edwin Eaton, was a lawyer who had become a county newspaperman. He was the editor and an owner of the *Gardner Gazette*. When Sebring's mother remarried, the family moved into a house in Gardner.[9] The fact that his stepfather had been a lawyer may have later influenced Sebring to make law his career.

In his early years, Sebring and his brother worked on the family farm. He spent his youth as a seasonal farmhand, and he performed other odd jobs.[10] He and his brother "followed the hay." They took jobs whenever and wherever hay was being harvested and would work from daylight to dark, pitching hay into wagons.[11] Sebring also worked in the wheat fields, oil fields, mining quarries, and at a zinc smelter.[12] He was a hard-working young man. Later in life, his brother, Leonard,[13] said, "Tom and I were the typical Horatio Alger, husky country rube working stiffs who were not taught that the world or the government owed us a living."[14] His parents, as well as

8. *Id*. This athletic ability was passed on to his son and grandson. His son, Harold L. Sebring, Jr. is the current Federation Internationale de Tir Aux Armes Sportives de Chasse world champion in sporting clay shooting. He is the first American to win the world championship, and he won it in Thiers, France during Summer 1999. Sebring, Jr. was the first American to win an international competition when he received a gold medal in the European Championships, which were held in Dornsburg, Germany, in Summer 1991. He also won the United Kingdom F.I.T.A.S.C. Championship and two silver medals in international competition between 1991 and 1999. Rick Farren, *Tallahassee's Sebring Captures Europe, World Clay Shooting Title*, 94 Tallahassee Democrat 5C (Aug. 27, 1999). Dean Sebring's grandson, Harold L. "Tripp" Sebring, III, was a quarterback at Arkansas State University.

9. Telephone Interview, *supra* n. 3.

10. *Id*.

11. Telephone Interview, *supra* n. 2.

12. Gelman, *supra* n. 6, at 4.

13. Leonard Sebring was an artist who became a cartoonist-animator for Walt Disney studios.

14. *Reflections and Memories of Justice Harold L. "Tom" Sebring and Justice E. Harris Drew* (Fla. Sup. Ct. Historical Socy. Nov. 2, 1990) (video recording) (copy on file at the Stetson University College of Law Library and Information Center) [hereinafter *Reflections and Memories*]. The Florida Supreme Court Historical Society sponsored this oral history program in the Sebring Courtroom at Stetson University College of Law. Justice Leander Shaw of the Florida Supreme Court presided. *Id*. (remarks of Harold L. "Tripp" Sebring, III).

the other relatives who helped raise him, obviously instilled in the young boy a sense of responsibility and a willingness to work very hard.

Sebring's early education took place in one of the rural schoolhouses, located at two-mile intervals in the country, near his family's farm. He went to high school in a modest wooden building in Gardner, which was then a town of about 200 inhabitants.[15] While in high school, Sebring proved to be a superb athlete. He was big, strong, and fast. In 1912 he began playing competitive football as fullback for his high school team, and he played that position throughout his four years of high school.[16] Also, while in high school, he won medals in track, in the broad jump, 220 hurdles, and the 50-yard dash.[17]

World War I

After graduating from high school in 1916, Sebring went to northwestern Canada, where he worked on a large ranch.[18] When the United States entered World War I, he returned from Canada and enlisted in the United States Army.[19] His military training took place at Fort Logan, Colorado, as well as camps in El Paso, Texas, and Syracuse and Pine Plains, New York.[20] The New York training occurred during the winter. The troops lived in the fields, and to keep from freezing, they dug trenches and put logs over the tops of the trenches to try to keep out the cold and dampness. Sebring later told his son that if a person lived through that experience, he could live anywhere.[21]

After training, Sebring was assigned to the Fifteenth Field Artillery, Second Division and sent to France, where he spent thirteen months in combat.[22] While in combat, Sebring was involved

15. Telephone Interview with Cot Cordell, Ninety-year-old Lifelong Resident of Gardner, Kan. (May 9, 2000); Telephone Interview, *supra* n. 2.

16. Harvey Parrish & B.F. Berlack, *Asst. Coach Sebring Has a Fine Record,* 15 Fla. Alligator (Gainesville) 5 (Sept. 21, 1923).

17. *Record of the Florida Supreme Court Historical Society* (on display in the lobby of Stetson University College of Law's Sebring courtroom).

18. Cash, *supra* n. 1, at 10.

19. *Id*.

20. *Id*.

21. *Comments by Harold L. Sebring, Jr. on Working Draft of Article* (Apr. 10, 2000) (copy on file with Author) [hereinafter *Comments*].

22. *In Memoriam of Mr. Justice Harold L. Sebring*, Fla. Sen. Res. 1704, 1st Leg., 1st Sess. 1 (June 3, 1969); Cash, *supra* n. 1, at 10.

in one of the battles over control of the Aisne Valley and the Marne River crossings in that valley, one of the bitterest battles of the War. In 1918 the Germans attacked the French and pushed a thirteen-mile bulge into the French lines. On May 30, 1918, the Germans reached the Marne River, but the Americans blocked the enemy offensive at Chateau-Thierry and prevented the Germans from sweeping across the river.[23] Sebring was involved in the Soissions drive in June and July 1918. The enemy had captured Soissions in May 1918, but as a result of the offensive, the French recaptured the city on August 2, 1918.[24] In September 1918 Sebring participated in the offensive at St. Mihiel, which was the first distinctively American led offensive of World War I.[25] The Germans suffered 5,000 casualties and had 15,000 men taken as prisoners of war.[26] Although the Americans suffered 7,000 casualties, the offensive was considered a major victory for the Americans.[27]

Sebring also took part in the Meuse-Argonne offensive in September, October, and November 1918.[28] In this offensive, the Americans fought for five miles along the Meuse Heights and two miles more in the forest of the Argonne.[29] They resisted several frontal attacks, and during twenty-seven days in October 1918, the Americans cleared the Argonne Forest of the enemy.[30] The Americans suffered 117,000 casualties; 1 in 10 Americans in the offensive were killed.[31]

Sebring's son recalls his father telling him that in one of these battles, Sebring, as a noncommissioned officer, was in charge of several seventy-five millimeter French-made guns.[32] The Germans had mounted a major offensive and were about to break through the Allied line.[33] Sebring's guns had been lobbing rounds into the approaching enemy.[34] But, when he saw how close they were and

23. John Laffin, *A Western Front Companion 1914–1918: A–Z Source to the Battles, Weapons, People, Places, Air Combat* 94 (Alan Sutton Publg. Ltd. 1994).

24. *Id*. at 196–197.

25. *Id*. at 112.

26. *Id*.

27. *Id*. at 112, 196.

28. *Id*. at 105.

29. *Id*. at 106.

30. *Id*.

31. *Id.* at 105–107.

32. Telephone Interview with Harold L. Sebring, Jr., Dean Sebring's Son (Mar. 17, 2000); *Reflections and Memories*, *supra* n. 14 (remarks of Harold L. Sebring, Jr.).

33. Telephone Interview, *supra* n. 32.

34. *Id*.

realized that they were about to overrun his position, he ordered his men to lower the trajectory of the guns and to shoot directly at the oncoming enemy troops, at point-blank range.[35] This stopped the advance of the enemy, preventing them from breaching the Allied line.[36] Sebring also later told his son that the influenza epidemic killed more soldiers than the enemy.[37] He said that when soldiers at the battle lines died of the flu, blue tags were placed on their bodies.[38]

During World War I, Sebring was severely burned on his body and eyes by mustard gas. He suffered from the effects of the mustard gas for approximately twenty years.[39] Sebring was highly decorated as a result of his service during the War. He received two French awards — the *Croix de Guerre* with a silver star[40] and the *Corde de Fourragere*. The American government also bestowed two citations for gallantry in action. Sebring was awarded the Silver Star with oakleaf cluster.[41] The oakleaf cluster on the Silver Star indicates that he was awarded the Silver Star twice. The Silver Star is one of the most significant awards given by the United States government for heroism.[42] The Medal of Honor, formerly the Congressional Medal of Honor, is the highest award.[43] The Distinguished Service Cross is the second highest, and the Silver Star is the third highest honor for bravery in combat that our government bestows on its soldiers.[44] Sebring's commanding officer sent paperwork to higher military authorities requesting that Sebring be awarded the Distinguished Service Cross, but nothing came of that

35. *Id*.

36. *Id*.

37. *Id*.

38. *Comments*, *supra* n. 21.

39. Telephone Interview, *supra* n. 3.

40. The French military awards the *Croix de Guerre* to men mentioned in dispatches who have displayed great bravery. The Aerodrome, *Croix de Guerre* <http://www.theaerodrome.com/medals/france/cdg4.html> (last revised Mar. 29, 2000). A silver star is awarded for divisional dispatch. *Id*.

41. Cash, *supra* n. 1, at 10; *Reflections and Memories*, *supra* n. 14; J. Blanford Taylor, Dir., *Stetson U. News Release* (Stetson News Bureau June 25, 1955) (copy on file with Author).

42. Am. Online, *Silver Star* <http://members.aol.com/warlib/medals/m-ss.htm> (accessed July 15, 2000).

43. The Aerodrome, *Medal of Honor* <http://www.theaerodrome.com/medals/usa/moh.html> (last revised Mar. 18, 2000).

44. The Aerodrome, *Distinguished Service Cross* <http://www.theaerodrome.com/medals/usa/dsc.html> (last revised March 18, 2000).

request.[45] Regarding his War decorations, Sebring was later asked to comment and he said, "I don't know how I got them. Just by staying alive, I guess. My unit suffered 130 percent casualties. Every [thirty] days they [would] come around and give a medal to anyone still alive."[46]

His nickname, "Tom," was given to him during his military service by a noncommissioned officer. The nickname stuck, and he was known as Tom throughout the remainder of his life.[47] His son's given name was Harold L. Sebring, Jr., but he, too, has always been known as "Tom."

While in the military, including the time spent in United States's training camps and before leaving for Europe as well as during the months of occupation, Sebring fought as a boxer. He also played on and helped coach army football teams, both during training in the United States and during the occupation period in Europe.[48]

College

Sebring was overseas a total of twenty-two months, including nine months with the Army of Occupation.[49] During his military service, he had risen to the rank of sergeant.[50] Sebring received his honorable discharge from the army in August 1919.[51] He then returned to Kansas and decided to become a tractor mechanic, but two men changed his plans.[52] One was his stepfather, who recommended that he go to the Kansas State Agricultural College for a tractor repair course rather than to Kansas City for a shorter course.[53] While at the College, Dean A.A. Potter talked him into enrolling as a freshman rather than merely taking the tractor

45. Telephone Interview, *supra* n. 32.

46. Peter Kramer, *An Informal Visit with Mr. Sebring of Stetson,* 82 St. Pete. Times 10–11 (Nov. 28, 1965) (emphasis omitted).

47. Paul Davis, *Sebring: Writing Career Balked,* 231 St. Pete. Indep. 5C (July 30, 1968); Allen Morris, *Dean of Stetson Law School Has Been Coach, Judge, Soldier*, 72 St. Pete. Times 1D (Oct. 2, 1955).

48. Harvey Parrish & B.F. Berlack, *Tom Sebring to Succeed Van Fleet as Head Coach of Fighting Gators,* 17 Fla. Alligator (Gainesville) 1 (Jan. 17, 1925); Telephone Interview, *supra* n. 2.

49. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 1; Cash, *supra* n. 1, at 10.

50. Allen Morris, in an October 2, 1955, article, said about Sebring, "You can call him 'Coach' or 'Judge' or 'Dean' or 'Sergeant.'" Morris, *supra* n. 47, at 1D.

51. Cash, *supra* n. 1, at 10.

52. Kramer, *supra* n. 46, at 11.

53. *Id*.

mechanics course. Throughout his life, Sebring was extremely grateful to both men for the advice they gave at this critical juncture in his life.[54]

Sebring had very little money and could not afford books. A fellow freshman, Bill Skinner, told Sebring that he would enroll in the same courses so that Sebring could share Skinner's books. The friendship between them lasted for their entire lives, and Sebring's son says that throughout his father's life Skinner remained Sebring's closest and best friend. Skinner named his son Tom after his friend.[55]

Kansas State Agricultural College was located in Manhattan, Kansas. In 1931 the school's name was changed to Kansas State College of Agriculture and Applied Science, and since 1959 it has been known as Kansas State University.[56] At the time Sebring enrolled, the school had about 4,000 students.[57] Sebring studied architecture and engineering,[58] but later switched to commerce and banking. He received a bachelor of science degree in commerce.[59]

Although he received his degree in commerce, he loved architecture throughout his life. A fellow justice of the Supreme Court of Florida, years later, said that while Sebring was a member of the court he would "doodle by drawing pictures of little houses" and that "[h]e [drew] the first [architectural] concept of the present supreme court building."[60]

Sebring became very involved in student life while attending Kansas State. Shortly after he enrolled, Sebring was elected president of his freshman class.[61] Additionally, he was treasurer of the sophomore class and vice president of his senior class.[62] He also

54. *Id*.

55. *Comments*, *supra* n. 21.

56. Kan. St. U., *University Archives & Manuscripts, Kansas State University: A Brief Chronology* <http://www.lib.ksu.edu/depts/spec/flyers/ksu-history.html> (last modified June 23, 1999).

57. Kan. St. U., *University Archives & Manuscripts: KSU Enrollment Statistics* <http://www.lib.ksu.edu/depts/spec/flyers/enrollment.html> (last updated Mar. 17, 1999).

58. Gelman, *supra* n. 6, at 4.

59. *Visiting Jurist Hears His First Two Cases Here: Judge H.L. Sebring Fills in on Bench*, 55 St. Pete. Times 5 (Feb. 23, 1939) [hereinafter *Visiting Jurist*]; *H.L. Sebring*: *Biographical Data for General Purposes* (unpublished resume post-1958) (original on file with Author) [hereinafter *Biographical Data*].

60. B.K. Roberts, Speech, *Dean Harold L. "Tom" Sebring* (St. Pete., Fla., Apr. 1980) (copy on file with the Author).

61. *Biographical Data*, *supra* n. 59, at 1.

62. *Id*.

joined the Acacia fraternity[63] and performed in the College Glee Club, the College Quartet, and the Purple Masque, a dramatic club.[64] In addition to civic and music organizations, Sebring participated in varsity boxing, and he was a sprinter on the track team.[65]

Sebring's Career as a Football Player

Although Sebring was a class officer, a member of many organizations, and a member of the boxing and track teams, he became best known as a football player. He was a member of the Kansas State "Aggie" football team. He competed as a varsity player in 1920, 1921, and 1922 and earned letters each of those years.[66] At the time he was a college football player, he was 5 feet 11½ inches tall and weighed 190 pounds. Also, he had eighteen and one-half inch biceps, the result of strenuous labor throughout his early life.[67] He was large for a football player in those days.

Sebring played right end for the Aggie football team. At that time, there was very little passing in football, but Sebring established a school record for catching the most passes in one game. His son told me that all of those catches in that game came from "buttonhook" passes.[68]

While playing football, Sebring broke his collarbone. He needed his shoulders for blocking, and while the collarbone was healing, Sebring was not able to block effectively.[69] While the break healed, he became the place kicker for the team.[70]

In those days, the Aggies were part of the Missouri Valley Conference. The Aggies played such schools as Creighton University, the University of Kansas, the University of Missouri, Iowa State University, the University of Oklahoma, and Texas Christian University.[71]

63. *Id*.

64. *Id*.

65. Telephone Interview, *supra* n. 2.

66. *Kansas State Wildcats*: *1999 Football Media Guide* 215 (Craig Pinkerton ed., Ag Press 1999) [hereinafter *Kansas State Wildcats*].

67. Telephone Interview, *supra* n. 2.

68. *Id*. Sebring's son, Harold L. Sebring, Jr., believes that the one-game record that his father set was either thirteen or fourteen catches. *Id*. Records from that long ago are difficult to track down, and the Author has not been able to verify the exact number. *See infra* nn. 75–80 and accompanying text (describing the "buttonhook" pass).

69. Telephone Interview with Harold L. Sebring, Jr., Dean Sebring's son (Apr. 12, 2000).

70. Telephone Interview, *supra* n. 32.

71. *Kansas State Wildcats*, *supra* n. 66, at 219.

In 1921, against their arch rival, the University of Missouri, the Aggies were losing five to zero until almost the end of the game. A play was called for Sebring to catch a pass. He threw a block, then fell on the ground and stayed there for a short while, pretending to be out of the play. Then Sebring got up, started walking, and began to run. He caught the pass and ran fifty-six yards, all the way to the University of Missouri two-yard line, where he was tackled. In that era, the players on the field called their own plays. In the huddle following that play, Sebring asked running back "Susie" Sears, "'Susie', can you run it in?" "Susie" answered, "Yes, I can." Then, on the next play, "Susie" ran the ball into the end zone for a touchdown. Sebring kicked the extra point and Kansas State won the game, seven to five.[72]

Sebring made the All-Missouri-Valley and the All-Western teams in football.[73] Also, in 1921 he was selected as a member of the "K-Aggie All-Time Football Team."[74] As a football player, Sebring was resourceful, imaginative, and innovative. He invented the pass play still in use and known as the "buttonhook" pass.[75] In this play,

72. *Kansas State Wildcats*, *supra* n. 66, at 133; Telephone Interview, *supra* n. 2. Sebring's son says that to this day, when they visit Kansas State for football games, old-timers still talk about that fifty-six-yard run. Telephone Interview, *supra* n. 2.

73. Telephone Interview, *supra* n. 2. I have been able to verify that in Sebring's first year as a varsity player, as a sophomore, he was named third team, All-Missouri-Valley Conference. This information was obtained from Professor Albert M. Witte of the University of Arkansas College of Law who, in turn, received it from Ellen Summers, at the national office of the National Collegiate Athletic Association. Witte was the president of the NCAA from 1989–1991. Both Ms. Summers and Mike Kern of the Missouri Valley Conference, were unable to find any record of all-conference honors for Sebring in 1921 or 1922, his junior and senior years. It stands to reason that if he made third team all-conference honors in his sophomore year, he would have made second or first-team honors in his third or fourth years of college. The fact that there is no record of such recognition may be due to the fact that he was injured during portions of those seasons. It is also possible that he was named to an all-conference team one or both of those years, but that there is no present record. Mike Kern has said that the Missouri Valley Conference no longer has records of names of those given third-team all conference honors during the 1920s. In 1923 the *Florida Alligator*, the University of Florida newspaper, reported that he had been All-Missouri-Valley Conference end for two years. *Captain Van Fleet Head Coach*, 11 Fla. Alligator (Gainesville) 5 (Jan. 13, 1923). The Missouri Valley Conference still exists, but football is no longer played in that conference, and Kansas State is no longer a member.

74. *Biographical Data*, *supra* n. 59. This all-time team had been selected by Mike Ahearn, who had been the coach of the Aggies in the years 1905–1910. *Kansas State Wildcats*, *supra* n. 66, at 166.

75. Telephone Interview, *supra* n. 2. A buttonhook is defined as "a hook for drawing small buttons through buttonholes." *Merriam Webster's Collegiate Dictionary* 149 (10th ed., Merriam-Webster, Inc. 1996). The fact that the button is pulled backward through the buttonhole, as well as the shape of the pattern, probably explains why the term is used to

the receiver runs down the field and then stops suddenly.[76] Using his back foot to pivot, he turns 180 degrees to the rear and faces the passer, moving back toward the passer.[77] The player defending him, who has been backpedaling, cannot immediately stop because his momentum continues to carry him down the field.[78] This leaves the receiver open for an instant, and the pass must be timed perfectly.[79] The receiver can catch the ball as he moves back toward the passer or can move a little to the left or right to make the reception.[80]

Also, the concept of overloading or "flooding" a passing zone originated with Sebring.[81] Kansas State used the "Notre Dame Box" offense. The backs would line up in a "T" formation and then shift into a box-shaped formation behind either the right or left side of the line just before the ball was snapped.[82] When the quarterback called the signals, the center would snap the ball to one of the other backs.[83] In Sebring's concept of overloading the passing zone, the right end would run down the field.[84] One of the halfbacks, who had lined up as a "wingback" behind the right end, would go out for a pass in the same area.[85] The quarterback would fake a block and then also run into the same area, thereby "overloading" that area with the three receivers.[86] The back who had received the ball from the center would then pass the ball to the quarterback.[87] The saturation of the area of the field with three potential receivers made pass coverage difficult for the defensive team.[88] Overloading the passing zone is still a basic offensive scheme used in football at all levels of the game.[89]

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describe this play.

76. Telephone Interview, *supra* n. 2.
77. *Id*.
78. *Id*.
79. *Id*.
80. *Id*.
81. *Id*.
82. *Id*.
83. *Id*.
84. *Id*.
85. *Id*.
86. *Id*.
87. *Id*.
88. *Id*.
89. Interview with Thomas Krug, Former Quarterback, U. of Notre Dame and Present Law Student, Stetson U. College of L. (Oct. 1999).

James Van Fleet

Sebring's coach while at Kansas State was Charlie Bachman.[90] In addition to Bachman, a young captain in the United States Army who was stationed at Kansas State in the Reserve Officers' Training Corps (R.O.T.C.) program would figure prominently in Sebring's life. This young captain had been a famous football star several years earlier at West Point.[91] Although he was at Kansas State as an army instructor in R.O.T.C., Bachman allowed the captain to work with the team as a volunteer, part-time assistant coach. This young captain's name was James Van Fleet, and Van Fleet worked specifically with the ends, including Tom Sebring.[92]

Van Fleet was an assistant for the Aggies for only the 1920 season.[93] After that, the army stationed him at South Dakota State College, in that school's R.O.T.C. program.[94] But after he had been at South Dakota only a short time, the R.O.T.C. military advisor's position at the University of Florida became available.[95] Dr. Albert A. Murphree, who was the president of the University of Florida, advised Van Fleet that the advisor position was vacant. The army allowed Van Fleet to leave South Dakota and accept the Florida position.[96] Van Fleet had lived, since boyhood, in Bartow, Florida, and undoubtedly was pleased to be able to move closer to home.[97] His title at the University of Florida was commandant of cadets and professor of military science and tactics.[98]

He relocated to Gainesville in Summer 1921 during which time the head football coach at the University of Florida was W.G. Kline.[99] Coach Kline learned of Van Fleet's background and offered him a part-time assistant coach position.[100] Van Fleet became an

90. Tom McEwen, *The Gators: A Story of Florida Football* 76 (Strode Publg. 1974).

91. Marty Cohen, *Gator Tales, Stories, Stats and Stuff about Florida Football* 19 (Wichita Eagle & Beacon Publg. Co. 1995); *The Seminole* vol. 14, 96 (1923) (U. Fla.'s yearbook).

92. McEwen, *supra* n. 90, at 76. After the season ended, the athletic department voted to give Van Fleet a $300 honorarium for his contribution to the team. *Id*.

93. *Id*.

94. *Id*.

95. *Id*.

96. *Id*.

97. *Captain Van Fleet Head Coach*, *supra* n. 73, at 5.

98. *The Seminole*, *supra* n. 91, at 23. It seems strange that the name "Seminole" was once associated with the University of Florida, in view of the present rivalry in athletics between the University of Florida "Gators" and the Florida State University "Seminoles."

99. Cohen, *supra* n. 91, at 15; *The Seminole*, *supra* n. 91, at 96.

100. McEwen, *supra* n. 90, at 77.

assistant under Kline and was his assistant for the 1921 and 1922 football seasons.[101] Van Fleet said later of those two years as Kline's assistant, "I do not recall that I received any pay at all."[102]

Van Fleet had been a classmate of Dwight D. Eisenhower and Omar Bradley at West Point.[103] The class of 1915 in which he graduated has been described as "the class the stars fell on."[104] Sixty-one of the 164 members of that graduating class eventually became generals.[105] During World War I, Van Fleet had been a captain in France, commander of a machine gun battalion, and wounded in combat.[106] During World War II, Van Fleet was commander of a regiment that led the forces at Normandy on D-Day and fought in the Battle of the Bulge.[107] He became a "Four-Star" General and was considered one of this country's best.[108] When President Harry S. Truman, during the Korean War, "dismissed" General Douglas MacArthur, General Matthew Ridgeway took MacArthur's place, and Van Fleet replaced Ridgeway as commander of the Eighth Army.[109] General and President Eisenhower at one time called Van Fleet "probably the best qualified combat officer in the armed forces."[110]

The University of Florida: Assistant Football Coach

In 1923, after Van Fleet had spent two seasons as an assistant coach, Kline left, and Van Fleet took over as head coach.[111] He held that position for two years, 1923 and 1924.[112] As Van Fleet was being named head coach, Sebring was in his final year at Kansas State. In Spring 1923 Sebring helped Bachman as an assistant and coached the team during spring practice.[113] The famous Knute Rockne, coach of the Notre Dame football team, had heard about Sebring and about his original, inventive football mind and his

101. Cohen, *supra* n. 91, at 19.
102. McEwen, *supra* n. 90, at 77.
103. Cohen, *supra* n. 91, at 19; *General James Van Fleet*, London Times 17 (Sept. 25, 1992).
104. *General James Van Fleet*, *supra* n. 103, at 17.
105. *Id*.
106. *Id*.
107. Bill Bond, *Trail to Bear Name of Gen. Van Fleet*, Lake Sentinel (Tavares) 1 (June 2, 1992).
108. *Id*.
109. *Obituary of General James Van Fleet*, Daily Telegraph (London) 21 (Sept. 25, 1992).
110. *Id*.
111. Cohen, *supra* n. 91, at 17–19.
112. *Id*.
113. Parrish & Berlack, *supra* n. 16, at 5; Telephone Interview, *supra* n. 2.

innovations in the passing game. Rockne offered Sebring a position as an assistant coach at Notre Dame.[114] Also, Van Fleet invited Sebring to become an assistant coach at the University of Florida.[115] Sebring accepted the position at Florida and was also named head track coach and head boxing coach.[116] At the time he was hired, the *Florida Alligator* printed the following:

> For an assistant to Captain Van Fleet the services of [Harold] Sebring, All-Missouri Valley Conference end with the Kansas Agricultural College for two years, have been secured. For the past two seasons Mr. Sebring has been assistant coach at the Kansas Agricultural College and comes to Florida highly recommended by Coach Bachman of the same institution, whose authority is unquestioned among football circles in the Missouri Valley Conference.
>
> It is said that Mr. Sebring will enroll in the College of Law here and complete the law course of the University while acting as assistant coach.[117]

Sebring did enter the law school, and he received his law degree from the University of Florida in 1928.[118] In those days, the University of Florida consisted of a College of Arts & Sciences, a College of Agriculture, a College of Engineering, a Teachers' College, a College of Law, a military department, and an extension division.[119] At the time Sebring began at the University of Florida, the total enrollment was approximately 1,400.[120] At the time he entered the law school, the enrollment in that school was 170[121] and the school had 6 faculty members, including the dean.[122]

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114. Telephone Interview, *supra* n. 2.

115. Cash, *supra* n. 1, at 10.

116. *Id.*; *The Seminole*, *supra* n. 91. Sebring had been coached by Van Fleet at Kansas State and knew him and apparently liked him quite well. He later joked about his decision to work with Van Fleet at the University of Florida. "I knew Van as well as any big sergeant could who had personally won the war and couldn't tolerate officers." Gelman, *supra* n. 6, at 5.

