Editor's Correspondence

Following the publication of my recent article on name-changing in this journal [*Names* 13:3 (September 1965), 145–168], I received several letters, generally complimentary, but offering some significant criticisms and suggestions. As it is my desire to insure that my scholarly contributions are as accurate and complete as possible, I should like to make public acknowledgment of at least some of these criticisms and suggestions.

1) With reference to Maxwell Nurnberg's comments in the September, 1966 issue of *Names*: permit me to point out that I am in total agreement with Mr. Nurnberg. I am quite familiar with the Cohen-variations; I have studied and written on them. I am also familiar with the Russian proclivity to substitute "g" for "h." However, Kagan and Keegan (like Cohan) are *also Irish* names, as my acquaintance with several Irish-born priests with those names will bear out. Similarly, Albert Douzat's *Dictionnaire Étymologique* is not unknown to me, and I have cited his Cohen-variations in other writings on this subject.

2) In response to the comments of several lawyers I must also acknowledge that "denied" rather than "rejected" is a more appropriate way of saying that a court had "turned down" a name-change petition.

3) On page 148 of my article, the quotation marks in paragraph two should really be "footnote 11." Several persons kindly brought this to my attention.

4) On page 153 (paragraph 1), "failure to submit full particulars on such matter..." should replace "...a full bill of particulars...," the latter being technically incorrect.

5) My statement in the second paragraph of page 153, referring to the scheduling of a judicial hearing on the application, is also not correct. In New York, at least, (according to Professor Sol Jacobson of Brooklyn College) a hearing does not, in the absence of most unusual circumstances, have to be scheduled. Objections may be filed within ten days of publication of the proposed change; a hearing will then be directed. "I believe," writes Professor Jacobson, "that most, if not all, states regard the filing of a petition as an *ex parte* proceeding."

6) Professor Jacobson also points out that "the intention to defraud need not be 'conscious' or deliberate. Gross negligence in stating facts, for example, is also bad." (Page 153, paragraph 3.)

7) With regard to the *Libby* suit (page 162, paragraph 2), Professor Jacobson believes that this was really an "unfair competition case governed by equitable principles," and he doubts that it should be considered a "so-called protest proceeding."

8) Finally, I should like to incorporate several of Mr. Jacobson's comments on the denial of court applications and the role of the lawyer in effecting a judicial change of name. Denials of court petitions are quite rare. Lawyers are generally familiar with the judges' attitudes, and they tend to prepare their petitions for submission with a particular judge in mind; that is, they know whom to avoid and who will be more likely to accept a given petition and on what grounds. An extensive search is necessary to discover the records of petition denials revealed by the

courts. Although a lawyer may request the judge, in a written opinion, to state explicitly the reasons for his denial, this is not common. The judge will generally state *orally* to the lawyer at the time of the hearing his reasons for turning down a petition. The lawyer, of course, is then free to submit the petition to another judge but must, in that case, explicitly mention to the second judge the fact of the prior petition and its disposition.

The lawyer's role in the name-changing procedure, at least in New York, is *pro forma*: he presents the petition and follows it through until the final order is signed, published, and then forwarded to the petitioner. It is the lawyer who arranges for the necessary publication of the order and the transmission of the proof of publication to the clerk of the court. In short, he acts as attorney for the petitioner in all matters relevant to his change-of-name request. (For this service, the fee used to be about $100 a few years ago in New York; more or less in other parts of the country. Additional filing and publishing fees paid by the petitioner brought the total cost of securing a judicial change-of-name to between $140 and $160.) What of a person who wishes to change his name but cannot afford to do so? According to Professor Jacobson, legal aid services generally do not deal with name-changing cases, considering them luxury matters, though an occasional application may be handled if the reasons seem to warrant it.

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