117. *Captain Van Fleet Head Coach*, *supra* n. 73, at 5.

118. McEwen, *supra* n. 90, at 82.

119. *The Seminole*, *supra* n. 91, at 23.

120. *Enrollment for 1924 Rapidly Nears 1200 Mark*, 16 Fla. Alligator (Gainesville) 1 (Sept. 28, 1924).

121. *Present Enrollment Largest in History of Florida University*, 17 Fla. Alligator (Gainesville) 1 (Sept. 27, 1925).

122. *The Seminole*, *supra* n. 91, at 23.

In those days, the University of Florida was not a member of the Southeastern Conference, as that conference was not formed until 1932.[123] Instead, it was a member of the Southern Intercollegiate Conference, which was formed in 1921.[124] The University of Florida joined in 1922.[125] The schools in the conference included the University of Alabama, the Alabama Polytechnic Institute (now Auburn University), Clemson Agricultural College (now Clemson University), the University of Georgia, Georgia Tech University, the University of Kentucky, the University of Maryland, Mississippi A & M College (now Mississippi State University), the University of North Carolina, North Carolina State University, the University of Tennessee, the University of Virginia, Virginia Polytechnic Institute & State University (Virginia Tech), Washington & Lee University, the University of Florida, Louisiana State University, the University of Mississippi, the University of South Carolina, Tulane University, and Vanderbilt University.[126] In 1923 the University of the South was added, and, in 1924 Virginia Military Institute was added, for a total of twenty-two schools.[127] In 1923 the name was changed to Southern Conference.[128] In 1932 the Southern Conference divided into two conferences, which formed what today have become the Southeastern Conference and the Atlantic Coast Conference.[129]

When Sebring was coaching, the University of Florida played at Flemming Field. It was situated just north of where the present football stadium is located, and it ran in an east-west direction.[130]

As the new assistant coach, Sebring helped Van Fleet develop a passing game. A writer for the *Florida Alligator* said, "The passing system as planned by coaches Van Fleet and Sebring is gradually

123. Cohen, *supra* n. 91, at 30.

124. *Id*. at 21.

125. Carrol Lowry Crocker, *A History of Football Officiating in the Southeastern Conference* 4 (A.H. Cather Publg. Co. 1991).

126. *Id*. at 3.

127. *Id*. at 4.

128. *Id*.

129. Crocker, *supra* n. 125, at 7; Telephone Interview with Carrol Lowry Crocker, Author (Sept. 19, 1999). The schools south and west of the Appalachian Mountains were in the newly-named Southeastern Conference and those east of the Appalachians became the Atlantic Coast Conference. Crocker, *supra* n. 125, at 7.

130. Cohen, *supra* n. 91, at 8.

nearing perfection and at present the Gators pass with the precision of a well oiled machine . . . ."[131]

Sebring was one of three assistant coaches, but was referred to as "first assistant" and was the assistant responsible for training the ends and the linemen.[132] The *Florida Alligator* said about Sebring in 1923, "He has his own method of handling the men and there is a certain snap about him that makes the men jump to their positions in a way that bodes no good for [opponents] Army and [Georgia] Tech."[133] Also,

> Every day on the field the men go through a series of forward passes, both for the linemen and the backfield. Then two or three turns are taken through the stride boxes. After this, Assistant Coach Sebring takes the line through a series of setting up . . . exercise[s] while the backfield pounds the tackling dummy. Thus the afternoon passes, and by six-thirty the men are ready for a shower and the training table.[134]

The team's overall record in 1923 was six wins, one loss, to Army, and two ties. The ties were against Georgia Tech University and Mississippi A & M College; the victories came against Rollins College, Wake Forest College (now Wake Forest University), Mercer University, Stetson University, Southern (now Florida Southern College), and the University of Alabama.[135]

The tie against Georgia Tech, and the upset victory over a favored Alabama team by a score of sixteen to six had been unexpected.[136] The University of Alabama game was the final contest of the season and was played on Alabama's home field in Birmingham. Alabama was expected to win the Southern Conference championship, but Florida won the game. Ark Newton's punting kept the Alabama team pinned down in its own territory for much of the game, which was clearly a major factor in the victory. Van Fleet, after the game, said, "Tom Sebring helped in that game with an idea. Ark needed a little more time (to punt) than most. Sebring

131. *Varsity Has a Splendid Chance to Win Southern Championship*, 16 Fla. Alligator (Gainesville) 8 (Nov. 10, 1923).

132. *The Seminole* vol. 15, 98 (1924) (U. Fla.'s yearbook); Parrish & Berlack, *supra* n. 16, at 5.

133. Parrish & Berlack, *supra* n. 16, at 5.

134. *Van Fleet Prophesies Good Year for Florida,* 15 Fla. Alligator (Gainesville) 1 (Sept. 21, 1923).

135. McEwen, *supra* n. 90, at 365; *The Seminole*, *supra* n. 132, at 97–98.

136. McEwen, *supra* n. 90, at 78–79.

proposed we worry only about the kick and not the runback, leaving an extra blocker for Ark. It worked."[137]

The Gator team finished second in the Southern Conference standings and destroyed Alabama's chances of winning the championship.[138] The University of Florida yearbook, *The Seminole*, praised Sebring's role as an assistant to Van Fleet. The author of the section describing the 1923 football season said,

> "Tom" Sebring came to us this year from the Kansas Aggies. His pep, fight and all round coaching ability has made a place of respect for him in the minds of all the followers of Florida athletics.[139]

Van Fleet arranged games for 1924 and 1925 with his alma mater, the Army team at West Point. In 1924 Florida lost to Army twenty to zero and lost again to Army fourteen to seven in 1925. In 1924 Florida won six games, lost two, and tied two. The victories were won against Rollins College, Wake Forest College, Southern College, Mississippi A & M College, Drake University, and Washington & Lee University. The losses were to Army and Mercer University. The Florida team tied Georgia Tech University, seven to seven, and the University of Texas, also by a seven to seven score.[140]

Van Fleet's military tour of duty at the University of Florida ended in August 1924, and the army ordered him to report to his next assigned post, the Panama Canal. However, Van Fleet was entitled to four months of leave time, and by taking all four months of leave at once, he was able to remain in Gainesville and coach the team through the 1924 football season. But when that season ended, Van Fleet's military career required him to relinquish the head coaching position.[141] A writer for the school's newspaper, the *Florida Alligator*, stated that

> [u]pon the conclusion of the fall term of 1923–24 announcement was made by the government that Major Van Fleet's term of professor of Military Science at the University of Florida had expired, and that owing to a rule of the War Department, the major would report to other fields for service. This announcement came as a severe blow to the University

137. *Id*. at 79.
138. *The Seminole*, *supra* n. 132, at 97.
139. *Id*. at 96.
140. McEwen, *supra* n. 90, at 365.
141. Cohen, *supra* n. 91, at 19; McEwen, *supra* n. 90, at 365.

> students, and the team saw in Van Fleet a true friend and a coach who would produce an eleven during the coming season to sweep away all opposition.[142]

The 1925 University yearbook commented,

> Every man of the Gator faculty and student body joins in expressing their appreciation of what Major Van Fleet has done for Florida football. Serving his second year as head football coach, the former West Point star fullback whipped a grid eleven into shape which again surprised the collegiate athletic world. The Major has so endeared himself to the hearts of all Gatorland that it was with sadness the University of Florida witnessed his departure for a foreign military post.[143]

In 1929 Van Fleet returned to the University of Florida, this time as an assistant coach, and he remained in that position until 1933.[144]

Head Football Coach

When Van Fleet departed, he recommended Sebring as his replacement. Sebring was appointed head coach beginning in Fall 1925 and held that post for three years — for the 1925, 1926, and 1927 seasons.[145] The school's yearbook, *The Seminole*, had the following to say about the change:

> In the two years that Tom Sebring has served as first assistant football coach under Major Van Fleet he has displayed such unusual abilities at handling a gridiron machine . . . and has so gained the confidence of every Gator student that much joy was expressed when he was formally notified of his appointment as head football coach for 1925. Though young in years Coach Sebring makes up by giving out such an abundance of pep and enthusiasm that his team is sure to reflect the winning spirit.[146]

142. *Van Fleet to Stay thru Football Season,* 16 Fla. Alligator (Gainesville) 1 (Oct. 19, 1924). When Van Fleet began at the University of Florida he was a captain. He was promoted to major while there and eventually became a "four-star" general. *Id*.

143. The University of Florida in those years was an all-male school. *The Seminole* vol. 16, 114 (1925) (U. Fla.'s yearbook).

144. Cohen, *supra* n. 91, at 19.

145. McEwen, *supra* n. 90, at 83; *The Seminole*, *supra* n. 143, at 25.

146. *The Seminole*, *supra* n. 143, at 114.

A writer for the yearbook also said, "Tom Sebring, head coach for next year . . . played a large part in the shaping of the team, and his record augurs well for the possibilities of the 1925 season."[147]

Apparently Sebring was relieved of his earlier duties as track coach and boxing coach when he became the head football coach.[148] And even while he was head coach, Sebring continued to attend law school.

During Sebring's coaching years in Gainesville, the University opened the School of Architecture, the School of Business Administration and Journalism, and the School of Pharmacy.[149] In 1925, at the time he took over as head coach, the student body numbered 1,675. By the end of his three-year term as head coach, University enrollment had surpassed 2,000, and enrollment at the law school when he graduated in 1928 was 248.[150]

When Sebring became head coach, the Southern Conference consisted of the University of Florida and nineteen other schools. Those other schools included the University of Alabama, Tulane University, University of North Carolina, Washington & Lee University, Georgia Tech University, the University of Virginia, University of Kentucky, Virginia Polytechnic Institute, University of Tennessee, University of South Carolina, University of Georgia, Sewanee (the University of the South), Mississippi A & M College, Virginia Military Institute, Louisiana State University, North Carolina State University, University of Mississippi, University of Maryland, and Clemson Agricultural College.[151]

In those days, football players competed on both the offense and defense. The average college player weighed only 165 or 175 pounds, and a lineman who weighed 200 pounds was unusual.[152] The members of the 1928 traveling squad of the University of Florida, which consisted of 36 players, weighed an average of 174 pounds.[153] People were smaller then, and this was before weightlifting had gained acceptance and made it possible for players to gain large

147. *Id*. at 116.

148. *The Seminole* vol. 18, 20 (1927) (U. Fla.'s yearbook). In this yearbook, Sebring is listed as head football coach, but is not listed as track or boxing coach. *Id*.

149. *Id*. at 15, 19; *The Seminole*, *supra* n. 143, at 25.

150. *Enrollment over 2,000*, 2 Fla. Alumnus 4 (Dec. 1927); *Present Enrollment Largest in History of Florida University*, *supra* n. 121, at 1.

151. *Crimson Tide Wins Championship of Southern Gridiron,* 17 Fla. Alligator (Gainesville) 1 (Nov. 28, 1925).

152. I have read a number of newspaper articles on University of Florida football during the 1922–1928 period, and the weights of players are sometimes mentioned.

153. McEwen, *supra* n. 90, at 101–102.

amounts of weight. Only one player on that 1928 team weighed over 200 pounds, and he only weighed 204.[154] Only 3 of the 36 weighed 190 pounds or above.[155] The tallest player was six feet two inches tall, and there were four at that height. There were two players who were six feet one inch tall and six who were six feet.[156] The rest were below six feet in height.[157] Three players weighed below 150 — 145, 146, and 147 pounds.[158] In those days, there were no football scholarships, and Sebring later said, "I knew some of my boys were practically living off egg sandwiches. But they could still get out there and play a whale of a game of football on Saturday afternoon."[159]

As head coach, Sebring, as always, was creative. He used the single wing, and he installed a flanker system. The line was unbalanced, with more linemen to one side of the center than the other. The backfield consisted of the quarterback, fullback, tailback, and wingback. The quarterback lined up behind the right guard, and although he called the signals, he was primarily a blocking back. The fullback lined up several yards behind the center. He ran the ball or blocked for the tailback. The tailback also lined up several yards behind the center and usually was the "star" of the offense who did most of the running and passing. The wingback lined up behind and a little to the side of the end. The quarterback called the signals, and the center snapped the ball either to the tailback or fullback. Sebring was one of the first to use flankers. The flanker system gave his players a better angle for blocking. Before the ball was snapped, the flanker would line up five to eight yards away from the right end, between the team and the sideline. The flanker would begin moving slowly back toward the team, parallel with the line of scrimmage as the quarterback called the signals. Then, when the ball was snapped, the flanker had a good angle and some momentum when he crossed the line and blocked a player on the opposing team. The flanker also could go out for a pass or take the ball from the tailback on a reverse. Sebring also installed punting as an offensive weapon, an almost unheard of strategy at that stage in the development of the game.[160]

154. *Id*.
155. *Id*.
156. *Id*.
157. *Id*.
158. *Id*.
159. Morris, *supra* n. 47, at 1D (emphasis omitted).
160. Telephone Interview, *supra* n. 2.

In 1925 the University of Florida team beat Mercer University, Southern College, Hampden-Sydney College, Wake Forest College, Rollins College, Clemson, Mississippi A & M, and Washington & Lee University. His team that year lost to Georgia Tech University and the University of Alabama.[161] Under Southern Conference rules, freshmen were not eligible for varsity play. As a result, the freshmen practiced with the varsity, but played their own separate schedule. One afternoon that fall, the University of Florida played a double header and won both games. The freshmen, or "scrubs" as they were called, beat Southern College, nine to zero, and then the varsity, immediately following the first game, subdued Hampden-Sydney, twenty-two to six.[162] In the final game of the season, Florida defeated Washington & Lee. That team had been unbeaten and had led the Southern Conference standings before being beaten by Sebring's team.[163]

After the very successful 1925 season, E.M. "Goldy" Goldstein, who played a guard, was selected as a member of the All-American Team, second team.[164] All-American first team selections that year included three of the most celebrated names in football history — Red Grange, Ernie Nevers, and Bernie Oosterban.[165] Van Fleet's 1924 team won six, lost two, and tied two. Sebring's 1925 team won eight games and lost two. This was the first time that a University of Florida team earned eight victories in a season.[166] The 1925 team scored 222 points versus 80 for the opposition.[167] After the 1925 season, most of the team graduated,[168] and Sebring had to find and train new players.

Thus, Sebring's second season as head coach was a rebuilding year. In 1926 his team won 2, lost 6, and tied 2, scoring only 94 points to 137 for the opponents.[169] The alumni were not happy about the fact that the team won only two games that year. But Sebring did an outstanding job of recruiting and the players he brought to

161. *The Seminole* vol. 17, 114 (1926) (U. Fla.'s yearbook).

162. Cohen, *supra* n. 91, at 21; *Coach Sebring's Men Play Double Header in One Afternoon,* 17 Fla. Alligator (Gainesville) 1 (Oct. 10, 1925).

163. Cohen, *supra* n. 91, at 21.

164. *Goldstein Is Chosen by Prominent Writer as All-American Man,* 17 Fla. Alligator (Gainesville) 5 (Dec. 5, 1925). Sebring's son, Harold L. Sebring, Jr., has advised me that his father and Red Grange were friends.

165. *Id*.

166. Cohen, *supra* n. 91, at 21; McEwen, *supra* n. 90, at 83.

167. McEwen, *supra* n. 90, at 376; *The Seminole*, *supra* n. 161, at 114.

168. Gelman, *supra* n. 6, at 5.

169. McEwen, *supra* n. 90, at 376; *The Seminole*, *supra* n. 148, at 125.

Gainesville became the team that won seven and lost three in 1927. Also, those players formed the basis for one of the most remarkable seasons in University of Florida football in 1928.[170]

The 1926 team beat Southern College and Clemson.[171] Florida tied Washington & Lee University and Hampden-Sydney College, but lost to the University of Chicago, coached by the great Amos Alonzo Stagg; the University of Mississippi; Mercer University; the University of Kentucky; the University of Georgia; and the University of Alabama.[172] For the game at the University of Chicago the crowd was 20,000, an unusually large crowd for that era.[173] Although Florida lost to Alabama, Wallace Wade, Alabama's coach, was quoted after the game as saying that "Florida's was the best coached team he had seen in the South."[174]

In 1927 Sebring's team defeated Southern College, Auburn, University of Kentucky, Mercer University, the University of Alabama, University of Maryland, and Washington & Lee University.[175] The team lost to Davidson College, North Carolina State University, and the University of Georgia.[176] A crowd of about 8,000 attended the Mercer game.[177]

Sebring's coaching career ended with the Maryland game,[178] which was played in Jacksonville on a very cold day, so cold that a crowd of only 2,000 showed up. The University of Florida won seven to six.[179] Rainey Cawthon, who was a back on Sebring's team, later told a story to Sebring's grandson about his coach during that game. Maryland punted to the University of Florida. The Florida receiver did not "fair catch" the ball. Instead, the receiver set the football on the ground without dropping to his knee, as was required for a fair catch, and ran to the sideline. Because the receiver had not dropped to his knee, the play was not "dead." A University of Maryland player, realizing this, picked up the ball and ran for a touchdown.

170. McEwen, *supra* n. 90, at 83–85.

171. *The Seminole*, *supra* n. 148, at 125.

172. *Id*.

173. *Gators Glorious in 12-6 Defeat, Florida Eleven Holds Powerful Maroon Team in Thrilling Battle,* 18 Fla. Alligator (Gainesville) 1 (Oct. 2, 1926).

174. "Goldy" Goldstein, "*Keep Sebring" Says "Goldy" Goldstein*, 2 Fla. Alumnus 7 (Dec. 1927).

175. *The Seminole* vol. 19, 142–150 (1928) (U. Fla.'s yearbook).

176. *Id*.

177. *Florida Defeats Mercer, Bears Completely Outplayed in Every Phase of Struggle; Gators Pierce Line at Will,* 19 Fla. Alligator (Gainesville) 1 (Oct. 30, 1927).

178. *Gators Closing with Maryland Next Saturday*, 21 St. Pete. Indep. 7A (Nov. 26, 1927).

179. McEwen, *supra* n. 90, at 85.

Sebring was so angry that he sent the water cooler flying through the air. Obviously, Sebring expected perfection, and clearly, he hated to lose.[180]

It has been said that

> Sebring's 1927 team was his best because, though it included a humiliating 12–0 upset at the hands of Davidson and losses to Georgia and North Carolina State, it also encompassed the first victory ever over Auburn and another stirring win over Alabama in Montgomery.[181]

The University of Florida team that beat Alabama was outweighed by twenty-four pounds to the man.[182] The score against Auburn was thirty-three to six, and the score against Alabama was thirteen to six.

The University yearbook had the following to say about Sebring's third season as head coach:

> The Seminole hastens to pay tribute to the coaching so evident in the ranks of the 1927 squad. Head Coach H.L. "Tom" Sebring, one of the youngest of Southern football mentors, entered his third year as chief boss with prospects that were much[ ] removed from brightness. Despite the handicap of material, of weather, of injuries, and any number of troubles and worries that the enthused outsider knows nothing of, Florida, through excellent coaching, and remarkable spirit of players, achieved a new rank in the football firmament.[183]

Resignation

The 1927 season was Sebring's last as a coach. The alumni were upset, because he had had a poor year in 1926. He was still young, in his late twenties, and some alumni, students, and members of the school's administration may have thought that they could do better with an older, more experienced coach. Also, the 1927 Davidson defeat had been embarrassing. Florida had lost that game at home,

180. *Reflections and Memories*, *supra* n. 14 (remarks of Harold L. "Tripp" Sebring, III).

181. McEwen, *supra* n. 90, at 84; *see* Cohen, *supra* n. 91, at 22 (discussing the 1927 season).

182. *The Seminole*, *supra* n. 175, at 147; Harvey Robinson, *Resignation of Coach "Tom" Sebring Comes as a Surprise to Univ. of Fla. Students: Former Kansas Star Leaves after Service of Five Years; Move Unexpected; Students to Meet to Express Confidence in New and Old Coaches*, 19 Fla. Alligator (Gainesville) 6 (Jan. 14, 1928).

183. *The Seminole*, *supra* n. 175, at 142.

12 to 0, before 7,000 fans. In a 1965 newspaper interview years later, Sebring explained that defeat. He said, "I had put in a new offense at Florida in 1927. Things like a floating back with pitchouts, keepers and a lot of things taken for granted nowadays. It was real razzle-dazzle back then."[184] "But Coach Sebring did [not] want to tip his hand to the Auburn [spies, who were] certain to be at the Davidson game, [which was the] second of the year and immediately before the Auburn [game. Because of this, Sebring] just cooked up an unbalanced line with the wingback and about six plays. Enough to beat Davidson, [he] figured."[185] However, "when the 'smoke cleared,' Coach Sebring found he had 'outsmarted [him]self.'"[186] The score ended up twelve to zero in favor of Davidson. But although this strategy had backfired against Davidson, it fooled the scout from Auburn who was there to discover and diagnose Florida's plays. "'The Auburn Scout was down on the field after the game and talking all over the place,' said Sebring [in 1965]."[187] "He was saying Florida was the lousiest team he had ever seen, most poorly coached and if Auburn didn't beat Florida by as much as they wanted, he'd surely be surprised."[188] He was surprised, because Sebring's ploy worked, and Florida won the Auburn game thirty-three to six.[189]

But, even though losing to Davidson paved the way for the victory over Auburn, the alumni, students, and administration were unhappy that Florida had lost to Davidson, a small liberal arts college, and apparently Sebring was under pressure to resign. He had his supporters. For instance, Sebring's former player and All-American "Goldy" Goldstein wrote a letter to the editor of the *Florida Alligator* in December 1927 and urged that Sebring be

184. Wayne Shufelt, *Back in '27*, 223 Tampa Times 14 (Oct. 25, 1965).

185. *Id*.

186. *Id*. Sebring used the word "outsmarted" in talking to Wayne Shufelt, the sports editor of the *Tampa Times* in a column published on October 25, 1965, regarding the 1927 Davidson game. Sebring's use of this word brings to mind an incident in which he used the same word in a conversation with me. I had taken an overload of courses and had enough credits to graduate from the law school one summer term short of the residency requirement for graduation. In Summer 1959 there were no courses scheduled that I had not already taken. At a faculty meeting, the faculty voted whether to waive the final summer of residency and allow me to graduate at the end of the spring semester. After the meeting, Dean Sebring saw me in the hall. He began by saying, "Well, you outsmarted yourself." He then reported to me that the faculty had approved my request for a waiver of the residency requirement.

187. *Id*.

188. *Id*.

189. *Id*.

retained as head coach.[190] However, even though Sebring had just produced one of the best football teams in the history of the University, with a seven win, three loss record in Fall 1927, on the morning of January 6, 1928, he announced his resignation.[191] The *Florida Alligator*'s headline read, "Resignation of Coach 'Tom' Sebring Comes as a Surprise to Univ. of Fla. Students."[192] It was reported that Sebring's resignation came like "a shock of lightning out of a clear blue sky."[193] Some years later, his assistant coach, Nash Higgins, said, "I came home from a scouting trip, picked up the evening paper, and saw where Sebring was out. I didn't understand it then, and I don't now."[194]

Sebring's resignation was not voluntary. He had been criticized for the losing 1926 season and for the defeat at home to Davidson in 1927. He was about to receive his law degree and may have intended to leave coaching someday and enter the practice of law. However, he had recruited, assembled, and for one year had what in 1928 became one of the most outstanding football teams in the history of collegiate football.[195] Sebring, being the intelligent and able coach that he was, certainly knew that he had a great team in the making, and he would not have willingly stepped down before seeing that team reach its full potential. Also, the fact that his assistant coach was surprised by Sebring's resignation indicates that the decision was made abruptly, under pressure from the administration. Certainly Sebring would have notified his assistants ahead of time if he had had time to make his own, totally voluntary decision to resign.

Sebring's son told me that Sebring did not voluntarily resign, but was asked to resign.[196] On the day Sebring was asked for his resignation, he did not know what had led up to the decision to ask for his resignation, but he subsequently learned the details.[197] President Murphree died late in 1927, and James Farr took over as acting president for the balance of the 1927–1928 year.[198] Everett Yon, the athletic director for the University and Sebring's immedi-

190. Goldstein, *supra* n. 174, at 7.
191. Frank Wright, *Echoes of Florida Athletics,* 2 Fla. Alumnus 19 (Jan. 1928).
192. Robinson, *supra* n. 182, at 1.
193. *Id*.
194. McEwen, *supra* n. 90, at 85.
195. *Id*.
196. Telephone Interview, *supra* n. 69.
197. *Id*.
198. *Id*.

ate superior in the Department of Athletics, without Sebring's knowledge, had persuaded the acting president that the University needed a big-time, older, more experienced coach.[199]

Before approaching Farr, Yon had contacted Charles Bachman, the coach of the Kansas Aggies, and had told Bachman that Sebring was about to graduate from law school and give up coaching to enter the practice of law. Yon asked Bachman if he would take the job at Florida after Sebring left. Bachman had no reason to disbelieve Yon's assertion that Sebring wanted to resign to practice law, and Bachman gave an affirmative response. Yon then told all of this to Farr when Yon persuaded him that Sebring should be asked to resign. Sebring had been one of Bachman's star football players, and Bachman and Sebring were lifelong friends. Bachman would not have taken Sebring's job if he had known that Sebring had no intention of voluntarily resigning. Even though Bachman had no reason to disbelieve Yon, why did Bachman not contact Sebring to discuss the situation and find out about the players and the team's prospects for the coming season? Sebring's son believes that the answer to that question lies in the timing of the events. He feels that these events — Yon's contact with Bachman and discussion with the acting president, as well as the demand for Sebring's resignation — occurred so rapidly that Bachman did not have time to reach Sebring before Sebring resigned.[200]

What was Yon's motivation for removing Sebring? Yon and Sebring both had been assistant coaches under James Van Fleet. When Van Fleet left Florida, Yon wanted the position of head coach, but Van Fleet instead recommended Sebring. Then, while Sebring was head coach, Yon was named athletic director, and he became Sebring's boss. Sebring had gotten the job that Yon had sought unsuccessfully, and now Yon was in a position to remove Sebring. This was not a healthy situation. It put Yon in the position to remove Sebring and thereby show that the original hiring of Sebring was a mistake — that he, Yon, should have been selected for the job instead of Sebring. Yon subsequently regretted what he had done, because years later he asked Sebring to forgive him.[201]

Sebring, being the man he was, never complained, publicly nor privately, about his removal. He told no one what had happened,

199. *Id*.

200. *Id*. Harold L. Sebring, Jr. is not certain who asked for Dean Sebring's resignation, but he believes it was the acting president. *Id*.

201. *Id*.

except his wife and, years later, his son. But, leaving his team was difficult. Years later, young Tom's mother and Coach Sebring's wife, Elise, told the younger Sebring, "It just about killed your Father when he had to leave Florida."[202] It was lucky for Stetson that Sebring resigned and instead became a lawyer, a judge, and a dean. But if he had continued in coaching, Sebring surely would have had a chance to become one of the greatest coaches in the history of collegiate football, and he certainly should have been given the opportunity to continue coaching.

Charles Bachman was hired by the University of Florida to replace Tom Sebring.[203] He had been Sebring's coach at Kansas State, and Bachman and Sebring were good friends and continued being good friends.[204] Bachman stayed at Florida for five years, from 1928 through 1932, and his record was 27 wins, 18 losses, and 3 ties for a .593 winning average, compared with Sebring's winning average of .607.[205] It was not until the decade of the 1960s that the University of Florida again had a coach with as good a career win-loss record as Sebring's back in the 1920s. That coach was Ray Graves, whose average was .671.[206]

Sebring's resignation was an enormous loss for the University of Florida. Sebring's record of eight wins and two losses in 1925 was the best season record at the University of Florida up to that point in the school's history. Sebring, as head coach for three years, established a cumulative record of seventeen wins, eleven loses, and two ties.[207] According to one source, "[T]here are many who believe that Florida never had a wiser football mind than Tom Sebring."[208] He was an outstanding recruiter, and even though his team had a losing record in 1926, Sebring had laid the foundation for the 1927, 1928, and 1929 seasons. It has been said that "[n]ot only did Sebring produce two of the finest teams that Florida has ever known, he brought in much of the talent that would create a great 1928

202. *Id*.

203. *The Seminole*, *supra* n. 175, at 151.

204. Sebring's son states that his father and Bachman continued to talk about football after Sebring stepped down. Additionally, Sebring gave advice and help to Bachman while Bachman coached the University of Florida football team. Telephone Interview with Harold L. Sebring, Jr., Dean Sebring's son (Apr. 26, 2000).

205. Cohen, *supra* n. 91, at 143. However, Sebring's average also has been calculated as .600. *Id*.

206. McEwen, *supra* n. 90, at 381. However, Graves's average also has been calculated as .686. Cohen, *supra* n. 91, at 143.

207. Cohen, *supra* n. 91, at 143.

208. McEwen, *supra* n. 90, at 82.

team."[209] Sebring "left a stable of marvelous athletes, the greatest ever assembled at Florida up to that day, in numbers, size, and speed."[210] One of the players recruited during the Sebring years was Carl Brumbaugh. In 1928 Brumbaugh was 21 years old, 5 feet 10 inches tall, and weighed 164 pounds. After graduating from the University of Florida, he played quarterback for the Chicago Bears "for about [fifteen] years on the great teams with Red Grange, Bronco Nagurski, and those fellows."[211]

Sebring's assistant coach, Nash Higgins, said that Sebring "was a total gentleman."[212] Higgins also said, "I have been associated with the best — Knute Rockne, Bob Zuppke, Stagg, Warner — and I knew none who was any better than Tom Sebring."[213]

Coach Bachman had completed eight years as the head coach of the Kansas Aggies when he arrived at the University of Florida.[214] During those years in Kansas, his teams had won 33 games, lost 23, and tied 9 for an overall winning average of .577.[215] Bachman was thirty-five years old at the time he became head coach at Florida.[216] He had attended the University of Notre Dame, where he played football from 1913 through 1915 and was chosen as an All-Western player.[217] Bachman graduated from Notre Dame in 1916 and, in 1917 became an assistant coach at DePauw University. In 1918 he was in the navy at the Great Lakes Naval Station near Chicago.[218] In 1919 Bachman became the head coach at Northwestern University, and, in 1920 he became the head coach of the Kansas Aggies.[219] Knute Rockne called Bachman one of the best ten football coaches in America.[220] At the time he was selected for the Florida job,

209. *Id*. at 85.
210. *Id*.
211. *Id*. at 103.
212. *Id*. at 82.
213. *Id*.
214. Cohen, *supra* n. 91, at 24; *The Seminole*, *supra* n. 175, at 151.
215. *Kansas State Wildcats*, *supra* n. 66, at 166.
216. McEwen, *supra* n. 90, at 86.
217. Sebring also had been honored as a member of the "All-Western" team. Since Notre Dame is located in the eastern half of the United States and Bachman was named to that team, it is apparent that selections were not limited only to players in the western part of the country. Perhaps "west" was used to mean the parts of the United States west of the Appalachian Mountains.
218. Cohen, *supra* n. 91, at 24; *Students Greet Bachman, Head Football Coach*, 20 Fla. Alligator (Gainesville) 1 (Sept. 23, 1928).
219. McEwen, *supra* n. 90, at 86; *The Seminole*, *supra* n. 175, at 151.
220. *Students Greet Bachman, Head Football Coach, supra* n. 218, at 1.

Bachman already had been given the credit for "conceiving many improvements in football pants and protection pads."[221]

In 1928 Bachman took over Sebring's team. Concerning the transition, Bachman later said, "I brought in no one. They were all there when I arrived."[222] Of the eleven members of the 1928 team, Sebring had coached ten of them. "Sebring assembled [and coached] the 'Phantom Four' backfield of 'Cannonball' Clyde Crabtree, Royce Goodbread, Carl Brumbaugh, and Rainey Cawthon, a backfield that was so versatile and powerful it virtually toyed with most opponents during the '28 season."[223] One writer said, "For more than 50 years, and maybe forever to long-time Gators, the 1928 team was considered the finest in school history."[224] That team led the nation in scoring and missed having an undefeated season and possibly being selected to play in the Rose Bowl by a one-point loss to Tennessee in Knoxville during the final game of the year.[225] The 1928 team won 8 games, lost 1, and scored a total of 336 points.[226] That year, Florida defeated Southern College, Auburn, Mercer University, North Carolina State University, University of Georgia, Clemson University, Washington & Lee University, and Sewanee.[227]

If the University of Florida had beaten the University of Tennessee in 1928, then they would have at least tied Georgia Tech for the Southern Conference championship and in all probability would have received a bid to the Rose Bowl. The Tennessee game was lost by a score of thirteen to twelve. The game was played in the mud and rain in Knoxville, and the field was slushy and bitterly cold. Bob Neyland was the coach of the Volunteers in 1928,[228] and Bobby Dodd was the sophomore quarterback for the University of Tennessee. Dodd later became a renowned football coach at Georgia Tech for many years.[229]

Bachman's last three teams won eleven games, lost fifteen, and tied three. His 1931 and 1932 teams won five and lost fourteen,[230] and, "By the middle of the 1932 season, the honeymoon for Bachman

221. McEwen, *supra* n. 90, at 86.
222. *Id*. at 89.
223. Morris, *supra* n. 47, at 1D.
224. Cohen, *supra* n. 91, at 22.
225. McEwen, *supra* n. 90, at 91; Gelman, *supra* n. 6, at 5; Morris, *supra* n. 47, at 1D.
226. McEwen, *supra* n. 90, at 376; Kramer, *supra* n. 46, at 1.
227. *The Seminole* vol. 20, 147–154 (1929) (U. Fla.'s yearbook).
228. McEwen, *supra* n. 90, at 91.
229. *Id*. at 92.
230. *Id*. at 104.

was eroding."[231] Bachman resigned following the 1932 season, after five years in Gainesville. It has been said that "[a]s with Sebring, Bachman's departure was not protested by the school's administration."[232] Bachman would go on to coach at Michigan State University for fourteen seasons.[233]

Sebring was a born teacher and coach. He had the ability "to take a complex thing and present it in a simple way."[234] As intelligent and innovative as he was, in addition to being an effective recruiter, Sebring might have become one of our most celebrated football coaches if he had not been pressured to step down as the coach at the University of Florida.

Sebring loved football throughout his entire life. He gave the Stetson University College of Law Library a book on football written by Frank Leahy, the coach of Notre Dame during the 1940s. The name of the book is *Notre Dame Football: The T Formation*, and it was published in 1949, long after Sebring had ended his coaching days.[235] Between 1949 and the time of his death in 1968, while he was a justice of the Florida Supreme Court or the dean of the law school, Sebring had read this book and had read it very closely, because he underlined many of the author's comments, and made his own extensive comments in the margins. Thus, as a justice of the Florida Supreme Court and as a law school dean, he continued to not only follow football, but continued studying the complexities of the game. Obviously, Sebring's love of football never ceased.

When Sebring stepped down as the coach of Florida, he received offers to coach at Auburn University and Furman University.[236] Instead, Sebring decided to practice law. He graduated from law school in 1928 and was honored by being selected for Florida Blue Key, the campus leadership honorary organization.[237]

231. Cohen, *supra* n. 91, at 28.
232. McEwen, *supra* n. 90, at 105.
233. *Id*.
234. Telephone Interview, *supra* n. 2.
235. Frank William Leahy, *Notre Dame Football: The T Formation* iv (Prentice-Hall 1949).
236. Telephone Interview, *supra* n. 2.
237. Cash, *supra* n. 1, at 11.

LAWYER, TRIAL JUDGE, AND SUPREME COURT JUSTICE

Lawyer and Football Referee

After stepping down from the head coaching position and graduating from the College of Law at the University of Florida, Sebring again went to Canada for a short while to work at a ranch.[238] He returned to marry Elise Bishop of Gainesville on October 25, 1928.[239] Their son believes that the two had met when Sebring was an assistant coach at the University of Florida and that a friend introduced them to each other.[240] Elise's father was a medical doctor who had been one of the first surgeons in Gainesville, arriving there in the late 1800s from Aucilla, a small town a few miles east of Tallahassee.[241] The family had lived in the Aucilla area for some time.[242] Elise had started a dancing school in Gainesville. While she was dating her husband-to-be, her father said to her, "I've seen you date a lot of people but this is the only one of all of them that you should think about marrying."[243]

In those days, because of the diploma privilege, a graduate of a Florida law school did not have to take the bar exam, so Sebring was able to begin practice in 1928 without undergoing the obstacle of an exam.[244] He first practiced in Miami in 1928. Then, after a short stay in Miami, he and Elise moved to Jacksonville where he worked in the firm of Marks, Marks, Holt, Grey & Yates.[245] He practiced in Jacksonville from 1928 through 1934.[246] On November 18, 1929, their son, Harold L. Sebring, Jr., was born.[247]

While practicing in Jacksonville, Sebring officiated in major college football games.[248] Before that time, referees were not assigned a specific task, but Sebring established procedures for referees to follow. He developed the system in which each referee had a designated responsibility and was positioned at the same

238. *Biographical Data*, *supra* n. 59.
239. Cash, *supra* n. 1, at 11.
240. Telephone Interview, *supra* n. 2.
241. *Id*.
242. *Id*.
243. *Id*.
244. 1925 Fla. Laws ch. 10175. I wish to thank Louie Adcock for this information.
245. Cash, *supra* n. 1, at 10; *Reflections and Memories*, *supra* n. 14.
246. Kramer, *supra* n. 46, at 11.
247. Gelman, *supra* n. 6, at 5.
248. Telephone Interview, *supra* n. 2.

place in relation to the line of scrimmage at the outset of each play. This, of course, is the system that is used today.[249] As always throughout his life, Sebring again used his creativity. He always seemed to find ways to improve whatever it was he was doing at the time.

Refereeing was different then than it is today. An author has described what it was like then.

> By 1932 a standard dress for football officials was adopted and mandatory for all Conference games. A new cotton black and white st[r]iped shirt was to be worn instead of the old white dress shirt and black bow tie. This new shirt with white knickers, a black cap, black baseball hose white sweat socks and black shoes made up the new uniform. This was the first time a hat had been required. There were no "flags" or "markers" as we have today, just a silver horn, strapped to the left wrist by a leather band, was used to signal a foul. The field judge carried a gun to signal the end of each quarter and the end of the game. The field judge also was the time keeper with a stop watch. The whistle, hung around the neck, was used to declare the play over or "dead." Often a locally prominent business man was selected to be on the sideline and be the timekeeper. The chain crew usually consisted of three people, a former player or school friend from each team on each end of the chains and a "knowledgeable" person on the down box. The down box was a four sided block of wood on the top of a pole and a large number from one to four on each of the four sides. The pole was moved to turn the correct down number toward the field of play.[250]

In 1934, when Sebring became a circuit judge, he had less time for refereeing and eventually had to give it up.[251]

Sebring became active in the alumni affairs of the University of Florida, where he served as a member of the Executive Council of the University of Florida Alumni Association and vice president and then president of the State Alumni Association of the University of Florida. Also, he became president of the University of Florida College of Law Alumni Association.[252]

249. *Id*.
250. Crocker, *supra* n. 125, at 6.
251. Telephone Interview, *supra* n. 2.
252. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 1; Cash, *supra* n. 1, at 11; *Biographical Data*, *supra* n. 59.

While in Jacksonville, Sebring was very active in community affairs. He became vice president and a member of the Executive Committee of the Jacksonville branch of the American Red Cross. He was also the director and executive committeeman of the Duval County Community Chest, a director of the Children's Home Society of Florida, a director of St. Luke's Hospital and of the Duval County Tuberculosis Association, a member of the Chamber of Commerce, and a member of the American Legion. Moreover, he was a Mason and a Rotarian.[253]

Circuit Judge

Sebring was also active in legislative matters. He was a co-draftsman of the probation and parole laws of Florida and became president of the Parole and Probation Association of Florida.[254] In 1934 he was elected in the Democratic Party primary to become one of Duval County's representatives in the legislature.[255] There was no opposition against Sebring in the general election, so his election was a certainty. But before the general election took place, he was appointed to a judgeship and therefore withdrew from the legislative race.[256] A.V. Long, a circuit judge in Gainesville, had been appointed to the United States District Court, and a circuit judgeship in the Eighth Judicial Circuit of Florida became available.[257] David Sholtz, who was a graduate of Stetson University College of Law and who had practiced in Daytona Beach, became governor in 1932.[258] On June 5, 1934, Sholtz appointed Sebring to the Circuit Court for the Eighth Judicial Circuit for eleven months, the balance of Long's term. And when that term expired, Sebring was reappointed by Governor Sholtz for a full six-year term.[259] As a result, Sebring and his family moved back to Gainesville. He began as circuit judge in 1934 and continued to serve in that circuit as a trial judge until he became a justice of the Florida Supreme Court in 1943.

253. Cash, *supra* n. 1, at 11; *Biographical Data*, *supra* n. 59.
254. *Biographical Data*, *supra* n. 59.
255. Taylor, *supra* n. 41.
256. Cash, *supra* n. 1, at 11.
257. *Judge Sebring Announces for Supreme Court*, 58 St. Pete. Times 24 (Dec. 10, 1941); *Visiting Jurist, supra* n. 59, at 5.
258. Cash, *supra* n. 1, at 8.
259. *Visiting Jurist*, *supra* n. 59, at 5.

Supreme Court Justice

James Bryan Whitfield, who had been a justice of the Florida Supreme Court beginning in 1904, announced that he would retire as of January 1943.[260] A lawyer from Monticello, Florida, T.T. "Tiff" Turnbull, decided to enter the race for the position. Then, on December 9, 1941, Sebring announced that he would run for the seat being vacated by Justice Whitfield.[261] He defeated Turnbull in the statewide Democratic Party primary by a vote of 147,129 to 64,824.[262] Sebring was unopposed for the general election in November 3, 1942,[263] and was sworn in as justice of the Supreme Court of Florida on January 4, 1943.[264] His first written opinion was dated January 26, 1943, and involved a contract for building lots.[265]

There was not an intermediate appellate court in Florida at the time Sebring began serving as a supreme court justice. The Florida Supreme Court was the only appellate court in the State, and therefore, it had a much more diverse caseload than our supreme court handles now.

Sebring served his first six-year term and then, during the late 1940s, was elected to a second term.[266] During one of his early years on the supreme court, he wrote the majority opinion in an important case. Then he awoke one night with the terrible realization that he had been wrong. He tried the next day to convince the other members of the court that he had been wrong, but was unsuccessful. Sebring then wrote a dissenting opinion. The majority made his original opinion their own, and both opinions were filed. Thus, both the majority and the dissenting opinion in the case were written by Sebring.[267]

260. Walter W. Manley, II et al., *The Supreme Court of Florida and Its Predecessor Courts 1821–1917*, at 346 (U. Press of Fla. 1997); Joseph A. Boyd, Jr. & Randall Reder, *A History of the Florida Supreme Court*, 35 U. Miami L. Rev. 1019, 1053 (1981). Justice James Bryan Whitfield was the great uncle of Talbot "Sandy" D'Alemberte, Florida lawyer, president of the American Bar Association, dean of Florida State University College of Law, and current president of Florida State University.

261. *Judge Sebring Announces for Supreme Court*, *supra* n. 257, at 24.

262. Boyd & Reder, *supra* n. 260, at 1053–1054.

263. *Id*.; *Reflections and Memories*, *supra* n. 14.

264. *Reflections and Memories*, *supra* n. 14.

265. *Id*.

266. Gelman, *supra* n. 6, at 5.

267. *Dean Sebring, Noted Jurist, Law Dean, Dies*, 85 St. Pete. Times 13B (July 27, 1968) [hereinafter *Dean Sebring*].

During his early years as a supreme court justice, Sebring helped organize a square dance in Tallahassee for soldiers stationed in Florida during World War II. In later years, reflecting on this, he said,

> I could remember how it felt to be a foot soldier and these boys were set to go into North Africa soon and weren't having much fun. So we organized this square dance thing for them and, since they were mostly Southern rural boys, it really got going. We had a heck of a time.
>
> Once a lady asked me if I thought it was dignified for a Supreme Court Justice to be square dancing like that. I told her "Madame, in a couple of months these kids are going to fight your war. Some are going to die. If it would make them happy I'd walk on my hands for them!" I was proud of my part in that.[268]

NUREMBERG

After World War II, Justice Sebring requested and was granted a leave of absence from the Florida Supreme Court to accept an appointment to the Nuremberg tribunal. This Section will trace the origins of the Nazi war crimes trials, including those in the American zone. Next, this Section will describe the selection of judges, including Justice Sebring, and the lives of the judges during their stay in Nuremberg. Finally, the Section will conclude with a detailed account of Justice Sebring's involvement in the "Medical Case."

The Original Nuremberg Trial

During World War II, representatives of the nine European countries that were then occupied by Germany — Belgium, Czechoslovakia, France, Greece, Luxemburg, the Netherlands, Norway, Poland, and Yugoslavia — met in London to decide how to deal with Nazi war criminals following the War.[269] Those discussions led to a decision by the provisional government of the French Republic, the government of the United Kingdom of Great Britain and Northern Ireland, the government of the Union of Soviet Socialist Republics,

268. Kramer, *supra* n. 46, at 11 (emphasis omitted).

269. Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* 126 (Knopf 1992).

and that of the United States to establish an international tribunal to try major war criminals. This decision was memorialized in what is known as the "London Charter," which was signed by representatives of these nations on August 8, 1945.[270]

A major war crimes tribunal was established pursuant to the London Charter, and this court tried twenty-four of the principal surviving Nazis in a single trial. Nazis were tried on the following four charges: (1) war making (crimes against peace); (2) war crimes (foul play during combat or against combatants); (3) exploitation of the inhabitants and resources of territory under military occupation; and (4) crimes against humanity (extermination of national, political, racial, religious, or other groups).[271] This trial took place immediately following the War and ended on October 1, 1946.[272] Seven of the twenty-four were executed on June 2, 1948, at Landsberg Prison in Bavaria.[273]

Further Trials

In addition to the twenty-four Nazis who were tried by this tribunal, there were many others who held lesser rank in the Nazi regime who deserved punishment for their conduct in the years leading up to and during the War. A month and a half after the first Nuremberg trial had been in progress, the four powers occupying Germany — Great Britain, the United States, France, and the Soviet Union — adopted Allied Control Council Law Number 10,[274] which formed the basis for additional trials following the original trial that ended in 1946.[275] The trials under Control Council Law Number 10, judged persons who were not considered the most serious offenders, but held significant positions in the Third Reich. These included "diplomats, doctors, lawyers, and judges, businessmen, and military leaders."[276]

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270. Telford Taylor, *Final Report to the Secretary of the Army on the Nuremberg War Crimes Trial under Control Council Law No. 10*, at 238–240 (William S. Hein & Co. 1997).

271. *Id*. at 64.

272. *Id*. at 13.

273. *Id*. at 96.

274. Taylor, *supra* n. 269, at 4, 8, 136, 234. A copy of Control Council Law Number 10 can be found in *Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10* vol. I, xvi–xix (U.S. Govt. Printing Off. 1950) [hereinafter *Trials I*]. This is from a fifteen-volume set of books that were the property of Dean Sebring and now are in the Stetson Law Library.

275. Taylor, *supra* n. 269, at 6.

276. Taylor, *supra* n. 270, at 159.

Thus, Control Council Law Number 10 established the legal basis for further war crimes trials. The four occupying powers were allowed to establish tribunals within their respective sectors.[277] The procedure to be followed in these trials was left to the discretion of the zone commanders, and each commander handled the prosecutions differently.[278] The British prosecuted in their zone through their military courts.[279] The French and Americans established special tribunals for implementing Control Council Law Number 10.[280] However, in the Soviet zone, nothing was done to carry Control Council Law Number 10 into effect; there were no prosecutions of war crimes under Control Council Law Number 10 in that sector.[281] The Soviets used other methods of dealing with war criminals in their occupation zone.

Under Control Council Law Number 10, each of the four zone commanders was empowered to arrest suspected war criminals. Also, Control Council Law Number 10 allowed exchanges of suspects among the four occupying powers.[282] Many of the suspects who had participated in medical experiments on concentration camp inmates were being held by the Americans and the British. By mutual agreement, the British transferred a number of "Schutzstaffel," or SS, and military doctors who were suspected of medical atrocities to Nuremberg so that all medical suspects could be tried in a single proceeding within the American zone.[283]

Trials in the American Zone

The indictments within the American zone were filed in the name of the United States of America.[284] The convictions under Control Council Law Number 10 were final and not reviewable. However, the military governor was given the authority to reduce sentences.[285] The military governor of the American zone at that time was Lieutenant General Lucius D. Clay.[286]

277. Taylor, *supra* n. 269, at 7, 9.
278. *Id*.
279. Taylor, *supra* n. 270, at 136; Taylor, *supra* n. 269, at 7–8.
280. Taylor, *supra* n. 269, at 7.
281. Taylor, *supra* n. 270, at 136; Taylor, *supra* n. 269, at 8.
282. Taylor, *supra* n. 270, at 136.
283. *Id*. at 160 n. 81; Taylor, *supra* n. 269, at 77.
284. Taylor, *supra* n. 269, at 71.
285. Taylor, *supra* n. 270, at 156.
286. Taylor, *supra* n. 269, at 33.

The American zone of occupation consisted of southern Germany, including Nuremberg, which had been the site of the earlier International Military Tribunal. Since the Palace of Justice at Nuremberg had been used for the earlier trial of the major war criminals, it was decided that trials in the American zone under Control Council Law Number 10 should take place in that same building.[287] Therefore, the Palace of Justice remained, for several more years, the site of war crimes trials. The courtroom that had been used in the original Nuremberg trial was used, and five more courtrooms were constructed in the Palace. Thus, there were six courtrooms for the twelve trials that took place there under Control Council Law Number 10.[288]

To coordinate the prosecutions of all of those in the American zone, the office of chief of counsel for war crimes was created, and this official was empowered to determine who should be charged and tried.[289] The person appointed to this position was Telford Taylor.[290] A total of 185 persons were named as defendants in the 12 cases.[291] These tribunals held over 1,200 sessions, or an average of 100 sessions in each case.[292] During Winter 1947–1948, six trials took place simultaneously in the Palace of Justice at Nuremberg.[293] One of the trials that took place was the "Justice Trial," upon which the play and movie *Judgment at Nuremberg*[294] were based. The chief judge at that trial was James Tenney Brand, chief justice of the Oregon Supreme Court.[295] He and Sebring became friends, and later in 1958 when Sebring was dean, Brand retired from the court to join the faculty at Stetson University College of Law.

287. *Id*. at 20.

288. *Id*.

289. Taylor, *supra* n. 270, at 155–156.

290. Taylor, *supra* n. 269, at 161. He was appointed on October 24, 1946. *Id*. at 13. Taylor subsequently became a professor of law at Columbia Law School.

291. *Id*. at 55.

292. Taylor, *supra* n. 270, at 137; Taylor, *supra* n. 269, at 36.

293. Taylor, *supra* n. 270, at 157.

294. *Judgment at Nuremberg* (United Artists 1961) (motion picture).

295. James Brand was the chief justice of the "justice" panel. When *Judgment at Nuremberg* first aired on television in 1959, in the program *Playhouse 90*, the actor Claude Rains played the role of Chief Justice Brand. In preparation for that performance, Rains visited the Stetson campus, got to know Chief Justice Brand and observed him, and in his television performance Rains imitated Chief Justice Brand, including his mannerisms, even such things as the way Brand tilted his head when he talked. I was a student at Stetson at the time, and these comments are based on my own observations. In the 1961 movie *Judgment at Nuremberg*, Spencer Tracy played the part of Chief Justice Brand.

Of the 185 original defendants in these trials, some were ill or committed suicide and only 177 actually stood trial.[296] Of these, 142 were convicted and 35 were acquitted. Twenty-six were sentenced to death.[297] The others who were convicted received prison terms of five to twenty-five years. The average sentence was approximately ten years.[298]

Military Government Ordinance Number 11 provided that joint sessions could be held whenever rulings by two or more of the tribunals conflicted or were inconsistent. The judges of all of the panels sat en banc to resolve such conflicts, and decisions reached in these meetings were to be binding on all of the tribunals.[299] Only one of these sessions was held.[300]

Recruitment of Judges

In the American zone, most of the positions on the tribunals were filled by professional judges.[301] The Department of the Army and the War Department chose these judges and then gave the names of those selected to the military governor for his approval. The military governor then issued orders, appointing the judges to the tribunals. Also, he issued orders designating one judge on each panel as the presiding judge.[302] Military Government Ordinance Number 7 required that members of each tribunal or panel "be lawyers who have been admitted to practice, for at least five years, in the highest courts of one of the United States or . . . in the United States Supreme Court."[303] Each panel was to consist of three members. The military governor could also appoint an alternative member.

Several federal judges accepted invitations to become judges at Nuremberg, but Chief Justice Fred M. Vinson of the Supreme Court of the United States prohibited them from participating, and these judges had to decline the invitations.[304] There were thirty-two judges or alternate judges who served as members of the panels in the twelve trials that were held in Nuremberg under Control Council

296. Taylor, *supra* n. 270, at 159.
297. *Id*. at 91.
298. *Id*. at 92.
299. *Id*. at 156; Taylor, *supra* n. 269, at 31–32.
300. It was held on July 9, 1947. Taylor, *supra* n. 269, at 36.
301. *Id*. at 28, 159.
302. Taylor, *supra* n. 270, at 156–157; Taylor, *supra* n. 269, at 34, 35.
303. Taylor, *supra* n. 270, at 29 (alteration in original).
304. Taylor, *supra* n. 270, at 157 n. 73; Taylor, *supra* n. 269, at 35.

Law Number 10.[305] The judges included twenty-five state court judges, a law school dean, and practicing attorneys. Fourteen of the judges, including Tom Sebring, had been justices of the highest courts of their states. Some were state intermediate appellate court judges, and some had served as trial court judges.[306]

Taylor was involved in the process of selecting judges for these tribunals. One of his goals was geographical balance. When he selected Justice Brand, for example, Taylor was seeking a judge from the western part of the United States who had received Ivy League legal training.[307]

The Selection of Sebring

Justice Sebring was selected as one of these judges. Why was he selected? Possibly because of the need for geographical balance — he was from Florida, a southern state. Also, his military record during World War I may have been a factor in his selection. One writer has said that his "[reputation for unshakeable] devotion to truth probably led" to his appointment to the Nazi war crimes tribunal.[308]

When he received his invitation to participate in a letter from President Harry S. Truman, Justice Sebring wanted to serve on the tribunal, but did not wish to relinquish his position on the Supreme Court of Florida. Instead, he requested a leave of absence. After discussing the matter, a majority of the court, but not a unanimous court, agreed to grant the leave on the condition that he would not receive pay from the State during the leave. The court had the power to call in retired judges or judges of lower courts to serve on an ad hoc basis, and the majority agreed to bring in a different judge each month and to pay the expense of the ad hoc judge from the salary that otherwise would be paid to Justice Sebring. The court did appoint a different ad hoc judge to the seat each month, compensating each from Justice Sebring's salary, and Justice Sebring was given formal leave from the Florida Supreme Court to accept the Nuremberg appointment.[309]

305. Taylor, *supra* n. 269, at 35.

306. Taylor, *supra* n. 270, at 157 n. 73; Taylor, *supra* n. 269, at 35.

307. Conversation with Justice Brand, Then Prof. of L., Stetson U. College of L. (Fall 1958 or Spring 1959). Justice Brand had been a trial judge in Oregon and was a member of the Supreme Court of Oregon at the time of his appointment as a judge at Nuremberg. He was a Harvard Law School graduate.

308. Gelman, *supra* n. 6, at 5.

309. Boyd & Reder, *supra* n. 260, at 1057; Roberts, *supra* n. 60.

Living in Nuremberg

The American members of the Nuremberg panels and the court personnel lived in Dunbach, outside Nuremberg. Justice Sebring and his family had a house located only a block away from the residence of Taylor. The war had ended only a couple of years earlier, and Germany was still in ruins. Rubble of destroyed buildings could still be seen, and bodies were still entombed in the rubble. The country was in turmoil, and those working at the court were in danger. Killings were frequent. Those working at the court were issued handguns for their protection and had drivers assigned by the military to take them back and forth between their homes and the Palace of Justice. Polish guards were assigned to guard the homes of the Americans. The Poles, of course, hated the Germans, and the killing of German civilians by some of these guards occurred. As a result, they were replaced by German guards.[310]

Justice Sebring's workload while at Nuremberg was grueling. He and his fellow judges would sit from 8:00 a.m. until 4:00 or 5:00 p.m. They were worn out by the end of the day. The very cold winter did not help matters, and members of the court staff suffered from influenza.[311]

While Sebring was at Nuremberg, a group of Dutch lawyers visited him. They had with them genealogical records showing his Dutch ancestry. They were very proud of him and the fact that his ancestors were Dutch.[312]

The "Medical Case"

Sebring was appointed to the "Medical Case." The presiding judge of that tribunal was Walter B. Beals, a justice of the Supreme Court of Washington. Judge Johnson Tal Crawford, former justice of the Oklahoma District Court in Ada, Oklahoma, was also a member of this panel. The alternate judge was Victor C. Swearingen, former district attorney general of Michigan and former special assistant to the United States attorney general.[313]

310. Telephone Interview, *supra* n. 69.

311. *Id*.; *Comments*, *supra* n. 21.

312. *Comments*, *supra* n. 21.

313. W. Paul Burman, *The First German War Crimes Trial: Chief Judge Walter B. Beals' Desk Notebook of the Doctors' Trial, Held in Nuernberg, Germany, December, 1945 to August, 1947*, at 93–94 (Documentary Publications 1985). Walter Beals was the chief judge in the

The indictment in the "Medical Case" was filed on October 25, 1946, and the case was titled *United States v. Karl Brandt et al.,* Case 1.[314] The *Brandt* case was the first trial of twelve under Control Council Law Number 10 to begin and the second to end.[315] The case centered primarily on participants in medical experiments that had taken place in concentration camps during the Nazi years.[316] There were twenty-three defendants in the case.

Karl Brandt had been Hitler's personal physician.[317] At the age of forty, Brandt was named Reich commander for health and sanitation and also became general commissioner for medical and health matters. These were the highest medical positions in the Reich. Brandt held authority over all military and civilian medical services and was a major general in the Nazi SS, reporting directly to Hitler.[318] The SS was an elite military force outside the control of the German Army and was composed of those who were devoted to the Nazi cause. It performed police functions, but was also involved in the suppression of opponents of the Nazi regime. The SS was commanded by Heinrich Himmler.[319] Among other things, the SS was used to guard concentration camps.[320]

Another defendant was Siegfried Handloser, chief of medical services of the Wehrmarcht, the German armed forces. He began his career as a professional soldier in the medical department of the army.[321] Defendant Paul Rostock had been a professor of surgery and dean of the medical faculty at the University of Berlin. He became chief of the office of medical science and research under Karl Brandt and also held the rank of brigadier general in a medical branch of the military.[322] The defendants also included Lieutenant General Oscar Schroeder, chief of medical service of the Luftwaffe, the German Air Force,[323] and Karl Genzken, chief of the medical office of the Waffen SS who held the rank of senior colonel.[324] The

"Medical Case." Justice Sebring was a member of that panel. *Id*.

314. *Id*.

315. Taylor, *supra* n. 269, at 162.

316. *Id*. at 77.

317. Taylor, *supra* n. 270, at 162.

318. *Id*.; Taylor, *supra* n. 269, at 162.

319. Burman, *supra* n. 313, at 93.

320. *Id*. at 94.

321. *Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10* vol. II, 199 (U.S. Govt. Printing Off. 1950) [hereinafter *Trials II*].

322. *Id*. at 208.

323. *Id*. at 210.

324. *Id*. at 217.

Waffen SS was a branch of the SS that formed units similar to those of the army and participated in combat, although not as part of the army.[325] In addition to fighting in combat, the Waffen SS were special troops at Hitler's disposal and were used to quell riots and end strikes.[326] Kurt Blume was a civilian physician.[327] In 1935 Blume reorganized the German medical educational system and became a member of the Reich Research Council, which engaged in research to develop protections against biological warfare.[328]

Rudolf Brandt, another defendant, was not a physician. He was an SS colonel who was directly subordinate to and closely associated with Heinrich Himmler, the head of the SS and a major war criminal.[329] Another defendant was Joachim Mrugowsky, a senior colonel in the Waffen SS. Mrugowsky founded the Hygiene Biological Testing Station of the SS in Berlin. The purpose of this station was to develop methods of combating epidemics in troops of the Waffen SS. Later, Mrugowsky was assigned to the Hygiene Institute of the Waffen SS.[330] Yet another defendant, Helmut Poppendick, was a senior colonel in the Waffen SS and was chief physician in the Main Race and Settlement Office in Berlin.[331]

Defendant Wolfram Sievers was a member of Himmler's personal staff. Sievers was also the Reich business manager of the Ahnenerbe Society, which supported scientific research concerning the culture and heritage of the Nordic race.[332] This Society had been established by Himmler for ideological and cultural research.[333] Gerhard Rose was an expert on tropical diseases.[334] From 1929 to 1936, Rose had been in China as a medical advisor to the Chinese government.[335] Then, in 1936 he became head of the Department for Tropical Medicine at the Robert Koch Institute in Berlin.[336] Rose was a brigadier general in the Luftwaffe and a consultant on both hygiene and tropical medicine to the Luftwaffe's chief of medical

325. Fedn. of Am. Scientists, *Protective Squadrons: Schutzstaffe*l <http://www.fas.org/irp/world/germany/intro/ss.htm> (last updated Nov. 26, 1997).

326. *Id*.

327. *Trials II*, *supra* n. 321, at 228–229.

328. *Id*.

329. *Id*. at 235–236.

330. *Id*. at 241–242.

331. *Id*. at 248–249.

332. *Id*. at 253–254.

333. *Id*.

334. *Id*. at 264.

335. *Id*.

336. *Id*.

service.[337] Siegfried Ruff was in the military. He specialized in aviation medicine.[338] He became head of the German Experimental Institute for Aviation, a civilian agency.[339] Hans Wolfgang Romberg was a member of the staff of the German Experiment Institute for Aviation and was an assistant to Ruff.[340] George August Weltz was a specialist in x-ray work and was the director of the Institute for Aviation Medicine in Munich.[341]

Victor Brack was a Nazi party worker who was placed in charge of an office in the Chancellory of the Fuehrer in Berlin.[342] His office was given the responsibility of examining complaints received by Hitler from all parts of Germany.[343] Brack was a senior colonel in the Waffen SS and was transferred to the main office of the SS.[344] He participated in sterilization experiments and in the euthanasia program of the Reich.[345] Defendant Hermann Becker-Freyseng was in the Luftwaffe.[346] Becker-Freyseng was a consultant for aviation medicine in Oscar Schroeder's office when Schroeder became chief of medical service of the Luftwaffe.[347] Konrad Schaefer was in the Luftwaffe, but was not an officer.[348] Instead, Schaefer was a scientist whose field of expertise was chemical therapy.[349] He was assigned to the Research Institution for Aviation Medicine where he worked on sea water research, attempting to find methods of making sea water drinkable.[350]

Another defendant in the case was Waldemar Hoven, who had served as the chief doctor at the Buchenwald Concentration Camp.[351] He was a member of the SS and, at first, was an assistant medical officer in the SS hospital at Buchenwald.[352] Then Hoven became the medical officer in charge of the SS troops there and later

337. *Id*.
338. *Id*. at 272.
339. *Id*.
340. *Id*.
341. *Id*.
342. *Id*. at 277.
343. *Id*.
344. *Id*.
345. *Id*.
346. *Id*. at 281.
347. *Id*. at 281–282.
348. *Id*. at 285.
349. *Id*.
350. *Id*. at 285–286.
351. *Id*. at 287.
352. *Id*.

became the camp physician.[353] Wilhelm Beiglboeck was an Austrian citizen who became a captain in the medical department of the Luftwaffe.[354] He was involved in sea water experiments at Dachau.[355]

Karl Gebhardt was a major general in the Waffen SS. He was in the medical service of the SS and was chief physician of a hospital at Hohenlychen and the physician to the Himmler family.[356] Gebhardt was also the president of the German Red Cross.[357] Defendant Fritz Fischer was in the Waffen SS and had been assigned to an SS unit in the Hohenlychen Hospital as a physician.[358]

Adolf Pokorny never held any position in the Nazi party or in the government hierarchy in Germany.[359] He was a Czechoslovakian citizen who served as captain and a medical officer in the German army.[360] Pokorny wrote a letter to Himmler suggesting the use of a drug, caladium seguinum, as a possible method of sterilizing the people of countries occupied by Germany.[361] However, no steps were taken by Himmler to implement Pokorny's suggestion.[362] One defendant was a woman, Herta Oberheuser, who had been the camp physician in the women's department at the Ravensbrueck Concentration Camp.[363]

There were twenty-three defendants in the case. All except Oberheuser were men. Twenty of the twenty-three were medical doctors.[364] The other three — Sievers, Brack, and Rudolf Brandt — were administrators. All except Blume, Sievers, Ruff, Romberg, and Weltz were in the military.[365]

The indictment charged the defendants with responsibility for medical experiments that had been performed without consent primarily on concentration camp inmates, but also on prisoners of

353. *Id*. at 286–287; *Dean Sebring*, *supra* n. 267, at 13B.
354. *Trials II*, *supra* n. 321, at 290.
355. *Id*. at 290.
356. *Id*. at 223.
357. Taylor, *supra* n. 270, at 162.
358. *Trials II*, *supra* n. 321, at 296.
359. *Id*. at 292.
360. *Id*.
361. *Id*.
362. *Id*. at 292–294.
363. *Id*. at 294.
364. *Trials I*, *supra* n. 274, at 68–69.
365. *Id*.

war.[366] For example, some inmates of concentration camps were infected with severe diseases, such as malaria, jaundice, typhus, or spotted fever, to test the effectiveness of certain medicines.[367] Wounds of some inmates were deliberately infected with bacteria, such as streptococcus, gangrene, and tetanus.[368] Blood circulation was reduced by tying off blood vessels around the wound. Wood shavings and broken glass were then forced into the wounds to try to simulate battlefield wounds.[369] Then, the wounds were treated with sulfanilamide to try to determine its effectiveness in healing those wounds.[370] These victims suffered in agony, some of them died, and some were permanently disabled as a result of these experiments.[371]

At the Buchenwald Concentration Camp, poisons were given to inmates in their food to determine the effects of those substances.[372] If the victims did not die, then they were killed so that autopsies could be performed to determine the effects of the poisons.[373] Some subjects were shot with poisoned bullets.[374] At other concentration camps, inmates were subjected to mustard gas as part of an experiment to determine the most effective method of treating wounds caused by that gas.[375] Some were forced to inhale the gas or to drink it in liquid form, while others were injected with the gas.[376] The subjects suffered terrible pain or death from these experiments.[377] Also at Buchenwald, some inmates were inflicted with phosphorus taken from incendiary bombs.[378] They suffered horrible burns.[379] Then, various medications were used to determine

366. Taylor, *supra* n. 270, at 163; *Nuremberg: German Views of the War Trials* 198 (Wilbourn E. Benton & Georg Grimm eds., S.M.U. Press 1955).

367. Burman, *supra* n. 313, at 130; Taylor, *supra* n. 270, at 162; *Trials I*, *supra* n. 274, at 12–13, 43–44, 47–48, 50–52.

368. Burman, *supra* n. 313, at 131, 259; *Trials I*, *supra* n. 274, at 12.

369. Burman, *supra* n. 313, at 131, 259.

370. *Id*.

371. *Id*. at 130–131; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 12–14, 43–44, 47–48, 50–52.

372. Burman, *supra* n. 313, at 133–134; *Trials I*, *supra* n. 274, at 14, 52–53.

373. *Id*.

374. Burman, *supra* n. 313, at 134; *Trials I*, *supra* n. 274, at 53.

375. Burman, *supra* n. 313, at 130–131; *Trials I*, *supra* n. 274, at 12, 44.

376. Burman, *supra* n. 313, at 130–131; *Trials I*, *supra* n. 274, at 12, 44.

377. Burman, *supra* n. 313, at 130–131; *Trials I*, *supra* n. 274, at 12, 44.

378. Burman, *supra* n. 313, at 134; *Trials I*, *supra* n. 274, at 12, 44.

379. Burman, *supra* n. 313, at 134; *Trials I*, *supra* n. 274, at 12, 44.

the most effective treatment for burns.[380] The subjects were in severe pain during the experiments.[381]

Various methods of sterilization were tested on concentration camp inmates. The purpose of these tests was to develop an efficient method to enable the Nazis to sterilize millions of people in as short a time period as possible and with as little effort as possible.[382] The methods used included x-ray treatment, surgery, and drugs.[383]

Karl Brandt and three other defendants were charged with killing large numbers of persons considered by the Nazis to be undesirable and a burden on society — the elderly, the disabled, the mentally ill, and others.[384] These killings took place in nursing homes, hospitals, and asylums as part of a project euphemistically called a "euthanasia" program.[385] The relatives of these victims were falsely told that the victims had died of natural causes.[386]

Experiments were performed at the Ravensbrueck Concentration Camp to study bone, muscle, and nerve regeneration. Doctors and researchers tried to transplant bone from one subject to another.[387] Sections of the bones and muscles were removed from the inmate subjects, resulting in horrible pain, mutilation, and disfigurement.[388]

Brandt and Sievers also were accused of murdering 112 Jews for the purpose of gathering anthropological data.

> One hundred and twelve Jews were selected for the purpose of completing a skeleton collection for the Reich University of Strasbourg. Their photographs and anthropological measurements were taken. Then they were killed. Thereafter, comparison tests, anatomical research, studies regarding race, pathological features of the body, form and size of the brain, and other tests, were made. The bodies were sent to Strasbourg and defleshed.[389]

380. Burman, *supra* n. 313, at 134; *Trials I*, *supra* n. 274, at 12, 44.
381. Burman, *supra* n. 313, at 134; *Trials I*, *supra* n. 274, at 14, 53.
382. Burman, *supra* n. 313, at 132; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 13, 48–50.
383. Burman, *supra* n. 313, at 133; *Trials I*, *supra* n. 274, at 13, 48–50.
384. Taylor, *supra* n. 270, at 164.
385. *Id*.
386. *Id*.
387. Burman, *supra* n. 313, at 131; *Trials I*, *supra* n. 274, at 13, 45–46.
388. Burman, *supra* n. 313, at 131–132; *Trials I*, *supra* n. 274, at 13, 45–46.
389. Taylor, *supra* n. 270, at 164.

The German Navy and Air Force were concerned about the survival of pilots shot down over the ocean and sailors cast into the sea from torpedoed ships. Therefore, at the Dachau Concentration Camp, subjects were deprived of food and water and instead were given only seawater to determine whether seawater could be made drinkable.[390] It was also alleged that at Dachau, experiments had been performed to determine the limits of human endurance at high altitudes, and to try to develop a method of saving the lives of aviators who had been severely frozen at those altitudes.[391] These experiments took place in a room in which the low air pressure and freezing conditions found at altitudes up to 68,000 feet were simulated.[392] In another type of experiment, the victims were placed in ice water for periods of up to three hours.[393] Then an attempt was made to try to rewarm and revive them.[394] In other experiments, the victims were kept naked outdoors for many hours at below freezing temperatures.[395] The victims screamed in horrible pain as parts of their bodies froze.[396] Many victims died as a result of these experiments.[397]

The *Brandt* trial began on December 9, 1946, and ended on July 19, 1947. The defense lawyers did not try to prove that the experiments, which had been described in the indictments, had not taken place. Instead, defense counsel tried to show that at least some of the experiments were necessary to the German war effort and that some were not as dangerous as had been alleged in the indictment. Also, they argued that Germany was not alone, that medical experimentation and euthanasia had been practiced in other countries. Moreover, they tried to show that some of the victims had volunteered. The primary defense was that the defendants were not responsible for the deaths because they were acting under orders

390. Burman, *supra* n. 313, at 132; *Trials I*, *supra* n. 274, at 13, 46–47.

391. Burman, *supra* n. 313, at 129; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 11, 38–41.

392. Burman, *supra* n. 313, at 129; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 11, 38–41.

393. Burman, *supra* n. 313, at 130; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 11–12, 41–43.

394. Burman, *supra* n. 313, at 130; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 11–12, 41–43.

395. Burman, *supra* n. 313, at 130; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 11–12, 41–43.

396. Burman, *supra* n. 313, at 130; *Trials I*, *supra* n. 274, at 11–12, 41–43.

397. Burman, *supra* n. 313, at 129–130; Taylor, *supra* n. 270, at 163; *Trials I*, *supra* n. 274, at 11–12, 38–43.

and had no power to prevent the experiments. Therefore, counsel argued, they could not be guilty.[398]

Most of the prosecution witnesses had been inmates of concentration camps and had firsthand knowledge of the alleged crimes.[399] Dr. Alexander C. Ivy, vice president of the University of Illinois and a medical doctor, was a witness who described the United States's practices concerning experimentation on human beings.[400] A German medical professor, Werner Leibbrandt of the University of Erlangen, testified for the prosecution about standards of the medical profession in Germany during the Nazi years.[401]

On August 19, 1947, the tribunal in the "Medical Case" handed down its judgment.

> Judged by any standard of proof the record clearly shows the commission of war crimes and crimes against humanity substantially as alleged in counts two and three of the indictment. Beginning with the outbreak of World War II criminal medical experiments on non-German nationals, both prisoners of war and civilians, including Jews and "asocial" persons, were carried out on a large scale in Germany and the occupied countries. These experiments were not the isolated and casual acts of individual doctors and researchists working solely on their own responsibility, but were the product of coordinated policy-making and planning at high governmental, military, and Nazi Party levels, conducted as an integral part of the total war effort . . . .[402]

Fifteen of the twenty-three defendants in the case were convicted.[403] Karl Brandt, Karl Gebhardt, Rudolf Brandt, Joachim Mrugowsky, Wolfram Sievers, Viktor Brack, and Waldemar Hoven were sentenced to death by hanging.[404] Siegfried Handloser, Oscar Schroeder, Gerhard Rose, Karl Genzken, and Fritz Fischer were sentenced to life in prison.[405] Herman Becker-Freyseng and the female defendant, Herta Oberheuser, were sentenced to terms of twenty years.[406] Wilhelm Beiglboeck was given a fifteen-year sentence, and Helmut Poppendick received a sentence of ten years.[407] Schaefer was exonerated, and the six remaining defen-

398. Taylor, *supra* n. 270, at 164–165.
399. *Id*. at 88.
400. *Id*. at 89; *Trials II*, *supra* n. 321, at 70.
401. Taylor, *supra* n. 270, at 89; *Trials II*, *supra* n. 321, at 70.
402. Taylor, *supra* n. 270, at 165 (alteration in original).
403. *Id*.
404. *Id*.
405. *Id*. at 165 n. 100.
406. *Id*. at 165 n. 101.
407. *Id*.

dants, Rostock, Blume, Ruff, Romberg, Weltz, and Pokorny were acquitted on the ground that there was reasonable doubt of guilt.[408] In the acquittals of Siegfried Ruff, Hans Wolfgang Romberg, and George August Weltz, for example, the members of the tribunal stated in their judgment that

> [t]he issue on the question of the guilt or innocence of these defendants is close. . . . It cannot be denied that there is much in the record to create at least a grave suspicion that the defendants Ruff and Romberg were implicated in criminal experiments at Dachau. However, virtually all of the evidence which points in this direction is circumstantial in its nature. . . .
>
> . . . [B]efore a court will be warranted in finding a defendant guilty on circumstantial evidence alone, the evidence must show such a well-connected and unbroken chain of circumstances as to exclude all other reasonable hypotheses but that of the guilt of the defendant . . . the legal test is whether the evidence is sufficient to satisfy beyond a reasonable doubt . . . those who . . . must assume the responsibility for finding the facts. On this particular specification it is the conviction of the Tribunal that the defendants Ruff, Romberg and Weltz, must be found not guilty.[409]

Justice Sebring and his fellow judges enunciated certain minimum standards to which those conducting experiments on human beings should adhere.

> The great weight of the evidence before us is to the effect that certain types of medical experiments on human beings, when kept within reasonably well-defined bounds, conform to the ethics of the medical profession generally. The protagonists of the practice of human experimentation justify their views on the basis that such experiments yield results for the good of society that are unprocurable by other methods or means of study. All agree, however, that certain basic principles must be observed in order to satisfy moral, ethical and legal concepts:
>
> 1. The voluntary consent of the human subject is absolutely essential.
>
> This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have

408. *Id*. at 166 n. 102.
409. *Id*. at 166 (alterations in original).

> sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision.
>
> . . .
>
> 2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.
>
> 3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results will justify the performance of the experiment.
>
> 4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.
>
> 5. No experiment should be conducted where there is an *a priori* reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.
>
> 6. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.
>
> 7. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.
>
> 8. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.
>
> 9. During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.
>
> 10. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.[410]

410. *Id*. at 166–168.

Based at least to some extent on the above guidelines or standards, the World Medical Association has adopted a "modern version" of the Hippocratic oath.[411] In this new version, the doctor states,

> I will not permit consideration of race, religion, nationality, party politics or social standing to intervene between my duty and my patient. I will maintain the utmost respect for human life from the time of its conception. Even under threat I will not use any knowledge contrary to the laws of humanity.[412]

In talking about *Brandt*, Justice Sebring later said,

> When I first sat as judge I looked at these shabby little men (the defendants) sitting there looking just like the rest of us. Then the prosecution began to put on its evidence. It was all so clear, so one-sided, I began to doubt the evidence. I thought it couldn't be. People don't act like that in a civilized world. If they hadn't confessed their guilt on the stand, I don't think I would have believed it even after it was all over.[413]

Justice Sebring kept notes during the trial, and he came home with four "volumes of the proceedings which he called, The ugliest records in the annals of mankind."[414]

JUSTICE AND CHIEF JUSTICE

Justice

Justice Sebring returned to Florida in 1947. Shortly after his reappearance, he was asked by the Democratic Party to be its candidate for governor in the 1948 general election. Also, the Board of Control of the State (now the State Board of Regents) offered him the presidency of the University of Florida. Political observers regarded him as the probable winner in the race for governor. However, he decided to return to the Florida Supreme Court.[415]

His total period of service to the judiciary of Florida covered a period of more than twenty-one years.[416] Twelve of those years were

411. *Id*. at 168.
412. *Id*.
413. Kramer, *supra* n. 46, at 11 (emphasis omitted).
414. *Dean Sebring*, *supra* n. 267, at 8A.
415. Gelman, *supra* n. 6, at 5; Morris, *supra* n. 47, at 1D; *Dean Sebring*, *supra* n. 267, at 8A.
416. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2; *Honorable Justice Harold L. Sebring: Tribute of the Supreme Court of Florida to Mr. Justice Harold L. Sebring on His Retirement September 15, 1955 to Assume His Duties as Dean of the College of Law, Stetson University*, 89 S.2d xlv, xlvii (Fla. 1955).

as justice or chief justice of the Florida Supreme Court.[417] "It was one of the busiest periods in the history of the court."[418] As a justice of the court, Sebring participated in about 7,500 to 10,000 cases, and he authored over 700 written opinions.[419] His opinions can be found in Volumes 115–200 of Florida Reports, and Volumes 1–82 of Southern Reporter, Second Series. "More than twenty of [his] opinions" were selected for publication by *American Law Reports*.[420] *American Law Reports* accepts landmark cases, opinions that establish new trends in the law or that clarify areas of the law that have been in confusion. Other opinions of Sebring have been selected by journals in Florida and in other states for analysis and comment. The following opinions, which are presented in chronological order, are considered especially significant.

State ex rel. Green v. Pearson.[421] The Constitution of Florida forbade the passage of special or local laws regulating the impanelment of grand and petit juries.[422] A defendant charged with first-degree murder challenged her confinement in the county jail through habeas corpus, on the ground that the grand jury that had indicted her had been composed of jury commissioners who had been unconstitutionally appointed under authority of a special law.[423] Sebring said that even though the jury commissioners had prepared the list of persons meeting the qualifications prescribed by general law to serve as jurors, this did not amount to "summoning" or "impaneling" within the meaning of the constitutional provision.[424] The petition, therefore, was denied.

417. *Biographical Data*, *supra* n. 59, at 1.

418. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2.

419. *Biographical Data*, *supra* n. 59.

420. *Tribute*, 89 S.2d at lxvii. The following are twenty of the opinions of Justice Sebring that were accepted for annotation by *American Law Reports*: *Martin v. Johnston*, 79 S.2d 419 (Fla. 1955); *In re Est. of Watkins*, 75 S.2d 194 (Fla. 1954); *Robertson v. Indus. Ins. Co.*, 75 S.2d 198 (Fla. 1954); *Burke v. Beasley*, 75 S.2d 7 (Fla. 1954); *McCollum v. State*, 74 S.2d 74 (Fla. 1954); *Brown v. Skinner*, 73 S.2d 221 (Fla. 1954); *Carpineta v. Shields*, 70 S.2d 573 (Fla. 1954); *Mossler Acceptance Co. v. Norton Tire Co.*, 70 S.2d 360 (Fla. 1954); *In re Wilmott's Est.*, 66 S.2d 465 (Fla. 1953); *Akin v. Miami*, 65 S.2d 54 (Fla. 1953); *Barnett Natl. Bank of Jacksonville v. Murrey*, 49 S.2d 535 (Fla. 1950); *Waterbury v. Munn*, 32 S.2d 603 (Fla. 1947); *Garden Suburbs Golf & Country Club, Inc. v. Pruitt*, 24 S.2d 898 (Fla. 1946); *Marshall v. Felker*, 23 S.2d 555 (Fla. 1945); *Knowles v. Henderson*, 22 S.2d 384 (Fla. 1945); *Boyer v. Black*, 18 S.2d 886 (Fla. 1944); *Taylor v. Payne*, 17 S.2d 615 (Fla. 1944), *overruled*, *Shriners Hosp. for Crippled Children v. Zrillic*, 563 S.2d 64 (Fla. 1990); *New Amsterdam Gas Co. v. Hart*, 16 S.2d 118 (Fla. 1943); *Scheman v. Guaranty Title Co.*, 15 S.2d 754 (Fla. 1943); *Sellers v. Bridges*, 15 S.2d 293 (Fla. 1943).

421. 14 S.2d 565 (Fla. 1943).

422. *Id*. at 566.

423. *Id*.

424. *Id*. at 567–568.

Sellers v. Bridges.[425] The court ruled that habeas corpus could be used to test the validity of a criminal conviction even though the petitioner was on parole at the time and subject only to conditional restraint in the form of conditions of parole rather than total confinement in jail or prison.[426]

State v. Coleman.[427] A city bus driver was convicted of an offense and sentenced to fifteen days in the city jail.[428] Fellow bus drivers, who were members of the same union, drove their buses away from their regular routes and to the courthouse.[429] They blockaded one of the city streets at the courthouse, all in protest over their fellow driver's conviction.[430] As a result of the demonstration, ninety-nine drivers were charged with having participated in a strike without being authorized by a majority vote of the members of the union, as required under Florida law.[431] One driver, who had been arrested under this charge, filed a habeas corpus petition, and the court ruled in his favor.[432] Sebring said that the driver's conduct was not a "strike" as required by the statute.

Local Union No. 519 v. Robertson.[433] In this case, a plumbing and heating contractor refused to enter into a closed shop agreement with a union.[434] The court held that picketing by the union to compel the contractor to enter into such agreement was unlawful and could be enjoined.[435]

Farish v. Smoot.[436] Sebring reviewed a judgment of damages by a circuit court against a municipal judge in a false imprisonment action.[437] The municipal judge had ordered the re-arrest of the plaintiff while he was free on a writ of habeas corpus.[438] Sebring upheld the lower court's ruling and said that the jury's finding that the municipal judge had willfully ordered the re-arrest, with full knowledge that the plaintiff was free on habeas corpus, was supported by the evidence.[439]

425. 15 S.2d 293 (Fla. 1943).
426. *Id*. at 295.
427. 23 S.2d 477 (Fla. 1945).
428. *Id*. at 478.
429. *Id*.
430. *Id*.
431. *Id*.
432. *Id*. at 478–479.
433. 44 S.2d 899 (Fla. 1950).
434. *Id*. at 900.
435. *Id*. at 904.
436. 58 S.2d 534 (Fla. 1952).
437. *Id*. at 535.
438. *Id*. at 536.
439. *Id*. at 538.

Marsh v. Garwood.[440] This case involved the constitutionality of the Florida Child Molester Law.[441] Sebring upheld the law, but said that the portion of the statute that allowed the State Parole Commission to grant a parole, release, or discharge was invalid, because it did not specify how that power was to be exercised.[442] The law contained no standards to guide the Commission in fixing the terms and conditions or the length of such paroles.[443] In the opinion, Justice Sebring explained the differences in meaning of the terms "parole," "conditional release," "pardon," and "conditional pardon."[444]

Lopez v. Avery.[445] A mother whose former husband was in full compliance with the terms of a divorce decree, which she obtained in Missouri, sought additional support from him in the Florida courts based upon changed circumstances.[446] The mother and child lived in Florida.[447] The mother alleged that the child's needs had increased as had the father's ability to pay.[448] Sebring held that the Florida courts had the power, not to modify the Missouri decree, but to supercede the condition regarding support where the reasonable needs of the child and the financial circumstances of the father had changed.[449]

Sneed v. Mayo.[450] Sebring said that an informal communication by a prisoner to a justice of the supreme court would be considered by the court as a petition for habeas corpus, even though it did not comply with formal statutory requirements.[451] In that case, the prisoner had raised constitutional issues, and, if his allegations were true, he would be entitled to a new trial.[452] Sebring ordered the lower court to hold an evidentiary hearing to determine the truth of the allegations.[453]

McCollum v. State.[454] In 1954 Sebring wrote this unanimous majority opinion for the court. Ruby McCollum had been convicted and sentenced to die for the murder of Dr. Leroy Adams, a prominent medical doctor in the small town of Live Oak.[455] McCollum was

440. 65 S.2d 15 (Fla. 1953).
441. *Id*. at 16.
442. *Id*. at 20.
443. *Id*. at 21.
444. *Id*. at 19.
445. 66 S.2d 689 (Fla. 1953).
446. *Id*. at 690.
447. *Id*.
448. *Id*.
449. *Id*. at 694.
450. 66 S.2d 865 (Fla. 1953).
451. *Id*. at 868.
452. *Id*. at 867.
453. *Id*. at 874.
454. 74 S.2d 74 (Fla. 1954).
455. *Id*. at 75.

African-American, and Adams was white. For many years, McCollum secretly had been Adams's mistress, and Adams had fathered several of her children.[456] She went to his office on a Sunday morning.[457] Eyewitnesses testified that she shot him in the back as he walked away from her saying, "'Woman, I'm tired of fooling with you.'"[458] The court reversed her conviction on the ground that the jurors were taken for a view of the doctor's office, where the homicide had taken place, but the trial judge and the defendant were not present during the viewing of the scene.[459] This violated her right under the statute to be present and to have the judge present throughout all phases of the trial.[460] Well-known author, William Bradford Huie, wrote a book about the case.[461]

Coleman v. Watts.[462] In this case, Sebring held that because no evidence of moral unfitness had been presented at the hearing against an applicant for admission to the Bar, the applicant had been denied due process.[463] The Board had not relied on evidence, but only on undisclosed information regarding his fitness in reaching its result.[464]

Tappy v. State ex rel. Byington.[465] In this case, the attorney general had brought a quo warranto proceeding to determine which of two claimants should be entitled to hold the office of county judge of Volusia County.[466] County Judge Wingfield sent a letter of resignation to Acting Governor Charley Johns dated December 30, 1954, which was received in the Governor's office on January 3, 1955.[467] In the letter, he said that his resignation was to take effect "as of midnight on January 3, 1955."[468] Johns wrote an endorsement on the letter accepting the resignation and filed it with the secretary of state.[469] Meanwhile, by letter dated December 28, 1954, Johns notified the secretary of state that he had appointed Thomas Tappy to fill the vacancy created by the election of Judge Wingfield to the circuit court.[470] This letter was received by the secretary of state on

456. Robert Hurwitt, *A Racial Killing and Its Aftermath* <http://examiner.com/000324/0324ruby.html> (accessed Aug. 12, 2000).
457. *McCollum*, 74 S.2d at 75.
458. *Id*.
459. *Id*. at 78.
460. *Id*.
461. William Bradford Huie, *Ruby McCollum: Woman in the Suwannee Jail* (E.P. Dutton & Co. 1956).
462. 81 S.2d 650 (Fla. 1955).
463. *Id*. at 655.
464. *Id*.
465. 82 S.2d 161 (Fla. 1955).
466. *Id*. at 162.
467. *Id*. at 163.
468. *Id*.
469. *Id*.
470. *Id*.

December 30, 1954.[471] On January 3, 1955, Tappy filed his oath of office and bond with the secretary of state.[472] The bond had not been approved by the county commissioners.[473] On that same day, a commission was issued to Tappy by Acting Governor Johns, attested to by the secretary of state, appointing him as county judge from the period of midnight, January 3, 1955, until "the first Tuesday after the first Monday in January, 1957."[474] On January 18, 1955, Tappy filed another bond, which received the approval of the county commissioners.[475]

Governor LeRoy Collins took office on January 4, 1955.[476] On January 10, 1955, he appointed John Byington to the vacancy created by Judge Wingfield's elevation to the circuit bench.[477] Sebring, speaking for the majority, decided that the lack of approval for the bond did not make the earlier appointment ineffective.[478]

Chief Justice

Justice Sebring was the draftsman of the 1955 Appellate Rules of Florida. He also helped in the drafting of the Florida Rules of Civil Procedure.[479] His involvement in reforming the law of Florida took on even more importance during the two years he was chief justice of the Supreme Court of Florida. He was chief justice from 1951 through 1953.[480]

On May 1, 1951, Justice Sebring delivered a speech to the Bar Association in St. Petersburg, in which he pointed out that Florida had gained 800% in population, and the Supreme Court caseload had increased from 83 to 927 cases per year since the Florida Constitution of 1885 had been adopted. This was a greater caseload than New York and Pennsylvania combined or Ohio and Michigan combined. He said, "Your own Supreme Court handles today more litigation than any other Supreme Court in the nation."[481] The Florida Supreme Court had created two divisions of three justices each to reduce the work of each justice, but even so it was difficult for the court to manage the heavy workload. He said that while the

471. *Id*.
472. *Id*.
473. *Id*.
474. *Id*.
475. *Id*.
476. *Id*.
477. *Id*.
478. *Id*. at 168.
479. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2; *Biographical Data*, *supra* n. 59, at 2.
480. *Dean Sebring*, *supra* n. 267, at 13B; *A New Career for Tom Sebring*, 84 St. Pete. Times 14A (Oct. 19, 1967); *Biographical Data*, *supra* n. 59, at 2.
481. *Sebring Says State Court Is Vastly Over-burdened*, 67 St. Pete. Times 13 (May 1, 1951) (emphasis omitted).

court was handling cases "faster and faster," it was "losing ground steadily" in its efforts to keep up with its caseload. "The time has come for something to be done about it," Sebring warned. Also, he said that the "prestige of all courts [would] suffer, and justice [would] be impaired by delay" unless steps were taken to improve the structure of the judicial system in Florida.[482]

In 1956 the intermediate appellate courts of Florida, the district courts of appeal, were added to Florida's judicial system, and these courts relieved the supreme court of much of its case overload. Chief Justice Sebring's efforts to inform the Bar, the legislature, and the people of Florida regarding the size of the appellate caseload in our state helped to bring about this improvement in the structure of the judiciary.

Also, while he was chief justice, Sebring went before the Florida legislature, wearing his judicial robe, to plead for higher salaries for judges. He did his homework before his appearance and was able to present statistics showing that Florida judges had much higher workloads than those in other states. Because of his persuasiveness, salaries were increased.[483]

While chief justice, Sebring began working with the National Conference of Chief Justices Committee. One objective of the conference was to attempt to change federal habeas corpus law, and one of the committee's projects was the drafting of a proposed federal statute that would clarify the jurisdiction of the state and federal courts in habeas corpus cases. The conference hoped that such a statute would diminish the friction between the states and the federal government caused by the clash of jurisdictions in habeas corpus cases.[484] State judges did not like the fact that lower federal courts had been overturning state criminal convictions already affirmed by the highest courts of the states. They wanted a review of state convictions to take place primarily in the state courts. Additionally, they thought that a final judgment of a state's highest court in a criminal case normally should be reviewable only by the Supreme Court of the United States, not by the lower federal courts.[485] A specific proposal was to amend Title 28, Section 2254 of the United States Code in such a way as to limit review of a habeas corpus petition of a state inmate to only those cases that presented substantial federal constitutional questions not previously "raised

482. *Id*.

483. Telephone Interview, *supra* n. 32.

484. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2; *Tribute*, 89 S.2d at xlvii; *Biographical Data*, *supra* n. 59, at 3; Roberts, *supra* n. 60.

485. H.R. Jud. Comm., *Habeas Corpus: Hearings on H.R. 5649*, 84th Cong., 1st Sess. 44–45 (June 7 & 24, 1955); Louis H. Pollak, *Proposals to Curtail Federal Habeas Corpus for State Prisoners: Collateral Attack on the Great Writ,* 66 Yale L.J. 50, 54, 57, 58 (1956).

and determined."[486] And even then, review would be allowed only if there had been no "fair and adequate opportunity theretofore" to raise that issue and have it determined, and only if the constitutional question could not now be raised in a state court.[487] This would have placed serious limitations on federal habeas review of state convictions.

The Conference of Chief Justices attempted to persuade Congress to adopt the statute. Justice Sebring was the spokesman for the committee at a number of sessions of the state chief justices and federal judges, including the chief justice of the United States. Justice Sebring was instrumental in securing the support of those judges for such a statute. He addressed the National Association of Attorneys General on the subject when they were convened at White Sulphur Springs, Virginia, in December 1954.[488]

The proposed law was not enacted by Congress. Without such limitations, the use of federal habeas corpus petitions to attack state convictions increased during the Warren Court years. However, in

486. *Habeas Corpus: Hearings on H.R. 5649*, 84th Cong., 1st Sess. at 52.

487. *Id*. Section 2254 of Title 28 of the United States Code would have been amended, adding the following language:

> A Justice of the supreme court, a circuit judge or a district court or judge shall entertain an application for a writ of habeas corpus on behalf of a person in custody pursuant to a judgment of a State court, only on a ground which presents a substantial Federal constitutional question (1) which was not therefore raised and determined[,](2) which there was no fair and adequate opportunity theretofore to raise and have determined, and (3) which cannot thereafter be raised and determined in a proceeding in the State court, by an order or judgment subject to review by the Supreme Court of the United States on a petition for certiorari.
>
> An order denying an application for a writ of habeas corpus by a person in custody pursuant to a judgment of a State court shall be reviewable only on a writ of certiorari by the Supreme Court of the United States. The petition for the writ of certiorari shall be filed within 30 days after the entry of such order.

Id.

488. *Biographical Data*, *supra* n. 59; Roberts, *supra* n. 60.

more recent times, the Supreme Court[489] and Congress[490] have curtailed the use of federal habeas by state prisoners.

Observations of Justice Sebring's Law Clerk

What was he like during his years on the court? Justice Sebring, while chief justice, hired Winifred L. "Wendy" Wentworth as his research aide, and she worked for him for three years during the 1950s. In 1990 when Wentworth was a judge of the District Court of Appeal for the First District of Florida, she told a group commemorating the career of Justice Sebring that shortly after she began to work for him she was standing in a cashier's line at Sears, Roebuck in Tallahassee with her baby on her hip. The man in front of her, who was facing away from her, had a sack of fertilizer under his arm and seemed so "grungy" that she pulled the baby away from him. The "grungy" man turned around, and Wentworth saw that it was Justice Sebring. He loved gardening, and he was not concerned about his appearance on the days when he worked in his yard.[491]

Wentworth said that Justice Sebring had supreme confidence in himself. Also, he had an "inner dignity" that she never saw in another person, and he maintained that dignity no matter what role he was playing.[492]

She also said that his bench notes made during arguments before the court were mixed with football plays and sketches of structural elevations of buildings.[493] He still loved football and architecture.[494] Because of his love for architecture, he worked very

489. *See e.g. Wainwright v. Sykes*, 433 U.S. 72, 91 (1977) (dismissing the petition for a writ of habeas corpus); *Stone v. Powell*, 428 U.S. 465, 494 (1976) (finding that if the state "provided an opportunity for full and fair litigation," the petition for writ of habeas corpus could not be granted); *see generally* Yale L. Rosenberg, *Construing Federal Habeas Corpus: From Great Writ to Exceptional Remedy*, 12 Hastings Const. L.Q. 597 (1985) (discussing the decline in the use of federal habeas corpus).

490. An example of this is the *Antiterrorism and Effective Death Penalty Act of 1996*, which, among other things, imposed a one-year limitation for the filing of a petition for writ of habeas corpus by a person in state custody. 28 U.S.C. § 2244 (Supp. 1999); Thomas H. Boyd, *The Erosion of Federal Protection of the Constitutional Rights of State Prisoners: Offet v. Solem,* 12 Hamline L. Rev. 19, 34–41 (1988); Ronald J. Tabak & J. Mark Lane, *Judicial Activism and Legislative "Reform" of Federal Habeas Corpus: A Critical Analysis of Recent Developments and Current Proposals,* 55 Alb. L. Rev. 1, 55–84 (1991). The Supreme Court recently handed down three decisions allowing review by state inmates under the 1996 Act. *Slack v. McDaniel*, 120 S. Ct. 1595 (2000); *Williams v. Taylor*, 120 S. Ct. 1495 (2000); *Williams v. Taylor*, 120 S. Ct. 1479 (2000).

491. *Reflections and Memories*, *supra* n. 14 (remarks of Winifred L. "Wendy" Wentworth).

492. *Id*.

493. *Id*.

494. *Id*.

closely with the architectural firm that designed the present Florida Supreme Court building, which the court moved into in 1949.[495]

Wentworth said that Justice Sebring made her "feel every inch a lawyer." She said that Justice Sebring was "vastly different from the entire legal community" in the way he treated a young woman lawyer. He treated her as a professional, with great respect, even though it was not common in those days for male lawyers to consider women lawyers as their equals in the profession.[496]

Honors and Publications

In 1953 the University of Florida conferred upon Sebring the Centennial Letter of Merit, an award for distinguished service to the University.[497] In 1960 he was given the Significant Alumni Award for outstanding alumni by the University of Florida.[498] In 1955 Sebring was the recipient of a Distinguished Service Award from the University of Miami Law School.[499]

Sebring gave many speeches during this period. One, based on a 1951 address at The Florida Bar Convention, called for reform of the appellate court system in Florida.[500] He pointed out that the only other state supreme court with as high of a caseload as Florida's was the Supreme Court of California.[501] Establishing a system of intermediate appellate courts in Florida was one possible solution to the problem that was advanced by Sebring.[502] Articles published by him included *Public Understanding and Constitutional Rights* in the *Tennessee Law Review*,[503] and *Responsibility of the Lawyer* in the *Miami Law Quarterly*.[504]

495. Boyd & Reder, *supra* n. 260, at 1054; *Reflections and Memories*, *supra* n. 14 (remarks of Winifred L. "Wendy" Wentworth).

496. *Reflections and Memories*, *supra* n. 14 (remarks of Winifred L. "Wendy" Wentworth).

497. *Tribute*, 89 S.2d at xlvi.

498. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 1.

499. *Id*.; *Tribute*, 89 S.2d at xlvi.

500. Chief Justice H.L. Sebring, *The Appellate System of Florida*, 25 Fla. L.J. 141 (1951).

501. *Id*. at 142.

502. *Id*. at 145.

503. Harold L. Sebring, *Public Understanding and Constitutional Rights*, 23 Tenn. L. Rev 287 (1954).

504. Harold L. Sebring, *The Responsibility of the Lawyer*, 10 Miami L.Q. 26 (Fall 1955).

The *Virgil Hawkins* Case

Probably Sebring's most significant opinion while on the bench was a dissent he wrote while chief justice in *State ex rel. Hawkins v. Board of Control of Florida*,[505] an opinion that contradicts the unanimous opinion he opined in an earlier matter involving the same parties.[506] The case involved an African-American who sought admission to the University of Florida College of Law at a time when the entire educational system in Florida was segregated.[507] In 1950 Sebring wrote the unanimous opinion, stating that the establishment of a "Negro" law school at Florida A & M with facilities equal to those at the University of Florida would satisfy equal protection requirements.[508] He based his decision on *Plessy v. Ferguson,*[509] in which the United States Supreme Court held that separate but equal facilities would satisfy the requirements of the Equal Protection Clause.[510] Hawkins did not stop at that point. He continued to try to gain admission to the University of Florida through the Florida courts, and he unsuccessfully sought review in the Supreme Court of the United States.[511]

In 1954 the United States Supreme Court handed down *Brown v. Board of Education*,[512] which overruled *Plessy v. Ferguson*.[513] The United States Supreme Court finally granted certiorari on behalf of Hawkins on the basis of the decisions in *Brown* and companion cases.[514] On May 24, 1954, it vacated the Florida Supreme Court decision and remanded the case back to the Florida Supreme Court.[515] There, the majority of the Florida court delayed issuing a writ of mandamus ordering officials to consider admitting Hawkins.[516] The majority stated that the admission of African-American students to all-white institutions, such as the University of Florida, could cause serious problems and could adversely affect all students.[517] It would require adjustments and changes at these institutions.[518] Justice B.K. Roberts, writing for the majority, said,

505. 83 S.2d 20, 28–34 (Fla. 1955) (Sebring, J., dissenting).
506. *State ex rel. Hawkins v. Bd. of Control of Fla.*, 47 S.2d 608 (Fla. 1950).
507. *Id*. at 609.
508. *Id*. at 608–610, 614, 616.
509. 163 U.S. 537 (1896), *overruled*, *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).
510. *Id*. at 540, 550–551.
511. *State ex rel. Hawkins v. Bd. of Control of Fla.*, 53 S.2d 116 (Fla. 1950).
512. 347 U.S. 483 (1954).
513. *Id*. at 494–495.
514. *Fla. ex rel. Hawkins v. Bd. of Control of Fla.*, 347 U.S. 971 (1954).
515. *Id*.
516. *Hawkins*, 83 S.2d at 23.
517. *Id*. at 25.
518. *Id*.

> It is our opinion that, both under the equitable principles applicable to mandamus proceedings and the express command of the United States Supreme Court in its "implementation decision" the exercise of a sound judicial discretion requires this court to withhold, for the present, the issuance of a peremptory writ of mandamus in this cause, pending a subsequent determination of law and fact as to the time when the relator should be admitted to the University of Florida Law School . . . .[519]

Justice Roberts also said,

> We adopt this procedure pursuant to the directive of the "implementation decision" to the effect that we retain jurisdiction "during this period of transition" so that we "may properly take into account the public interest" as well as the "personal interest" of the relator in the elimination of such obstacles as otherwise might impede a systematic and effective transition to the accomplishment of the results ordered by the Supreme Court of the United States. Based upon such evidence as may be offered at the hearing above directed, this court will thereupon determine an effective date for the issuance of a peremptory writ of mandamus.[520]

The Court appointed Circuit Judge John A.H. Murphree as a commissioner to take testimony in the case.[521] Judge Murphree was to study this issue and report back to the court.

Justice Sebring wrote the dissent, and Justice Elwyn Thomas joined in Justice Sebring's opinion.[522] He later summarized his reason for dissenting, saying, "As a judge I am bound by the Constitution, and the Constitution says that the decisions of the Supreme Court are the law of the land."[523] Justice Sebring believed that Hawkins should be considered for immediate admission to the University of Florida on the same basis as every other applicant.[524] When the United States Supreme Court declared segregation of the public schools unconstitutional, Florida's school segregation laws were nullified, according to Justice Sebring.[525] Therefore, the previous Florida laws allowing segregation in public education no longer had any effect. He said, in his opinion,

519. *Id*.
520. *Id*.
521. *Id*. Murphree was a good friend of Sebring's.
522. *Id*. at 25. Justice Elwyn Thomas was a Stetson University College of Law graduate.
523. Gelman, *supra* n. 6, at 5.
524. *Hawkins*, 83 S.2d at 33–34 (Sebring, J., dissenting in part and concurring in part).
525. *Id*. at 30.

> That it is our judicial duty to give effect to this new pronouncement cannot be seriously questioned. For the Federal Constitution, which all Florida judges have taken a solemn oath to "support, protect and defend," specifically provides that "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every state *shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding*." Therefore, whatever may be our personal views and desires in respect to the matter, we have the binding obligation imposed by our oath of office, to apply to the issue at hand the Federal Constitution, as presently interpreted by the Supreme Court of the United States, and in its application to recognize and give force and effect to this new principle enunciated in *Brown v. Board of Education* that the doctrine of "separate but equal" facilities, upon which the original decision of this Court was based, and upon which the respondents now bottom their defense to the amended petition of the relator, has no place in the field of public education in Florida, even though our own Constitution and statutes contain provisions that require in our schools the separation of the races.[526]

He stated that

> [w]hen these principles and rules are applied to the facts revealed by the pleadings in the instant case, it is clear that no lawful reason has been shown by the respondents as to why the relator should not be admitted to the College of Law of the University of Florida on the same basis as any white student.[527]

He concluded as follows:

> Undoubtedly certain adjustments will have to be made by the respondents to accommodate the desires of the relator to attend the College of Law of the University of Florida. But it is impossible for us to believe, when we confine, as we must, our consideration of the issues to the case made by the pleadings, that these adjustments will be of such a major nature that the constitutional right of the relator to attend the school of his choice should be denied at this time simply because of the inconveniences that may be suffered by the respondents in eliminating the administrative obstacles that now prevent his attendance.

526. *Id*. at 31 (citations omitted) (emphasis added) (alteration in original).
527. *Id*. at 33.

> I am of the opinion, therefore, that the amended return of the respondents fails to present any valid defense to the allegations of the amended petition and that consequently a peremptory writ in favor of the relator should be issued commanding the respondents to consider the application of the relator for admission to the College of Law of the University of Florida on precisely the same basis that the respondents would consider the application of a white person, and that if, upon this basis, the relator is found to have the necessary qualifications for admission, he should be admitted to the College of Law of the University of Florida under the same rules and regulations, and upon the same conditions, that a white person would be admitted.[528]

STETSON'S LAW DEAN

Stetson's Offer

In 1955, at about the time Justice Sebring's second term on the court was ending, J. Ollie Edmunds, president of Stetson University, disclosed that Justice Sebring had been invited to become dean of the College of Law. That announcement was made on June 25, 1955.[529] Then, on July 2, 1955, Justice Sebring reported that he had decided to retire from the court to become Stetson's dean. His retirement took effect on September 15, 1955,[530] but Justice Sebring continued to be available to sit as a member of the supreme court even after he accepted the deanship at Stetson. Under the Florida Constitution, he was eligible for duty at the court and could be called upon at any time to hear cases. In fact, after he became dean, he continued to hear cases.[531]

Why did Justice Sebring decide to step down from the supreme court and become the dean of a small, underfunded, struggling law school? It is easy to understand why Stetson wanted him. William Amory Underhill,[532] years later at a ceremonial occasion honoring the memory of Justice Sebring, said that Justice Sebring was known by a great number of people in Florida. Underhill referred to him as "Mr. Florida."[533] President Edmunds once told me that Sebring had

528. *Id*. at 33–34.

529. Taylor, *supra* n. 41.

530. Lowell Brandle, *Sebring Decides to Accept Post as Stetson Dean*, 71 St. Pete. Times 15 (July 2, 1955).

531. Morris, *supra* n. 47, at 1D; *Reflections and Memories*, *supra* n. 14.

532. William Amory Underhill was chairman emeritus of the Board of Overseers at Stetson University and the College of Law from 1994 until his death on September 10, 1999. *W.A. Underhill, Citrus Industry Lobbyist*, Palm Beach Post 14A (Sept. 11, 1999).

533. *Reflections and Memories*, *supra* n. 14 (remarks of William Amory Underhill).

many friends in Florida, and he wanted those friends for Stetson.[534] Sebring was a Baptist,[535] which made it easy for Stetson to make the decision to offer him the deanship. That was because, although Stetson was never legally bound to the Southern Baptist denomination, it had been founded by Baptists and always had a Board of Trustees required by charter to have three-fourths of its membership Baptists. Also, there were a series of non-binding agreements by which Florida Baptists participated in the approval process for members of the Board.[536]

One reason why Justice Sebring took the job might have been the fact that he had had a heart attack while on the court, and he may have thought that as dean he would not be under as much stress. His grandson has indicated that Sebring may have stepped down from the court partly for health reasons.[537] As matters turned out, the deanship did not reduce Justice Sebring's stress. He worked every bit as hard and perhaps harder as dean than he did as a justice of the Florida Supreme Court and suffered two more heart attacks while dean of Stetson University College of Law.

Justice E. Harris Drew, who was a colleague of Justice Sebring's on the Florida Supreme Court, was also a very close friend.[538] Justice Drew was an alumnus of the law school, and in 1955, when Sebring accepted the deanship, Justice Drew was chair of the Stetson University College of Law campaign to raise money to build a law library.[539] Undoubtedly, Drew had an influence on Sebring and helped to convince Sebring to take the job.

Mrs. Hazel Clapp, the wife of William E. Clapp, who served for years as a member of the Board of Overseers of the College of Law, once told me that Justice Sebring said to her after he had accepted the deanship that he loved working with young people. Justice Sebring told Clapp that working with young people is why he went into coaching and why he decided to become dean.[540]

Another reason Justice Sebring accepted the position is because he wanted to teach. He commented on one occasion to his son, "All I ever really wanted to do was to teach young men the law."[541]

534. Conversation with President Edmunds, Chan., Stetson U. (early 1980s).

535. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 1; *Tribute*, 89 S.2d at xlv. Harold L. Sebring also listed himself as a Baptist in a 1955 resume. *Biographical Data*, *supra* n. 59.

536. The last of these agreements ended nearly ten years ago.

537. *Reflections and Memories*, *supra* n. 14 (remarks of Harold L. "Tripp" Sebring, III).

538. Conversation with J. Ben Watkins, Former Member and Now Honorary Member, Stetson U. College of L. Bd. of Overseers (Oct. 21, 1999).

539. *State Leaders to Dedicate Stetson Law Library Today*, 127 St. Pete. Times 11B (Mar. 8, 1958) [hereinafter *State Leaders*].

540. Conversation with Hazel Clapp, Wife of William E. Clapp, Member, Stetson U. College of L. Bd. of Overseers (early 1980s).

541. Telephone Interview, *supra* n. 2.

Sebring's Philosophy of Legal Education

Dean Sebring had a vision of what a law school should be. He did not think that legal education at the time was training young lawyers properly for the practice of law. He hoped to establish a different kind of law school where students could obtain real world experience. Dean Sebring wanted education at Stetson to be based on the ancient principle of apprentice and master.[542] Because of the fact that the College of Law was housed in a former Florida boom-period hotel, students were able to live side-by-side with their professors. Dean Sebring's conception was that they would live together and that judges and attorneys would be brought in to take meals with students, to speak to the students about the law, and to discuss law with the students.[543]

For many years in England, the training of barristers has taken place in the Inns of Court in London. The Stetson campus was an ideal setting for implementation of the Inns of Court concept. Some of the students lived in the former hotel building and ate their meals in the school's cafeteria. The non-resident students and professors also ate there. Several faculty members also lived in apartments in the law school buildings.[544] Every month an "Inns of Court" dinner was held where prominent lawyers or judges would speak. It was possible, in that setting, to bring students, professors, lawyers, and judges together in such a way so that the students could "eat and sleep law."[545] Dean Sebring later described his concept of the Inns of Court system that he had instituted at Stetson.

> [Stetson] embarked upon a lawyer-training program patterned in concept after the historic Inns-of-Court system under which training for the Bar has been centered in England for more than seven centuries. This time-honored system of training law students "by osmosis" though shaped by Stetson to meet the requirements of modern legal education in America, retained the basic idea so vital to the system, of maintaining close personal contact between embryo lawyers and eminent scholars, lawyers and judges.
>
> Under the plan, Stetson law students live apart from non-law students and during their periods in residence, associate

542. Gelman, *supra* n. 6, at 5.

543. *Id*.

544. Gilbert L. Lycan, *Stetson University: The First 100 Years* 365 (Centennial ed., Stetson U. Press 1983). Based on personal knowledge, the Author notes that these included Justice James Tenney Brand, Dr. Edwin L. Platt, Dr. Roy Francis Howes, and Judge Stanley Milledge.

545. *Id*.

> "around the clock" with experienced teachers who not only teach them the traditional courses of law, but also share with them the wisdom they have acquired in actual law practice. Experts in many fields are brought to the campus to lecture on their specialties and to exchange views with the students. Legal workshops are conducted and professional seminars are held. The Florida Bar Association conducts numerous legal education institutes, and the Second District Court of Appeal holds its Pinellas County court terms on campus.
>
> As might be anticipated, the inspiring personalities with whom they come in contact exert a lasting influence on the young men and women who are accepted as students, instilling in them high ideals, an abiding respect for the code of ethics that some day will be entrusted to their keeping, and a deep obligation to share personally the responsibility for preserving America's basic principles of personal freedom and individual initiative so vital to the preservation of the free enterprise system.[546]

Although Stetson has partially moved away from the Inns of Court ideal, vestiges of Dean Sebring's vision still remain intact. For one thing, the law school still has dormitories that provide on-campus housing for up to seventy-three students. At least eighty-five students live in law school owned apartments and houses, and numerous students live in private housing within several blocks of the law school.[547] This means that at any time of day or night, even on weekends, many of the students are on campus, talking, meeting, and seeing faculty members who are working there at the same time. The school still has a cafeteria where students and faculty congregate. "Inns of Court" banquets are still held every semester. Noted judges and lawyers speak at these and many other functions held at the school.

Furthermore, Stetson is a leader in the field of continuing legal education (CLE). Stetson now presents thirty to forty continuing legal education programs each year. Students are invited to attend and, according to present CLE Director Jan Majewski, approximately thirty-five percent of the students at Stetson attend at least one CLE program each year.[548]

546. Dean Harold L. Sebring, *Final Report* 8 (Feb. 8, 1968) (copy on file with Stetson U. College of L. Archives). This report was submitted to the president, the trustees of the University, and to the members of the Board of Overseers.

547. The total average enrollment of the law school is a little over 600, so over one-third of the students live on or very near the campus.

548. Interview with Jan Majewski, Dir. CLE, Stetson U. College of L. (Apr. 4, 2000).

The fact that Stetson in recent years has ranked high among law schools in trial advocacy in the *U.S. News & World Report* ranking of law schools can be traced, at least in part, to Sebring's philosophy of legal education.[549] Out of the approximately 180 accredited law schools in the United States, Stetson has either ranked first or tied for first place in trial advocacy, in that ranking in 4 of the past 6 years,[550] and is presently ranked second in the nation in trial advocacy training. Sebring wanted Stetson to be a lawyers' school,[551] not just a law school. In my view, there is a strong causal relationship between his efforts to make Stetson a lawyers' school and the recent recognition that the school has received in the *U.S. News & World Report* rankings.

The Physical Plant

The law school was not in good condition when Sebring arrived. Dean Lemuel A. Haslup had died in August 1953. Dr. Charles J.

549. Stetson U. College of L., *Stetson Law Ranks #1 in Trial Advocacy for Third Year* <http://www.law.stetson.edu/college%.5Frelations/pr/number1.htm> (accessed July 15, 2000).

550. The following is a list of Stetson's rankings in *U.S. News & World Report* in trial advocacy since 1994:

1995 first place
1996 tied with Temple University for first place
1997 first place
1998 first place
1999 fourth place
2000 second place

America's Best Graduate Schools, 122 U.S. News & World Rpt. 67 (Mar. 10, 1997); *America's Best Graduate Schools*, 120 U.S. News & World Rpt. 82 (Mar. 18, 1996); *America's Best Graduate Schools*, 118 U.S. News & World Rpt. 84 (Mar. 20, 1995); *Best Graduate Schools*, 128 U.S. News & World Rpt. 56 (Apr. 10, 2000); *Best Graduate Schools*, 126 U.S. News & World Rpt. 95 (Mar. 29, 1999); *Best Graduate Schools*, 124 U.S. News & World Rpt. 77 (Mar. 2, 1998). These high rankings are also the result of years of hard work in teaching trial advocacy skills and in coaching championship trial advocacy teams by Professor William Eleazer, Adjunct Professor Fred Schaub, and many other full-time professors, adjunct professors, alumni, and others who taught, coached teams, and acted as judges for trial competitions. Included among these are the following members of our full-time skills training faculty: Dorothea A. Beane, Stephen M. Everhart, Michael Finch, Roberta Kemp Flowers, Jerome C. Latimer, Rebecca C. Morgan, W. McKinley Smiley, and Karen A. Williams. In the 1993–1994 academic year, Stetson teams won all five of the major national trial advocacy competitions, and, in one of these national competitions, Stetson teams placed first and second. For a more complete discussion on Stetson's trial advocacy program and trial team, consult William Eleazer, *Trial Advocacy at Stetson: The First 100 Years*, 30 Stetson L. Rev. 243 (2000).

551. Sebring's views may have been influenced by the writings of "legal realists," such as Jerome Frank. The following is a list of some of Jerome Frank's writings, as well as writings about Jerome Frank that could have influenced Dean Sebring: Jerome Frank, *Courts on Trial: Myth and Reality in American Justice* 235–246 (Princeton U. Press 1949); *The Philosophy of Judge Jerome Frank: A Man's Reach* 270–288 (Barbara Frank Kristein ed., Macmillan Co. 1965); Jerome Frank, *Why Not a Clinical Lawyer-School*?, 81 U. Pa. L. Rev. 907 (1933).

Hilkey, who had been dean of Emory University School of Law and Drake University Law School, and who had been teaching at Stetson since 1951, served as acting dean following Dean Haslup's death. Hilkey was seventy-four years old at the time the school moved to the St. Petersburg area, and he retired at the close of the 1955 summer term.[552]

The Rolyat Hotel,[553] located in a residential area in Gulfport, Florida, adjacent to St. Petersburg, had been empty since 1951. The hotel was built in 1925, but was later taken over and operated for almost twenty years as the Florida Military Academy, a military school for boys.[554] In Summer 1954 the College of Law moved from the main campus of the University in DeLand into the old Rolyat Hotel buildings.

The property had been bought from Union Trust Company for $200,000 with a $35,000 down payment. By September 1954 an additional amount of $158,000 was spent on renovations and repairs. Of this, $91,000 had been donated by business and professional men and women in St. Petersburg. Also, the school received $67,000 in grants from the Charles Merrill Foundation and $50,000 from the Avalon Corporation.[555]

Dean Sebring said, "When I first got here in 1955, just a year after the law school had moved from DeLand to Gulfport, there were no classrooms, no faculty, nothing. The place was a shambles. We built it up."[556] Dean Sebring, ever the architect, designed some of the improvements to the law school. One was the main entranceway to the building.[557] Another was the reflection pond at the entrance to the law school. The pond contains fifty squares, representing the fifty states of the Union, and seven pedestals representing the seven justices of the Florida Supreme Court. Overhead are the five flags that have flown over the State of Florida.[558] Dean Sebring also converted part of a ramshackle set of wooden buildings on the

552. Lycan, *supra* n. 544, at 364.

553. *Id*. The name of the hotel was the last name of the first owner, Jack Taylor, spelled backwards.

554. Sebring, *supra* n. 546, at 2. In Summer 1957 the College of Law served as the setting for a movie about a boys' military school — *The Strange One* — starring George Peppard and Ben Gazzara. *The Strange One* (Columbia Pictures 1957) (motion picture).

555. Sebring, *supra* n. 546, at 3.

556. Kramer, *supra* n. 46, at 10.

557. As a student, I, along with Dean Sebring and others, watched as the workmen pulled away the moldings to reveal the new entrance. This occurred during the first few months of 1957.

558. Conversation with Gardner W. Beckett, Jr., Stetson Alumnus and Former Member of the Bd. of Overseers (1980s). Sebring's son reports that his father was familiar with the book, *Florida under Five Flags* by Rembert Wallace Patrick & Allen Morris (4th ed., U. Fla. Press 1960). This may have given him the idea for the five flags at the entrance to the law school. *Comments*, *supra* n. 21. Originally, the Confederate flag was one of those flags, but about ten years ago the flag of the Seminole Indian Nation replaced the Confederate flag.

northeast corner of the campus into a temporary classroom until permanent classrooms could be built. Looking down at the classroom from above, it was "T" shaped. The instructor stood at the top of the "T." This meant that the students at the extremities of the "T" could not see around the corners. Therefore, a student reciting at one of the extremities was not visible to some of the other students.[559]

In 1954 there were no classrooms, no library to speak of, and no faculty offices. By the time Dean Sebring left the deanship in 1968, the College had five classrooms, a courtroom, sixteen offices, and an excellent library facility.[560]

The philanthropist Charles A. Dana became interested in the law school. He, his wife, and the Charles A. Dana Foundation became significant donors. Dana was born in 1881 in New York City.[561] He had been a member of Teddy Roosevelt's Rough Riders during the Spanish-American War.[562] Dana was a graduate of Columbia University and Columbia Law School.[563] He worked for awhile in the district attorney's office in New York and later practiced law in New York City.[564] Additionally, Dana served three terms in the legislature of the State of New York.[565] In 1918 he became president of Spicer Manufacturing Company.[566] The name of the company was changed to Dana Corporation in 1946.[567] The Dana Corporation was one of the largest manufacturers of component parts for automobiles in the world.[568] President J. Ollie Edmunds served with Dana on a nationwide committee or commission on education. President Edmunds happened to mention to Dana, while at one of the meetings, that Stetson University had purchased an old hotel in Gulfport as the new home for the law school.[569] Dana asked if it was the Rolyat, and President Edmunds answered yes.[570] According to President Edmunds, Dana and his wife Eleanor had spent their honeymoon at the Rolyat, and the hotel

559. This is based on my own observations while a student in that classroom during 1957 or 1958.

560. Sebring, *supra* n. 546, at 4–6.

561. *The Charles A. Dana Foundation, Incorporated: A Review 1963–1967*, at 5–6 (The Found. 1967) (copy on file with the Stetson U. College of L. Lib.) [hereinafter *Dana Foundation*].

562. *Id*.

563. *Id*.

564. *Id*.

565. *Id*.

566. *Id*.

567. *Id*.

568. *Id*.

569. Interview with J. Ollie Edmunds, Chan., Stetson U. (early 1980s). As a student during those years, I saw the Danas several times while they stayed on the campus. Mr. Dana often wore a bathing suit, as he liked to use the school's swimming pool.

570. *Id*.

held sentimental significance for them.[571] The Danas were invited to Gulfport. He and his wife found the room where they had lodged on their honeymoon, and they stayed in that same room.[572] They enjoyed visiting the law school, and they spent a lot of time on the campus during the 1950s.[573] They sometimes dined with the Sebrings at their home on Snell Island in northeast St. Petersburg.[574]

Mr. and Mrs. Dana became very interested in the progress of the struggling law school. Through the Charles A. Dana Foundation, they gave much of the money that was used to build the Charles A. Dana Law Library in 1957. The Foundation at that time was governed by seven trustees. The trustees included Mrs. Dana and Charles A. Dana, Jr. Also, Walter H. Mann, a New York City businessman and friend of the Danas who served for many years as a member of the Board of Overseers of Stetson University College of Law and as a trustee of Stetson University, was a trustee of the Dana Foundation.[575]

A total of $407,000 was spent on constructing the library. The Dana Foundation made a gift of $250,000 toward the project. Seventy-five thousand dollars was donated by friends in the Tampa Bay area, and the remainder came from alumni and friends outside of the Tampa Bay area.[576]

The new library contained an upper floor that could be divided into classrooms or used as a large auditorium.[577] When the library moved to its new location, the former, very small, library was turned into a courtroom that still exists on the campus, although it has been relocated.[578] Boxes of books were transferred from the old to the new library through the use of a human chain during December 1957. The entire process took only about twenty minutes, because the library collection was so small.[579]

The new library was dedicated in an outdoor ceremony held in March 1958. A thousand or more persons attended. The festivities

571. *Id*.
572. *Id*.
573. *Id*.
574. *Comments*, *supra* n. 21.
575. *Dana Foundation*, *supra* n. 561, at 7–10.
576. Sebring, *supra* n. 546, at 4; *Charles E. Dana Law Library Opens Monday*, 165 St. Pete. Times 2E (Jan. 5, 1958) [hereinafter *Library Opens*].
577. This is based on my personal observations while a student at Stetson during the late 1950s. The large auditorium was used for continuing legal education programs, as well as classes.
578. This building is now located on the north side of the campus and is referred to as "Courtroom H."
579. I was one of the volunteers who participated in the moving of the boxes of books along the "human chain." Librarian, professor, and later dean, Richard T. Dillon, orchestrated the move.

began at 3:00 p.m., and Governor Leroy Collins gave the main address and received a Doctor of Laws degree from Stetson.[580] A procession of robed jurists and alumni passed through the law school buildings. In addition to Dean Sebring, the platform in the courtyard held President Edmunds, Justice Drew, Walter H. Mann, Charles A. Dana, Florida Supreme Court Justice Elwyn Thomas, Justice Campbell Thornal, and four United States district judges. While they attended and participated in the ceremonies, Governor and Mrs. Collins stayed in an apartment at the law school.[581]

Financial Problems

Most of Dean Sebring's problems during his deanship were financial. There was a scarcity of money, and this scarcity caused ill will between Dean Sebring and his supporters and President Edmunds. Walter Mann, in particular, was critical of President Edmunds, and he kept pressure on him to alleviate the law school's financial difficulties.[582]

Stetson University was running at a deficit in those years, and President Edmunds maintained tight control over the University funds. He determined how much money the College of Law could spend and how it could be spent. If Dean Sebring needed an item costing as little as $5.00, he had to fill out a form and send it to President Edmunds for approval. Then, after a long delay, if that item was approved, the University would send a check to the law school to pay the bill.[583]

One problem was the mortgage to the Union Trust Company for the purchase of the old Rolyat Hotel/Florida Military Academy buildings. The property had been purchased for $200,000, including a down payment of $35,000 and a mortgage of $165,000, and payments of principal and interest on the mortgage were to be made over ten years in annual installments. The University, located approximately 150 miles away in DeLand, collected the tuition from the law students. Also, the DeLand campus had undertaken to make the payments on the mortgage, but the University was unable to make the third annual payment, and this threw the mortgage and note into default. Dean Sebring and President Edmunds met with Union Trust officials and convinced them to accept a demand note for past-due principal and interest, a total of $29,375, with the

580. Paul Davis, *Gov. Collins Receives Doctorate at Stetson Library Dedication*, 128 St. Pete. Times B1 (Mar. 9, 1958).

581. *The Cover*, 31 Fla. B.J. 507, 507 (1957); *Library Opens*, *supra* n. 576, at 2E; State Leaders, supra n. 539, at 11B.

582. Lycan, *supra* n. 544, at 366; Telephone Interview, *supra* n. 2.

583. Lycan, *supra* n. 544, at 367–368.

understanding that all future payments would be paid when due. Each year after that, the principal and interest was paid on time, and as of April 1967, $27,202 had been paid. The debt was fully paid in 1968 when Dean Sebring stepped down as dean.[584]

The law school did not generate sufficient revenue from tuition alone,[585] and this left Dean Sebring constantly in need of more funds. He complained that the University was not supporting the College of Law financially. The president did not wish to give more money to the College of Law, because he had been told "that the persons who had invited the College to [Gulfport] had promised to finance it."[586] The people the president referred to did provide money to repair the buildings, but they did not provide money for operating expenses.[587] A separate campus was more expensive to operate than a law school on the main campus in DeLand, because many services at a second location have to be duplicated.[588] Also, the new law school buildings, while very beautiful to look at because they were built in a Spanish-style architecture, were expensive to maintain. President Edmunds and others at the University probably had not realized, when they decided to move the College of Law to Gulfport, that a school at a second locale would require more money for operational expenses than one located at the main campus in DeLand.

The overseers who were particularly helpful to Dean Sebring in those early years were Arthur N. Morris and Walter H. Mann.[589] Morris was raised in Philadelphia. He became a printer and, in his spare time, attended the Philadelphia College of the Bible and served as a lay preacher in several churches, including churches in Maryland. Morris then went to work for a Philadelphia box manufacturer and became the manufacturer's right hand man. In 1936 he sold his stock in that company to his employer and, with the help of a loan from the former employer, moved his family to Baltimore where he began his own box company with a half-dozen employees in a brick warehouse.[590] That company eventually became

584. Sebring, *supra* n. 546, at 3.

585. The Author recalls that tuition was only $500 per academic year as late as 1958 and then increased to $650 per year.

586. Lycan, *supra* n. 544, at 366.

587. *Id*.

588. As one small illustration of this, two campuses must have separate maintenance departments, which are more expensive to operate than one larger maintenance department.

589. Telephone Interview, *supra* n. 2.

590. E-mail from Brandy Hall (Apr. 4, 2000) (copy on file with Author). Hall provided me with the following information about Mr. Morris:

> Arthur Newth-Morris was the founder and chairman of Rock-Tenn Company. In 1936, Mr. Morris founded the Southern Box Company in Baltimore, Maryland. In 1967, the companies were consolidated under the name of Rock-City Packaging, Inc. On May 21, 1973 two businesses merged, Tennessee Paper Mills and Rock-City Packaging, Inc. to

a huge cardboard box manufacturing company, the Rock-Tenn Company.[591]

For many years, Morris was the president and chairman of the Board of Rock-Tenn. He also served for many years as a trustee of Stetson University and as a member of the College of Law Board of Overseers. Morris was a highly ethical man, blessed with a lot of common sense, the ability to get things done, and a knack for getting along well with people. He had an excellent sense of right and wrong and spent much of his life in philanthropic activities. Morris told me years later that during the time of turmoil regarding the finances of the school, he took matters into his own hands to help Dean Sebring. When Dean Sebring became dean, Morris said all the money collected by the College of Law, such as tuition, was being sent to Stetson University in DeLand and that the business office at the University in DeLand was paying the bills of the College of Law. However, the University business office was not paying the bills on time. Therefore, Morris went to the University business office and asked for all of the books of account that related to the College. He took them, drove to Gulfport, set up separate bank accounts for the law school in Gulfport, and gave the books of account to Dean Sebring. From that moment on, the funds collected by the law school have been kept by the law school in bank accounts in the Gulfport area, and the law school bills are paid by the law school's own separate business office.[592]

Walter Mann was raised in Winter Haven, Florida, after his family moved there in 1905 when he was seven years old. As a young man, he worked with his father in the citrus business. Then, in the 1920s, Mann moved to New York City and became associated with the Irving Trust Company. He organized and was a director of a number of business enterprises in New York, and in the 1940s, he encouraged his friend, Charles A. Dana, to establish the Charles A. Dana Foundation. He was one of the original members of the College of Law Board of Overseers.[593]

Dean Sebring was so disturbed by the financial problems the law school faced that in 1956 he told friends that he was going to resign. Mann talked with him for five hours and extracted a promise

become Rock-Tenn Company. He served as president and later chairman of the board of directors from 1936–1973, when he became chairman of the executive committee. *Id*.

591. *Id*.

592. Conversation with Arthur Morris, Author (early 1980s).

593. *Walter Mann*, *Haven Pioneer, Receives Honorary Degree*, Winter Haven News Chief 2 (May 22, 1973). Walter Mann died in 1981, shortly after I became dean of the College of Law. I, therefore, did not have the privilege of getting to know Mann and cannot comment about Mann's personal qualities except to say that based on everything I have learned about Mann, he was a truly extraordinary person.

from him to remain if a separate College of Law Board could be established to oversee the operations of the school. Mann then spoke with the president, who agreed to Mann's demands. On February 21, 1957, the Stetson University Board of Trustees created a Board of Overseers for the College of Law and gave it authority to manage the school independently from the president and from the DeLand campus of the University. The law school now was almost completely autonomous. The overseers were given control of operations, finances, the physical plant, the library, and salaries, among other things. The Board initially consisted of five members chosen by the Board of Trustees, five by the Stetson Lawyer's Association, the alumni organization of the law school, and ten to be selected at large; the president of the University and the dean of the College of Law were ex-officio members.[594]

Mann was a trustee of the University as well as an overseer of the College of Law. "[He once] said that for 15 years he spent 25 percent of his time working for Stetson and the law school."[595] He became a very vocal opponent of President Edmunds, and his methods were effective in producing changes.[596] One change was that the University began giving the College of Law a pro rata share of the income from University endowment funds.[597] Finally, the law school's financial position improved to the point that "its existence or its accreditation was no longer threatened because of scarcity of money."[598] The ability and determination of Walter Mann, Arthur Morris, Charles Dana, who was also a member of the Board of Overseers,[599] and other early members, coupled with their vision for the law school, turned the corner for the school and enabled it to gain in stature and reputation.

Other early members of the Board of Overseers who aided Dean Sebring included Cecil C. Bailey, William E. Clapp, Amory Underhill, and Dr. Earl B. Edington. Bailey was an alumnus of the law school who was a brilliant, very able corporate lawyer in Jacksonville.[600] He served as an overseer for many years and was also a trustee of Stetson University. He loved the law school and always was extremely generous to Stetson with his time and financial contributions. He lived to be ninety-one years of age, dying in 1992, and he was a very valuable, hard-working overseer until the day he died. William E. Clapp was not a lawyer. He was the

594. Lycan, *supra* n. 544, at 368.
595. *Id*. at 366.
596. *Id*. at 366, 368.
597. *Id*. at 368.
598. *Id*.
599. *Stetson College of Law: Catalogue 1960–1961*, at 8 (1960–1961) (copy on file in the Stetson U. College of L. Lib.).
600. His firm is now known as Rogers, Towers, Bailey, Jones & Gay.

head of the Florida Power Corporation, which had its headquarters in St. Petersburg. Clapp also took a very active interest in the law school, taking his responsibilities as an overseer very seriously, and was instrumental in obtaining contributions from his company for Stetson.

William Amory Underhill was a Stetson law graduate who served as an officer in the navy during World War II. One of his naval assignments was to help guard President Truman on a railway trip across the United States. He and President Truman became friends. After the war, President Truman asked Underhill to head up the national Young Democrats organization. Then President Truman appointed him an assistant attorney general. After that, Underhill opened his own law practice in Washington, D.C. and DeLand, Florida. He became a trustee of the University and an overseer of the College of Law. Underhill served for many years as the chairperson of the Board of Overseers.

Dr. Earl Edington was a Baptist minister, the pastor of the First Baptist Church in downtown St. Petersburg. He was a trustee of the University as well as an overseer of the College of Law. Edington also was completely devoted to the law school.[601] Dean Sebring truly was aided by some extraordinary men who served as overseers while he was dean.

In addition to the Board of Overseers, a Stetson Law Center Foundation was established to raise and invest money for the College. On April 18, 1957, the foundation was organized under the laws of Florida as an independent, nonprofit corporation and was not subject to control by the University.[602] Charles Dana was one of the first directors of this foundation,[603] as were many other overseers who could serve simultaneously on both boards.

After the demand note had been executed to Union Trust, $137,500 still remained due on the mortgage. The Charles A. Dana Foundation[604] made a gift in that amount to the Stetson Law Center Foundation, and the foundation used the money to buy the note and

601. I became dean in 1981, and Mr. Clapp died shortly thereafter, in January 1983. Therefore, I did not get to know Mr. Clapp well. But Cecil C. Bailey, William Amory Underhill, and Dr. Earl B. Edington, were very active and supportive of me when I became dean. I considered them, as well as Overseer Arthur Morris, good friends. All were very helpful to me, and I have never known finer men than the four of them.

602. Lycan, *supra* n. 544, at 368.

603. *Corporation Report for Foreign and Domestic Corporations* (copy on file with Stetson U. College of L.). This information has been verified from a copy of a form which was provided to the State of Florida in 1966. This report was filed with the secretary of state of Florida. It lists Mr. Dana as a Board member and mentions that the most recent meeting of the Board took place June 10, 1966.

604. The Dana Foundation follows a policy of giving only for undergraduate education, but the Foundation made an exception for the College of Law because of the Danas and Walter Mann.

the mortgage from the Union Trust Company. The understanding was that the payment of principal to the Charles A. Dana Foundation would not be required as long as the interest was paid each year.[605] In recognition of the role that Charles A. Dana, Mrs. Eleanor Dana, and the national Dana Foundation had played in making the College of Law's financial future secure, the name of the Stetson Law Center Foundation was changed. It now became the Charles A. Dana Law Center Foundation.

There were other financial contributors who helped to assure the financial stability of the law school in the years immediately following the move to the Gulfport area. Included in this group were the Firestone family and Mr. and Mrs. LeRoy Highbaugh. The Firestones donated the funds to renovate the swimming pool and to build the adjacent recreation building. Harvey Firestone, III, who suffered from cerebral palsy and was wheelchair-bound, was a student at Stetson University College of Law, graduating in May 1959. His father, Harvey Firestone, Jr., then the head of the Firestone Tire and Rubber Company of Akron, Ohio, was the speaker at his son's graduation ceremony. Young Harvey passed The Florida Bar examination, but died a few months later in a tragic accident in Havana, Cuba, after falling from a hotel balcony.

Mr. and Mrs. Highbaugh were Baptists who lived in Louisville, Kentucky. They established full-tuition scholarships for students at the College of Law, and I was a Highbaugh Scholar, one of the fortunate recipients of their generosity. Every January, the Highbaughs visited the law school and stayed in an apartment on campus to meet the students who were recipients of their scholarships. A small luncheon was held for this purpose. Also, they left the furnishings of their home in Louisville to the College of Law. One of the items was a portrait that hung in the law school for several years. Then, one day during the 1970s, the director of the St. Petersburg Museum of Fine Arts saw it and advised the dean that it was by the famous artist, Charles Willson Peale. It was sold for $250,000, and the proceeds were used to establish the Highbaugh Chair at the College of Law. That fund has now grown to 1.2 million dollars. The portrait presently hangs in one of the national arts museums in Washington, D.C., which are part of the Smithsonian Institution.

Dean Sebring's vision and determination enabled the law school to take root in the St. Petersburg area, overcome financial and other adversity, and succeed. A few years ago, while looking back on the early days in Gulfport, Justice Ben F. Overton said that Dean

605. Sebring, *supra* n. 546, at 3.

Sebring took on the task of building the law school up, and he "breathe[d] new life into this law school."[606]

Administration

Dean Sebring suffered a second heart attack in May 1956, while he was dean. This heart attack nearly took his life, and he had to give up golfing, fishing, and gardening for a time and reduce the amount of work that he did each day. Later, during the 1960s, Sebring suffered a third heart attack.[607] During his last years, in 1967 and 1968, he sometimes needed an oxygen tank to help him breathe. The last time I saw him was in Washington, D.C. in late 1967 or early 1968 at a law school conference, and Dean Sebring had an oxygen tank nearby in case he were to encounter breathing difficulties.

Dorothy Bishop began working at the law school part-time while a high school student in June 1956. When she arrived, Dean Sebring was at home recuperating from his May 1956 heart attack. One day, Dean Sebring arrived at the office, wearing a hat, dark glasses, and walking with a cane. Bishop admits she "was a little frightened to meet him for the first time."[608] However, Dean Sebring turned out to be a very warm, friendly person and her anxieties soon disappeared. Bishop recalls that, in those days, Mrs. Sebring held dinners at their home on Snell Island and invited members of the law school staff. She remembers that both Dean and Mrs. Sebring were very likeable, warm, friendly people, and that they were gracious hosts. Mrs. Sebring was a charming and vivacious person who had all the attributes of a gracious Southern lady. Mrs. Sebring would come to the law school often, personally visiting members of the staff in the various offices. At Christmas, she would circulate among all of the offices and give each secretary a small gift. Mrs. Sebring expected all staff members to attend the graduation ceremony each year and all ladies were expected to be appropriately dressed, wearing hats and gloves.[609]

Mrs. Kay Eddy was the administrative assistant to the dean. Bishop confirms that Dean Sebring had great admiration for Mrs. Eddy and that he relied on her heavily. In June 1956 the registrar resigned, and Mrs. Eddy took over the responsibilities of the registrar as well as acting as administrative assistant to the dean. She was also in charge of admissions. This was not Mrs. Eddy's first

606. *Reflections and Memories*, *supra* n. 14 (remarks of Justice Ben F. Overton).

607. Telephone Interview, *supra* n. 2; Telephone Interview, *supra* n. 32.

608. *Written Comments from Dorothy Bishop*, Sec. to the Dean, Stetson U. College of L. 1 (Nov. 8, 1999) (copy on file with the Author) [hereinafter *Bishop*].

609. *Id*.

experience running a school. In Avon Park, Florida, she had established, owned, and operated a small business or secretarial college. Avon Park was a very small town in Central Florida, and it must have been an enormous struggle to stay in business in such a remote, sparsely populated area. Mrs. Eddy was a very capable woman, and she "seemed to do everything."[610] Also, as a student during those years, I wish to add that Mrs. Eddy was much respected and very much loved by the students of Stetson University College of Law. She looked after us and cared for us like a mother.

The Faculty

The faculty early during Dean Sebring's deanship included Jack Rappaport, Dr. Edwin L. Platt, Dr. Roy Francis Howes, William O. Morris, and Burton Stevenson. In 1957 Dean Sebring hired Richard T. Dillon, who had just graduated from Stetson's law school, and Calvin A. Kuenzel, a University of Iowa and University of Illinois graduate. Dean Sebring also hired some retired judges, including Peabody Howard, a retired appellate judge from Tennessee, Stanley Milledge, a retired circuit judge from Miami, and Victor O. Wehle, a circuit judge from St. Petersburg, as full-time faculty members. Dean Sebring also brought Justice James Brand, who had been with him at Nuremberg, to Stetson. Brand, at age seventy-three, retired from the Oregon Supreme Court to join the Stetson law faculty. Other faculty members during the Sebring years included Paul Barnard,[611] Everett E. Cushman, David L. Dickson, Frank E. Booker, Harold I. Lindsey, James O. Davis, Jr., Robert E. Jagger,[612] Harry H. Haden, Henry A. Fisher, Jr., Wallace L. Storey, Charles M. Waygood, and Connie E. Bolden. Dean Sebring used a large number of part-time professors. One of them was Wm. Reece Smith, Jr., who later became president of The Florida Bar, the American Bar Association, and the International Bar Association. Smith was, and still is, a member of the Carlton, Fields, Emmanuel, Smith & Cutler firm in Tampa. Smith, at the time of this writing, is teaching at Stetson as a distinguished professorial lecturer. Another part-time faculty member was Joseph A. McClain, Jr., who had been the dean of four law schools before moving to Tampa and establishing his own law firm. Those schools were Mercer University, University of Louisville, Washington University (St. Louis), and Duke Univer-

610. *Id*. at 3.

611. Paul Barnard, *Milestones and Memories: Stetson's Public Defender Clinic Faces the Florida Supreme Court*, 30 Stetson L. Rev. 177 (2000).

612. Robert E. Jagger, *Stetson: The First Public Defender Clinic*, 30 Stetson L. Rev. 189 (2000).

sity. McClain taught several courses at Stetson, including criminal law, trusts, and wills.

Other part-time faculty included Granville M. Alley, Jr., who taught labor law; Baya M. Harrison, Jr., president of The Florida Bar in 1957,[613] who taught Florida practice; John U. Bird, a circuit judge who taught legal ethics; John James Trenam, who taught tax courses; Sherwin P. Simmons, who also taught tax courses; Paul Roney, presently a United States court of appeals judge for the Eleventh Circuit, who taught the course on equity; Dr. Irwin S. Leinbach, who taught law and medicine; William H. Carey; William J. McLeod; local Circuit Judge Ben F. Overton, who later became justice and chief justice of the Florida Supreme Court; and Dr. James A. Stewart, who was a member of the faculty at the DeLand campus of Stetson University and who taught a required course called "philosophy and law."[614]

Curriculum

One of the bright spots in Dean Sebring's deanship was the establishment of the public defender program, one of the first clinical programs in the nation.[615] The purpose was to teach students to learn through actually trying cases under supervision. It began with a pilot public defender project in 1962 under Professor Paul Barnard.[616] Stetson asked the Supreme Court of Florida to permit third-year students to try cases under close supervision. The name of the case was *In re Criminal Procedure Rule Number 2*.[617] Rule Number 2 was opposed by the Board of Governors of The Florida Bar.[618] In fact, the Board of Governors retained an attorney to appear before the supreme court to argue against the adoption of the Rule. Also, it was opposed by the University of Florida and Dean Frank Maloney of the University of Florida College of Law. Maloney was in the courtroom during the argument.[619] However, as Justice Overton of the Florida Supreme Court said, "It was adopted because of the persistence, and frankly, the influence of Dean Sebring. . . .

613. *Presidents of the Florida Bar*, 74 Fla. B.J. 68 (Apr. 2000).

614. This Section on the faculty is based on my own recollections and on the College of Law bulletins from the Sebring years, which are on file in the Stetson College of Law Library.

615. For a more in-depth perspective on the establishment of Stetson's public defender clinic, refer to Paul Barnard, *supra* n. 611, at 177 and Robert E. Jagger, *supra* n. 612, at 189.

616. Sebring, *supra* n. 546, at 17; *The Adoption of Student Practice Rules*, 65 Fla. B.J. 35 (July/Aug. 1991) [hereinafter *Student Practice*]; *Reflections and Memories*, *supra* n. 14 (remarks of Justice Ben F. Overton).

617. 167 S.2d 574 (Fla. 1964).

618. *Student Practice*, *supra* n. 616, at 16; *Reflections and Memories*, *supra* n. 14 (remarks of Justice Ben F. Overton).

619. *Reflections and Memories*, *supra* n. 14 (remarks of Justice Ben F. Overton).

[I]t was a [necessary] step forward in legal education."[620] Rule Number 2 "permitted senior law students in faculty-supervised legal aid programs to appear in municipal or trial court, provided a public defender was also involved in the students' supervision."[621] On September 8, 1966, two students argued a case before a Florida appellate court for the first time in legal education in Florida. Even today, Stetson is known for its skills training, trial advocacy programs, and its emphasis on learning-by-doing.

In addition to the public defender clinic, the school began to offer continuing legal education courses for practicing lawyers while Dean Sebring was dean. Stetson held labor forums for lawyers and management personnel, trial seminars, and seminars on Florida law and procedure.[622] The College of Law has continued to do this, and Stetson now has a continuing legal education director and staff. The school now offers thirty to forty continuing legal education programs each year.[623]

Progress

During Dean Sebring's thirteen years as dean, there was a great deal of improvement in the school. Stetson's present dean, W. Gary Vause, told me on November 22, 1999, that while reviewing the American Bar Association periodic inspection reports for the Sebring years, he was impressed by the tremendous improvement that took place year after year during that period. Much of the credit, according to Dean Vause, should go not only to Dean Sebring, but also to Richard T. Dillon, who acted as assistant dean during those years.[624]

In 1965, at the end of ten years as dean, the faculty had grown from three members to ten.[625] By Fall 1967 the school had twelve full-time faculty.[626] In 1954–1955 the enrollment at the school was ninety-five students.[627] In 1955–1956 enrollment increased to 136.[628] By 1961 enrollment was about 250.[629] In 1965 the enrollment was

620. *Id*.
621. *Student Practice*, *supra* n. 616, at 35.
622. Sebring, *supra* n. 546, at 15.
623. Interview, *supra* n. 548.
624. Dillon became dean and served in that position from 1968 through 1981.
625. Kramer, *supra* n. 46, at 10.
626. Taylor, *supra* n. 41.
627. Stetson U. College of L., *Faculty Minutes* (Oct. 4, 1954) (copy on file with the Author).
628. *Stetson Will Welcome 150 Student Lawyers*, 57 St. Pete. Times 18 (Sept. 19, 1956).
629. Kay Eddy (Registrar), *Fall 1962 Report to Faculty on Admissions* (Fall 1962) (copy on file with Author).

285,[630] and in Fall 1967 the enrollment was 294.[631] By 1965 the budget had grown from $100,000 per year to $500,000 per year.[632]

When Dean Sebring began as dean, there were 17,000 volumes in Stetson's law library.[633] In 1957 the library had about 30,000 volumes,[634] and in 1961 there were 41,000 volumes.[635] By the end of Dean Sebring's deanship, the library consisted of 55,667 books.[636]

Between 1954 and the time Dean Sebring left the deanship, a total of $1,550,000 was spent on renovations of law school property and on new buildings. As of 1968 the market value of the law school campus was $1,660,000.[637]

In 1967 a Stetson University news release reported that in the three most recent exams Stetson graduates had led all Florida law schools in passing percentage. In two of the exams, 100 percent of the students had passed and on one, 96.5 percent had passed.[638]

Law Reform

While he was dean, Sebring continued to sit occasionally on the Florida Supreme Court, and he continued to take an active part in law reform efforts. He "spearheaded the movement for constitutional revision" in Florida.[639] Sebring did not agree with those who during the 1940s, 1950s, and 1960s were arguing that Florida's Constitution should not be changed. The opponents of constitutional revision argued that since the 1885 Florida Constitution, then in effect, had been interpreted many times by the Florida Supreme Court, it should "remain as it [was] in order to avoid expensive and time consuming litigation to make the meaning of a new Constitution clear."[640] Dean Sebring's view was different.

> [I]f the many court decisions on a particular part of the Constitution have firmly fixed its meaning, I should think that a crisp, succinct, amendatory provision containing the essence of the decisions would be highly desirable.

630. Stetson U. College of L., *Faculty Minutes* (Sept. 8, 1965) (copy on file with Stetson U. College of L. Off. of the Dean).
631. Sebring, *supra* n. 546, at 9.
632. Kramer, *supra* n. 46, at 10.
633. Sebring, *supra* n. 546, at 13.
634. *Library Opens, supra* n. 576, at 2E.
635. Stetson U. College of L., *Faculty Minutes* (Sept. 28, 1961) (copy on file with the Stetson U. College of L. Off. of the Dean).
636. Sebring, *supra* n. 546, at 13; Taylor, *supra* n. 41.
637. Sebring, *supra* n. 546, at 4.
638. Lycan, *supra* n. 544, at 365; Taylor, *supra* n. 41.
639. *Tribute*, 89 S.2d at xlvii.
640. Morris, *supra* n. 47, at 1D.

> On the other hand, if the many court decisions on a particular part of the Constitution have served only to muddle its meaning, then I think it is imperative that an amendment be framed to eliminate the confusion . . . . And then again, I suspect that a long line of decisions on some constitutional provision may have given to that provision a meaning not foreseen by the framers of the Constitution.
>
> Certainly, if such a situation obtains, the people who are the whole and ultimate source of governmental power, should be given the opportunity to rectify the judicial errors through the course of amendment . . . .[641]

Dean Sebring was designated a member of the Florida Constitutional Advisory Commission created during the 1955 session of the legislature, and in all he served as a member of four commissions appointed to revise the Florida Constitution.[642] In 1966 he was on a committee that produced the draft state constitution, which then went before the state legislature.[643] In 1968 Florida Governor Claude Kirk appointed him as a delegate to the Constitutional Revision Commission. According to Chesterfield H. Smith,[644] chair of the Constitutional Revision Commission which produced Florida's current Constitution in 1968, "He had more background and information about Florida Constitutional History than any other of the 37 members of the Commission. He played a prime role in formulating and drafting the . . . Constitution of 1968."[645] Florida's present Constitution was adopted largely through Sebring's efforts.

Dean Sebring was also a leader in the training of judges and was involved in the development of schools or colleges for such

641. *Id*. (emphasis omitted).

642. Fla. Sen. Con. Res. 555, 1st Leg., 35th Sess. (June 6, 1955); *Tribute*, 89 S.2d at xlvii; *Dean Sebring, supra* n. 267, at 8A.

643. *A New Career for Tom Sebring*, *supra* n. 480, at 14A.

644. Chesterfield Smith is a member of the Holland & Knight law firm and presently practices in its Miami office. He served as president of The Florida Bar in 1964–1965 and as president of the American Bar Association in 1973–1974. He was president of the American Bar Association during the Watergate scandal and spoke out strongly against the tactics of President Richard Nixon in firing Archibald Cox, the special counsel appointed to investigate the scandal, in what became known as the "Saturday night massacre." Smith was the moving force in building the small Bartow, Florida, law firm into a national and international firm. The Holland firm, founded by former Governor and United States Senator Spessard Holland, merged with the Peter O. Knight firm of Tampa and then established branches throughout Florida, the United States, and recently, other countries. Holland & Knight LLP, *History* <http://www.hklaw.com/history_timeline.asp> (accessed July 15, 2000).

645. Remarks of Chesterfield H. Smith, Chair of the Florida Constitutional Revision Commission of 1968 (on file with the Fla. Sup. Ct. Historical Socy.). Sebring's son said that his father liked Smith and called him "Chesterman." *Comments*, *supra* n. 21.

training.[646] Dean Sebring was a lecturer for three years in state trial judges' seminars conducted by the Joint Committee for the Effective Administration of Justice of the American Bar Association. Also, he was a faculty member of the National College of State Trial Judges in Boulder, Colorado, in the summer sessions of 1965.[647]

Honors

Dean Sebring received many honors. For example, the New York University School of Law enlisted his aid as Florida chairman of a committee to choose candidates for the Root-Tilden Scholarship. He was chairman of the Southeastern Association of American Law Schools from 1958–1963, and in 1963 Sebring was elected permanent honorary co-chairman.[648]

Additionally, Dean Sebring was a member of The Florida Bar Committee on the Florida Constitution, the Florida Council of Legal Education, and an advisory member of The Florida Bar Committee on Strengthening Legal Education. Dean Sebring was also vice chairman of the Florida Bar Committee on the American Law Student Association, a member of The Florida Bar Committee on Continuing Legal Education, and The Florida Bar Committee on Legal Education and Admissions to the Bar. He also was a member of the American Trial Lawyers' Association Advisory Committee of Law Students Trial Training Program. Sebring was advisory counsel to the National Probation and Parole Association. And he was a member of the Freedoms Foundations Awards Jury at Valley Forge, Pennsylvania, an organization whose main objective was to direct the attention of the public to the "fundamentals of constitutional democracy as contrasted with alien philosophies that would destroy it."[649]

On May 29, 1961, Dean Sebring gave the commencement address at Texas Technological College at Lubbock, Texas.[650] Also, he received an LL.D. from his alma mater, Kansas State University, in 1963.[651] He was awarded an honorary Doctor of Laws degree by the University of Florida in January 1968,[652] and he received the LH.D. degree from the University of Tampa in 1968 followed by an LL.D. degree from Stetson in 1968.[653]

646. *Reflections and Memories*, *supra* n. 14 (remarks of Justice Ben F. Overton).
647. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2.
648. *Id*.
649. *Id*. at 2; *Biographical Data*, *supra* n. 59.
650. Ralph Parkman, Dir., *Stetson U. News Release* (Stetson News Bureau May 30, 1961) (copy on file with the Author).
651. Stetson U. News Release (May 28, 1963) (copy on file with the Author).
652. Stetson U. News Release (Aug. 1968) (copy on file with the Author).
653. *Reflections and Memories*, *supra* n. 14 (remarks of B.K. Roberts).

After serving for ten years as dean, an "evening of honors" was held for him in downtown St. Petersburg. There was a great deal of preparation for this gala event, and alumni, faculty, staff, and others were invited.[654]

Dean Sebring had served as dean for almost thirteen years when he announced his retirement on October 18, 1967, saying that he would remain at Stetson to teach and write. His resignation was to be effective on September 1, 1968.[655] When it was learned that Dean Sebring was stepping down from the deanship, a writer for the *St. Petersburg Times* said that "[a] secretary recognizing the dean's great energy and drive, hearing that he planned retirement this fall, commented, 'Dean Sebring is going to cut down his working day from 36 to 24 hours.'"[656]

Final Construction Project

Near the end of his deanship, Dean Sebring planned the construction of a classroom building and an administration building at the law school for a total cost of more than $900,000.[657] Walter Mann was responsible for raising funds for this final construction project of the Sebring years. Mrs. Eleanor Dana gave $172,000, and Roy Crummer, of Los Angeles, California, donated $125,000. The federal government contributed $286,861 and also made a loan of $361,000 to the law school for this project.[658]

With these funds, the law school moved ahead with the construction of Eleanor Naylor Dana Hall, which is Stetson's present administration building, and the H. Jackson Crummer Hall, which is still Stetson's main classroom building. Also, a new courtroom was included in the project. According to Stetson's present librarian, J. Lamar Woodard, Sebring worked very closely with the architects who designed these two buildings in the planning stages.

By 1967 construction was under way. When Dean Sebring died on July 26, 1968, he was looking forward to the dedication of these two buildings.[659] He was buried in Gainesville on July 29, 1968. The courtroom was named for him at dedication ceremonies, which were held in November 1976.

654. *Bishop*, *supra* n. 608, at 3.
655. *Dean Sebring*, *supra* n. 267, at 13B.
656. Davis, *supra* n. 47, at 5C.
657. Sebring, *supra* n. 546, at 6.
658. Lycan, *supra* n. 544, at 369.
659. Davis, *supra* n. 47, at 5C.

REFLECTIONS ABOUT SEBRING AS TEACHER AND DEAN

Reasons for Becoming Dean

It is clear that Sebring's mother and other members of his family had ingrained the ideals of unselfishness and a sense of responsibility into a young Tom. He never tried to make a lot of money during his life, and money obviously was not the most important thing in his life.[660] Instead, Sebring devoted his entire life to public service. The reason he became a football coach was because he liked working with young people. He was a great coach and an outstanding teacher. Sebring could take a complicated issue and make it understandable.[661] He knew how to simplify and explain a football play or a complex appellate opinion with equal ease. Sebring's natural ability to teach, his desire to work with young people, and his devotion to public service all attracted him to Stetson.

Sebring was also attracted to legal teaching, because he was disappointed by the poor quality of the work of some lawyers who appeared before him as a judge. He thought that the law schools were not doing as good a job as they could to train lawyers. I sent a form letter to alumni of the College of Law who were students during Sebring's years as dean to invite them to share their memories of their dean.[662] Forty responses were received. One alumnus, William M. Gillespie, reported that Dean Sebring had told him that undergraduate colleges were deficient in teaching how to write. Sebring had seen many poor quality briefs and had heard

660. Justice Ben F. Overton, in the 1990 ceremonies in the Sebring Courtroom at Stetson commemorating the career of Justice Sebring, told of the time he was a young lawyer in St. Petersburg. Sebring had learned somehow that Justice Overton was about to be offered a circuit judgeship by the governor. Sebring asked Justice Overton and his wife to lunch. Sebring, then dean, in urging Justice Overton to accept the position, told Overton, "You don't have as much money as your contemporaries, . . . [but] the challenges and satisfactions [of public service] will more than make the difference." *Reflections and Memories*, *supra* n. 14 (remarks of Justice Ben F. Overton).

661. Telephone Interview, *supra* n. 2.

662. The Author wishes to thank the following alumni who responded to this invitation: Robert M. Barnes, II, David A. Bartholf, Judge Robert Beach, Judge John Blue, Wilbur E. Brewton, James D. Brown, Jr., Rowlett W. Brown, State Attorney Harry Lee Coe, III, Jim Connolly, Albert Cazin, Ben Daniel, Jr., Kenneth E. Easley, Nathan E. Eden, Joe Ann Van Gelder, William M. Gillespie, Larry D. Goldstein, Seymour A. Gordon, State Senator John Grant, Judge Oliver L. Green, John Guyton, Douglas W. Hampton, William M. Hereford, Pfilip G. Hunt, Mallory Johnson, Jan L. King, Sr., Ernest S. Marshall, Larry K. Meyer, Harlow C. Middleton, Tim Reilly, G. Don Ritter, William J. Roberts, Howard P. Ross, Frank J. Rouse, John L. Sewell, Congressman E. Clay Shaw, Jr., James W. Smith, Robert J. Stinett, Wilton L. Strickland, Melvyn Trute, and Judge David Seth Walker.

many inadequate arguments while he was a justice of the Florida Supreme Court.[663]

Alumnus Rowlett W. Bryant remembers Sebring telling his class about a case in which a lawyer had done a substandard job.

> [Sebring] had reviewed the record and a brief prepared by the lawyer for an appellant, and after doing so, scratched his head in amazement on how this lawyer could ever have gotten before the Supreme Court with such shameful pleadings in the record. When the lawyer stood "in his shiny pants of many years of wear" to make his argument, [Justice] Sebring asked the lawyer how he got there. The lawyer responded, "I flew." [664]

William M. Hereford, another student during the Sebring years, remembered asking Sebring the following question: "Will we be lawyers after graduating from law school, or is it after we pass the bar exam?" Sebring responded, without blinking, "Bill, some will never be *lawyers*."[665]

Sebring as Teacher and Dean

What kind of teacher was he? Here is what he said about the subject of teaching law.

> A law teacher ought to be more than a man who goes to class, teaches and goes home. He has a rare opportunity in the research and writing field and ought to make use of it. Lawyers and judges have no time. They're too busy. Many contributions to procedure and content have and should be made by teachers. Furthermore, a teacher should become identified with and involved in his local community — like Prof[essor] (Paul) Barnard who heads our public defender clinic. The public has a right to expect that.[666]

Dean Sebring cared about students. He did not look down on them. He treated students as professionals, as fellow lawyers. He enjoyed talking with them. Robert M. Barnes, II, in his letter in response to my inquiry, commented about the fact that Dean Sebring would sit

663. Letter from William M. Gillespie, Atty. and Stetson Alumnus, to Author 1 (Nov. 15, 1999) (copy on file with the Author).

664. Letter from Rowlett W. Bryant, Atty. and Stetson Alumnus, to Author 1 (Nov. 4, 1999) (copy on file with the Author).

665. Letter from William M. Hereford, Atty. and Stetson Alumnus, to Author 1 (Nov. 17, 1999) (copy on file with the Author) (emphasis in original).

666. Kramer, *supra* n. 46, at 11.

down in the cafeteria with students to talk with them.[667] According to Mallory Johnson, Dean Sebring learned students' names, as well as the names of their spouses.[668] Melvyn Trute said that when he received the highest grade on an exam, Dean Sebring walked up to him in front of others to shake his hand and congratulate him on his grade.[669] Larry D. Goldstein relates that at a pre-graduation banquet, Dean Sebring had recognized all of the other graduating seniors by name, but had omitted Goldstein's name. Mrs. Eddy told him about his mistake and at the graduation ceremony he was apologetic, and, when the graduation picture was taken, he insisted that Goldstein sit next to him for the class photographs.[670]

Goldstein recalled another incident.

> I was living on campus. A group of us had been engaged in an all night poker game and I'll have to admit that the majority of the players had definitive Jewish last names and were just walking out of a student's room in a reasonably disheveled state, needing shaves and looking like we had slept in our clothes. As we walked out we bumped into Dean Sebring in the early Sunday [morning hours] escorting a group of the trustees from Stetson around the campus and no doubt the majority of them were Baptists. Obviously we were a seedy-looking group who certainly weren't heading for church. Amazingly enough, Dean Sebring stopped with the well-dressed trustees and introduced us by name to the Baptist board of trustees. After all these years I think it humorous and I'm sure the board questioned him following that introduction.[671]

I took courses on government in high school and courses on political science in college, but never fully understood or appreciated the structure of our state and federal governments until I studied the subject of state constitutional law under Dean Sebring. He told students that all political power resides in the people and begins with the people. People elect their representatives, who then become agents, servants, or trustees, acting in behalf of the people. And to protect against arbitrary actions by their representatives, they have adopted state constitutions, which place limitations on the powers of the state government officials.

667. Letter from Robert M. Barnes, II, Atty. and Stetson Alumnus, to Author 1 (Oct. 18, 1999) (copy on file with the Author) [hereinafter Barnes Letter].

668. Letter from Mallory Johnson, Atty. and Stetson Alumnus, to Author 1 (Oct. 19, 1999) (copy on file with the Author).

669. Letter from Melvyn Trute, Atty. and Stetson Alumnus, to Author 2 (Oct. 19, 1999) (copy on file with the Author).

670. Letter from Larry D. Goldstein, Atty. and Stetson Alumnus, to Author 1 (Oct. 19, 1999) (copy on file with the Author).

671. *Id.*

Back in the late 1700s, the people of the states also carved away certain of inherent political powers and granted or delegated them to the new federal government, at the same time retaining all remaining political powers. Thus, the state constitutions are limitations on power whereas the federal constitution is a grant of power. State governments can do virtually anything they wish unless there is a provision in the state constitution prohibiting them from doing so. Federal officials, on the other hand, may not act unless there is a specific grant of power in the United States Constitution, which empowers them to take such action.[672]

Dean Sebring also explained the separation of powers doctrine and our system of checks and balances in such a way to make these much more understandable than any other teacher had been able to. As his son has said, Dean Sebring could take the most profound and difficult subject and present in such a way as to make it simple and easy to understand. He had a gift for teaching and instructing.

I took both courses taught by Dean Sebring, and one of the things Dean Sebring instilled in me was a love of Florida history. I can recall one case discussed in class involving a developer during the Florida "boom" period of the 1920s who was planning to build a subdivision near Gainesville complete with canals, including one from the subdivision to downtown Gainesville. The homes were to be built in an Italian style, and the subdivision was to resemble Venice, Italy. The homeowners in the subdivision were to travel to work by floating on gondolas along the canal to their offices in downtown Gainesville. In listening to him tell the story, I felt like I was there listening to a real estate salesman describe the plans for the new subdivision, complete with gondolas.

Dean Sebring also talked about the massacre at Ocoee, a racial incident in which whites killed a number of black persons in the town of Ocoee, Florida, in 1920.[673] Very few in those days talked about subjects such as these, but Sebring was never one to dodge the truth. This was part of our history, a part Floridians should be ashamed of, and Sebring wanted us to know about it. Complete honesty[674] and devotion to the truth[675] were characteristic of Sebring.

672. Alumnus John L. Sewell also recalls these discussions by Dean Sebring. Letter from John L. Sewell, Atty. and Stetson Alumnus, to Author 1 (Oct. 19, 1999) (copy on file with the Author).

673. The killings at Ocoee, located in Orange County just west of Orlando, Florida, were similar to the events at the town of Rosewood, Florida, which took place in 1923. Rosewood was located near Cedar Key, in Levy County. The Rosewood incident was the subject of the recent motion picture of the same name. *Rosewood* (Warner Bros. 1997) (motion picture).

674. Barnes Letter, *supra* n. 667, at 1.

675. Gelman, *supra* n. 6, at 5.

Robert Stinett, in his letter in response to my request for anecdotes about Dean Sebring, said Dean Sebring did not try to intimidate students in his teaching.[676] Dean Sebring expected his students to work hard, but he did not try to browbeat or to embarrass them. He gave very long exams. In state and local taxation one year, he gave ten very lengthy essay questions. Students were allowed unlimited time. I spent six hours on that exam.

Dean Sebring's fields were state constitutional law and state and local taxation. He wrote his own course materials on these subjects, calling these mimeographed course materials "compendiums." These "compendiums" were written in outline form and contained summaries of doctrine and lists of Florida cases and statutes that the student needed to read on each topic. These were massive pieces of work, requiring many hours of research and work. His "compendiums" provided the citations to reading assignments, but not the readings themselves; students had to go to the library and read the statutes and the cases from the reporters. He told his students that they needed to learn how to read cases quickly — to scan them for the relevant portions. Dean Sebring said, "Go down the page very quickly with your eyes like a snake striking — striking with two eyes down each column very quickly."[677] Wilton L. Strickland recalls that Dean Sebring referred to the extraneous facts mentioned in judicial opinions as "so much dog hair."[678] That was only one of Dean Sebring's favorite sayings. Another was "fish or cut bait." In discussing a case, whenever a party or the court was trying to avoid an issue, he would say they "should either fish or cut bait."[679]

Dean Sebring often referred to certain cases as "old friends" and reminded his students that we would see those cases again. As alumnus William J. Roberts points out, students often did see them again, either on his exam or on the State Bar exam.[680] In telling his students about "old friends," Dean Sebring was not trying to trick them.[681] He wanted his students to be well-prepared for his exam and for the Bar exam. Dean Sebring's lectures provided the answers to a number of questions asked by the Florida Bar examiners in that

676. Letter from Robert Stinett, Atty. and Stetson Alumnus, to Author 1 (Oct. 17, 1999) (copy on file with the Author) [hereinafter Stinett Letter].

677. This is the Author's recollection from his experiences in state constitutional law and state and local taxation, which were both taught by Dean Sebring.

678. Letter from Wilton L. Strickland, Atty. and Stetson Alumnus, to Author 1 (Oct. 25, 1999) (copy on file with the Author).

679. This is also a recollection of the Author from his classes with Dean Sebring.

680. Letter from William J. Roberts, Atty. and Stetson Alumnus, to Author 1 (Nov. 2, 1999) (copy on file with the Author).

681. Stinett Letter, *supra* n. 676, at 1.

period.[682] He certainly was not receiving inside information from the examiners, but Dean Sebring did follow recent cases, trends, and newly emerging issues in the law of Florida and was able to pass on his knowledge of these to his students. After graduation one year, Dean Sebring sent a letter to all the recent graduates telling them about a recent case on state taxation and warning them that it might be on the Bar exam. The case was, in fact, on that Bar exam.[683] Dean Sebring was very thoughtful, and he cared about his students.

Dean Sebring gave advice to his students regarding the practice of law, telling them not to be intimidated by other lawyers. Seymour A. Gordon recalls that Dean Sebring said, "[T]hey put their pants on, just like you, one leg at a time."[684] Dean Sebring also said, "[T]he large transactions are the same as the small transactions; you just add a few more zeros."[685] One piece of advice he gave to his students was to "Get your fee while the tears are hot."[686] Congressman E. Clay Shaw, Jr., a Stetson alumnus, says that Sebring warned that if his students became legislators they would be "surrounded by lobbyists . . . who would tell [them] how great [they] were."[687] Congressman Shaw now says, "He was right."[688]

Ernest S. Marshall remembers that Dean Sebring talked often about fishing.[689] One day when the class was discussing a case regarding the St. Johns River, a student asked Dean Sebring if the St. Johns River was good for fishing. Dean Sebring then spent some time during that session talking about fishing on the St. Johns River.[690] One class for some reason was not well attended. He asked a student to stand and asked whether the "[k]ingfish were running."[691] After a positive answer, the remainder of that class, according to Frank J. Rouse, was devoted to the art of kingfishing.

682. Letter from David A. Bartholf, Atty. and Stetson Alumnus, to Author 1 (Oct. 14, 1999) (copy on file with the Author).

683. Letter from Kenneth E. Easley, Atty. and Stetson Alumnus, to Author 1 (Oct. 29, 1999) (copy on file with the Author).

684. Letter from Seymour A. Gordon, Atty. and Stetson Alumnus, to Author 1 (Oct. 21, 1999) (copy on file with the Author).

685. *Id*.

686. Letter from Douglas W. Hampton, Atty. and Stetson Alumnus, to Author 1 (Oct. 14, 1999) (copy on file with the Author).

687. Letter from E. Clay Shaw, Jr., Stetson Alumnus and Congressman from the 22d Dist. of Fla. (Nov. 19, 1959) (copy on file with the Author).

688. *Id*.

689. Letter from Ernest S. Marshall, Atty. and Stetson Alumnus, to Author 1 (Nov. 18, 1999) (copy on file with the Author).

690. Letter from Harlow C. Middleton, Atty. and Stetson Alumnus, to Author 1 (Oct. 18, 1999) (copy on file with the Author) [hereinafter Middleton Letter]; Letter from Frank J. Rouse, Atty. and Stetson Alumnus, to Author 1 (Oct. 21, 1999) (copy on file with the Author) [hereinafter Rouse Letter].

691. Rouse Letter, *supra* n. 690, at 1.

Harlow C. Middleton, who was raised in Palatka on the St. Johns River, says that while he was a student, he and Dean Sebring talked several times "about his love of the St. Johns River and fishing experiences he had in earlier years."[692]

In those days, Stetson had very few women students. For example, in 1959 there were about five women in a student body of 235, and other law schools also had very few women students. It was common in the 1950s and 1960s for men to oppose the entrance of women into the profession, and Dean Sebring apparently did not believe that women should go to law school. Jan L. King, Sr., remembers that "he was quite outspoken about his objection to encouraging the enrollment of women."[693] But according to Judge Winifred L. "Wendy" Wentworth, after the women became lawyers Dean Sebring treated them with respect, as fellow members of the profession.[694]

Dean Sebring deserves criticism for not encouraging African-Americans to enroll at Stetson. He had taken a courageous stance in his dissent in the *Virgil Hawkins* case, and he had the opportunity to make Stetson a leader in the South and the Nation by enrolling black students. Other private law schools, such as the Emory University School of Law, admitted black students during at least some of the years while Dean Sebring was the dean at Stetson.[695] However, it was not until 1971, after Dean Sebring's death, when Thomas E. Stringer, Sr.,[696] Stetson's first African-American student, enrolled. Dean Sebring had an opportunity to make Stetson a leader in encouraging minorities to enter the legal profession, but he passed up that opportunity. In fairness to Dean Sebring, it should be noted that at that time minority enrollment in law schools was low. Also, he would have needed the support of the faculty to enroll African-American students.

Joe Ann Van Gelder reminded me that Dean Sebring felt students should be fully knowledgeable about the atrocities perpetrated by the Nazis. She said the following in a recent letter:

692. Middleton Letter, *supra* n. 690, at 1.

693. Letter from Jan L. King, Sr., Atty. and Stetson Alumnus, to Author 1 (Nov. 13, 1999) (copy on file with the Author). It should be noted that this view was not uncommon among men as recently as the 1960s.

694. *Reflections and Memories*, *supra* n. 14 (remarks of Winifred L. "Wendy" Wentworth). For a more complete description of Dean Sebring as told by Judge Wentworth, review the text accompanying *supra* notes 491–496.

695. Emory had black students at least as early as 1965, when I began teaching there.

696. Thomas E. Stringer, Sr. was a circuit judge of the Thirteenth Judicial Circuit, for Hillsborough County, and he presently is a judge of the District Court of Appeal for the Second District of Florida. He has served for many years as a member of the Board of Overseers of the College of Law and currently is the chairperson of the Board. Also, he is a trustee of Stetson University.

> I don't know whether you recall it or not (I know I certainly am haunted to this day by what I saw), but at least once and possibly more times — maybe even annually, . . . Dean Sebring required the student body (or perhaps it was just the Senior Class) to sit through a visual presentation of the evidence given at the [Nuremberg] Trials. Many "pictures" are indelibly imprinted on my memory of what I saw that day (and, although I was the only woman present, there were no dry eyes at the end of the showing). The most gruesome, horribly inhumane vision that remains in my memory is a home movie taken by some Nazis who were having a celebratory drinking party with a close up shot of a lampshade, each panel of which was made of human skin that bore the numerical identification numbers of Jews who had been slaughtered and whose forearm skins had been used to make the lampshade. As I write this, I am so revolted that, once again, crying in shame and agony at man's inhumanity to man, I find myself back again in the old "pre-remodeling" classroom along with others of our class . . . It was my impression that Dean Sebring intended this to be an annual requirement of his students so that we/the world would never forget the horror; as to whether or not he carried this out . . . I cannot say.[697]

In 1958 Jim Druck, a second-year student, and I, then a third-year student, approached the dean and asked to be allowed to establish a law review at Stetson. He told us that several years earlier students had attempted to organize a law review, which was to be the *Stetson Law Quarterly,* as I recall. For the first issue, the earlier students had planned to do a symposium on mechanics lien laws in Florida. Apparently, this was an area of law that was in confusion at the time. Dean Sebring told us that the subject apparently was so boring that the students never finished that issue, and, as a result, the law review went out of existence before the first issue had been published. Dean Sebring told us that if we could interest ten second-year students whose grades were above a certain level in carrying on the work of the periodical for at least one full year into the future, then we could start a law review at Stetson. He gave a list of the second-year students with the requisite grade point average. Druck and I then tried to enlist ten of these students, but were unable to do so. The failed attempt in the mid-1950s undoubtedly made Dean Sebring wary about starting

697. Letter from Joe Ann Van Gelder, Atty., to Author 2 (Oct. 16, 1999) (copy on file with the Author).

a law review, and Stetson did not have a law review until after Dean Sebring's death.[698]

When Perry Nichols told the students at a graduation ceremony that it was unnecessary to do well in law school to make money in practice, Dean Sebring is reported to have crossed his arms and scowled. This was not the kind of advice Sebring wanted his students to be given, not even by his friend Perry Nichols.[699]

CHARACTERISTICS OF THE MAN

His Views about the Law and His Career

In an interview with the *St. Petersburg Times* near the end of his deanship, Dean Sebring was asked for his personal opinion on several subjects. His response when asked his view on the law is as follows:

> I don't know what the law is. I'm trying to write a book for laymen on it. Maybe it involves a certain fundamental sense of right and wrong. But that won't quite do it. It may just be the sense of right and wrong to those who have the ultimate decision. Some say it's what produces the greatest good for the greatest number. But it may be a flaw of our system that we believe that what the majority thinks is right. I think I have a feeling for the law, but if I could define it, my book would be written.[700]

On the state of the law, Dean Sebring said,

> I don't think courts are too lenient or are loading things in favor of the criminal. There have been many criticisms of recent court opinions — like the Gideon decision. But this thing is bottomed squarely on the presumption of the dignity and worth of the individual man which our forefathers fought for and wrote into our Constitution. On the fundamental assumption of innocence. That's where these new guarantees spring from.
>
> Sure, we have many outmoded laws. And some of the new opinions are improvident — passed in a moment of passion. But the old will be updated and the improvident will fall by the way. That's the genius of democracy, of our Anglo-Saxon legal

698. For a history of the *Stetson Law Review*, see Robert Batey & Scott William Fitzpatrick, *The Early Years of the Stetson Law Review*, 30 Stetson L. Rev. 213 (2000).

699. Letter from Oliver L. Green, J. and Stetson Alumnus, to Author 1 (Oct. 22, 1999) (copy on file with the Author). Perry Nichols is a well-known Florida plaintiffs' lawyer and an alumnus of Stetson University College of Law.

700. Kramer, *supra* n. 46, at 11.

> process. We may move forward, then slide back. But laws today are better than ever — and so is the legal machinery.[701]

To an inquiry about judges, Dean Sebring responded as follows:

> It's hard to describe what a judge should be. At the bottom, of course, he's got to have rugged honesty and integrity — but, then, so should every man. He's got to be reflective and able to stand against the winds of opinion. He should show courtesy — to lawyers, witnesses [and] even to the man he may be sending to the electric chair. For judicial proceedings should be dignified, civilized. The sentence should not be that of "his honor," but merely the voice of society speaking through the judge.[702]

Also, on the subject of judges, he said,

> The man in the street — the man in Wall Street, I should say — cannot carry on his business if he must be subject to the whims and caprices of some jackass in a judge's robes who decides cases in accordance with how his breakfast happens to set on his stomach.[703]

During another interview with the *St. Petersburg Times*, Sebring disclosed that, while a judge, he was almost bribed a couple of times.

> Influence peddling is nothing new. And it's not confined to Washington.[704] I had a couple of run-ins with it when I was a circuit judge.
>
> I remember a murder case I tried once. The defendant was a country man, a simple farmer who was accused of a killing. His wife and sister and brother-in-law were in the court through the entire trial[.] You could see how tense they were, how worried.
>
> The morning of the last day, when I entered my chambers . . . before going out to the bench, I spotted a big, grease-stained paper sack lying on my desk. I was curious, so I opened it.

701. *Id*. (emphasis omitted).
702. *Id*. (emphasis omitted).
703. Gelman, *supra* n. 6, at 4.
704. The interview took place at about the time of the Sherman Adams scandal in Washington, D.C. Congressional investigations of the Executive Branch during President Dwight D. Eisenhower's second term led to the resignation of Adams, who was President Eisenhower's chief assistant. Adams had accepted gifts from a textile manufacturer and lobbyist. 10 *Encyclopedia Americana* 105 (Intl. ed., Grolier 1990).

> Inside was the biggest tastiest looking country-smoked sausage I had ever seen.
>
> I called in the sheriff and asked him where it had come from. As I suspected, the brother-in-law had brought it.
>
> I told the sheriff to quietly return it with my thanks at the end of the session, and let it go at that. I guess I could have raised sand with the brother-in-law and even sent him to jail for [thirty] days for attempting to bribe the court, but that didn't seem like the thing to do.
>
> . . .
>
> I wonder to this day just what his motives were. Was he trying to influence my decision or was this just his way of saying, "Here's a token of friendship to show that no matter how things come out, I'll know you'll be fair?"
>
> It would be a wonderful thing for Justice if we could read men's minds.[705]

What made Dean Sebring so successful? He answered this question in the following way: "Never look back. That's my belief and I try to stick to it. It has always seemed to me — at every stage of my life — that whatever I was doing at that particular time was the most important thing in life."[706]

On another occasion, he had the following to say in response to the same question:

> When I was a football coach . . . I couldn't understand why everyone in the world didn't want to be a football coach, too.
>
> When I was a justice of the State Supreme Court, I couldn't understand why everybody else didn't want to be a judge.
>
> Right now [gesturing at the interviewer] I can't understand why you . . . don't want to be dean of a law school and a professor of law.
>
> Every job I have ever held has been more entrancing than the last. I never regretted any decision I made in life. That is my secret.[707]

705. Don Sider, *Influence Peddling's Nothing New Declares Reminiscing Judge Sebring*, 347 St. Pete. Times 4D (July 6, 1958).

706. *Dean Sebring*, *supra* n. 267, at 8A.

707. Gelman, *supra* n. 6, at 4.

His Personal Qualities

What personal qualities did Dean Sebring possess that differentiated him from others? To begin with, leadership.[708] As his law school classmate and later colleague on the Florida Supreme Court, B.K. Roberts, said in a 1990 ceremony honoring Sebring, he possessed natural leadership abilities and great courage. Justice Roberts emphasized these attributes and stated that Dean Sebring never hesitated to express his ideas even when unpopular.[709]

Another personal trait was his sense of responsibility. He was conscientious, serious-minded, and very hard-working.[710] Dean Sebring was not a jokester, but nevertheless had a good sense of humor. Alumnus James D. Brown, Jr. has told how he asked Dean Sebring one day about the fact that the dean had served as a consultant for the movie, *Judgment at Nuremberg*. Brown asked Dean Sebring what he enjoyed most about the experience. Sebring's answer, without any hesitation, was, "Marlene Dietrich." (She was one of the stars in that movie.)[711] He once told John Blue that many who come to law school bring pocket combs, because they want to be governor.[712] Dean Sebring told one of his classes that "when you see someone adjusting his tie and admiring himself in the mirrors in the rotunda of the [old] Capitol, you know that someone has just told him what a fine governor he would make."[713] Jim Connolly told Dean Sebring, "Dean, I was taught the [Supreme] Court is to *interpret* the meaning of what the Legislature has formulated, and *not make* new law."[714] Dean Sebring's response was, "'I was that naive once. I can't remember if it was when I was 14 or 15 years old."[715]

Dean Sebring did not take himself too seriously. He once said,

708. Roberts, *supra* n. 60. Justice B.K. Roberts was a classmate of Dean Sebring's at the University of Florida College of Law, and they served on the Florida Supreme Court together for six years.

709. *Id.*

710. *Dean Sebring*, *supra* n. 267, at 8A.

711. Letter from James D. Brown, Jr., Atty. and Stetson Alumnus, to Author 1 (Oct. 19, 1999) (copy on file with the Author).

712. Telephone Interview with Judge John Blue (Nov. 10, 1999). Sebring's son remembers that his father said that pocket combs "indicate a certain type" of person. *Comments*, *supra* n. 21.

713. Letter, *supra* n. 676, at 1 (alteration in original).

714. Letter from Jim Connolly, Atty. and Stetson Alumnus, to Author 1 (Oct. 18, 1999) (copy on file with the Author). Sebring's son said his father inherited his sense of humor from his mother. He relates that on a trip to Gardner, Kansas, Grandmother Eaton told his father about a girl in town who had been married only six weeks when she had a baby. His father said, "Mother, I thought it took nine months to have a baby." She replied, "Not in Gardner, Kansas." *Comments*, *supra* n. 21.

715. *Id*.

> When I graduated from law school, I realized what a tremendous lot of law I knew, and I wondered how the other judges and all the other lawyers got along knowing so little. Now, as I grow older, I find that every year I know less and less. Eventually, if I live long enough, I may end up knowing nothing.[716]

Another comment he made in a letter he wrote to a friend shortly after he became dean shows that modesty and humility were ingredients in his makeup. Dean Sebring said,

> It is amazing how much one can get credit for knowing if he will just sit on a high bench in a black robe and keep silent and how little he will find he actually knows about a specific subject when compelled to stand in front of 36 gimlet-eyed, cynical second-year law students and lay his soul bare.[717]

Another characteristic of Dean Sebring was his warm personality.[718] His "warmth and friendliness" are remembered by Larry K. Meyer.[719] Dean Sebring obviously liked people and people liked him. He was a good friend, and others were good friends to him. He was a gentleman who had and used good manners. He was very cordial and polite at all times.

Another characteristic was his honesty and his integrity. Alumnus Robert M. Barnes, II and Dean Sebring's son, Tom, both remember the true story of an incident when Dean Sebring was a passenger in an automobile that was stopped by a highway patrolman near Lake City, Florida. It was a Sunday and the driver, Justice Sebring, and one other passenger were on their way back to Tallahassee from a football weekend in Jacksonville. When they were stopped, the driver said to the patrolman, "Chief Justice Sebring of the Supreme Court is in the car and has to get back to his office. He is in a hurry to get back to his office."[720] The officer looked at Justice Sebring and said, "Judge Sebring, are you in a rush to get back to Tallahassee"? Dean Sebring's son remembers, "Dad looked at the officer and said, very emphatically, 'No.'"[721] The son continues, "Needless to say, it was a quiet ride back to Tallahassee."[722]

716. Gelman, *supra* n. 6, at 4.
717. Morris, *supra* n. 47, at 1D.
718. *Dean Sebring*, *supra* n. 267, at 8A.
719. Letter from Larry K. Meyer, Atty. and Stetson Alumnus, to Author 1 (Oct. 19, 1999) (copy on file with the Author).
720. Letter, *supra* n. 667, at 1.
721. *Comments*, *supra* n. 21.
722. *Id*.

Dean Sebring had "supreme confidence in himself."[723] Pfilip G. Hunt said in response to my invitation to provide recollections regarding Dean Sebring that he "exud[ed] quiet confidence," and that he possessed "towering strength."[724]

Dean Sebring also possessed tremendous versatility. He had been a football coach, one of the best in the history of major college football power, the University of Florida. Throughout his life, he participated in architectural work and helped to design the building of the Supreme Court of Florida, in addition to designing the entrance to Stetson's law school. Dean Sebring also designed the central fountain on Stetson's campus as well as the 1957 library and office and classroom buildings at Stetson.

He was a great athlete, a highly decorated soldier, head coach of the football team at a major university, a lawyer, a trial judge, a state supreme court justice, a war crimes judge, an architect, a fisherman, a law school dean, a law school professor, a constitutional expert, and historian. Justice Roberts, who served with him on the Florida Supreme Court, summed up all of this when he referred to him as "soldier, lawmaker, statesman, jurist, educator, a citizen extraordinaire," and "a giant."[725]

Final Days

In late July 1968, Dean Sebring selected the faculty office he would move into when he stepped down from the deanship that September. However, he was never able to use that office. A few days later, on July 26, 1968, Dean Sebring died in his sleep at the age of seventy in his Snell Island home in St. Petersburg.[726] At Stetson University in DeLand and at the College of Law, the flags were lowered to half staff.[727] Subsequently, the Senate of Florida passed a resolution honoring him.[728] The sponsor of the resolution was Joseph A. McClain, Jr., who was a State Senator, but who also had been dean of four law schools and a part-time faculty member at Stetson during Dean Sebring's deanship.[729] The resolution also stated that Sebring was

723. *Reflections and Memories*, *supra* n. 14 (remarks of Winifred L. "Wendy" Wentworth).

724. Letter from Pfilip G. Hunt, Atty. and Stetson Alumnus, to Author 1 (Oct. 24, 1999) (copy on file with the Author).

725. Roberts, *supra* n. 60.

726. Conversation with Kay Eddy, former Stetson Registrar (1970–1971).

727. *Dean Sebring*, *supra* n. 267, at 8A.

728. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2.

729. Joseph A. McClain, Jr.'s son, David, was a student at Stetson University College of Law during the Sebring years. He is a practicing lawyer in Tampa, Florida. Like his father, David has served as a State Senator.

> [t]ruly a man whose distinction circled the globe, he performed nobly as athlete, soldier, attorney, jurist and educator, but probably the greatest tribute to his memory remains enshrined in the hearts of his students who shared his hopes and ideals and who will strive to build upon them.[730]

He will never be forgotten by those who were his colleagues, students, and friends. To have known him was indeed a rare privilege.

730. Fla. Sen. Res. 1704, 1st Leg., 1st Sess. at 2.