

points of view

# Early civil rights case outlaws discrimination

IN 1991 Americans are celebrating the 200th anniversary of the Bill of Rights. But before 1990 it too far gone. Michiganians should take proud note of the 100th anniversary of one of our own civil rights cases — Ferguson vs. Gies.

William W. Ferguson, a man of color as they were known in 1890, owned a printing plant. One day he and a friend went to the bar-restaurant of Edward G. Gies and ordered dinner.

"I can't wait on you here," said the waiter. "It is against the rules of the house to serve colored people in the restaurant. If you want anything to eat, you will have to go on the other side of the house."

A six-foot aisle separated the res-

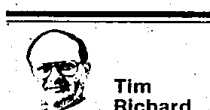
taurant side, with cloth-covered tables, from the saloon side. Ferguson was refused service on the restaurant side.

"I have been insulted by one of your waiters," Ferguson protested to Gies.

Gies repeated the "rule" of the house, adding, "If you sit over at the next table in the other row, I will see that you are served there all right, the same as any other person will be."

"No," said Ferguson, who stalked out and filed suit in Wayne Circuit Court for damages.

JUDGE GEORGE Gartner's instructions to the jury were the heart of the case.



Tim Richard

"All citizens under the law have the same rights and privileges and are entitled to the same immunities — it makes no difference whether white or colored," Gartner began. He noted the state in 1885 passed a law prohibiting discrimination in public restaurants.

"The defendant has the right to reserve certain portions of his business for ladies, and other portions for

gentlemen . . . certain tables for white men, and others where colored men would be served, providing there be no unjust discrimination."

With those instructions, the jury found in favor of Gies.

FERGUSON APPEALED to the state Supreme Court and won. Justice Allen B. Morse wrote the opinion, issued Oct. 10, 1890.

"The fault of this instruction is that it permits a discrimination on account of color alone, which cannot be made under the law with any justice. . . . In Michigan there must be and is an absolute, unconditional equality of white and colored men before the law."

"Socially people may do as they

please within the law, and whites may associate together, as may blacks, and exclude whom they please from their dwellings and private grounds; but there can be no separation in public places between people on account of their color alone which the law will sanction."

Some court decisions upheld separate but equal accommodations in public transportation, said Morse, "but it must be remembered that the decision . . . was made in the ante bellum days, before the colored man was a citizen and when, in nearly one-half of the Union, he was but a chattel. It cannot now serve as precedent."

Morse noted the state law provided full and equal accommodations in inns, barber shops, public convey-

ances on land and water, theaters and all other places of public accommodation and amusement.

THE HIGH court sent the case back to circuit court for re-trial. Ferguson won and was awarded "nominal" damages, according to a footnote in the court opinion book.

William Ferguson later was elected Michigan's first black state legislator. His attorney, Dean A. Straker, later was elected Michigan's first black judge and also wrote several books, some of which Ferguson's press published.

And all of this was 64 years before U.S. Chief Justice Earl Warren.

Tim Richard reports regularly on the local implications of state and regional events.

## Soldiers learn to be best

MY SON, and many of your sons, are halfway through basic training at the U.S. Army base at Fort Knox, Kentucky. That means they're either halfway to Saudi Arabia, in the event of war, or midway through a training period that will end with them accepting assignments throughout the world.

The base held Family Day this past weekend so parents could see what their children are doing for a living now. We drove the 634 hours to the base because we were very anxious to see our son and to take a look at the life he is leading. I came away with two overriding thoughts.

First, I haven't changed my mind. There is absolutely nothing for Americans to fight for in the Persian Gulf. This is not our fight. Attacking or participating in this desert conflict is not justifiable under any circumstances.

That said, you parents who didn't or couldn't attend Family Day, or those of you who have never seen an army base, need to know something. A lot is written and televised about our inept, bungling, overbudgeted, poorly managed, poorly prepared, poorly equipped, non-combat ready troops.

It is all garbage.

WHAT I SAW this past weekend was an example of precision, skillful soldiering. These troops, halfway through basic, are quietly confident.



Philip Sherman

polite young men who, to an individual, would rip a concrete wall apart with their bare hands.

They are being taught well. They attend classes. They get up at 3:45 a.m. every day and do an hour of physical training, PT as they call it, that would kill most of us.

It is the business of being a soldier that they are learning, they are being well and being taught well. They have everything they need. Most soldiers live in complexes that resemble dormitories, not barracks. A movie theater showing Ghost and another film I can't remember, dispensary, PX, telephone center, Burger King, bowling alley, gymnasium and library are at their disposal.

At Fort Knox is immense. He lives in a small suburb of the base.

Like his colleagues, my son can run a mile in barely over seven minutes. He already has won medals for shooting and pitching a grenade

All the soldiers in his platoon look in the eye when they talk to you. It isn't a challenging look. It's more a reflection of an inner strength and maturity you probably haven't seen in your son before.

THEIR DRILL sergeants are colorblind and scrupulously fair. They have taught these young men to function as one, cohesive individual. You think it's easy to get 35 guys marching, turning and marching in the other direction in columns? Try it.

There is a point to all this. There are no winners in any war, philosophically speaking. And the Persian Gulf is no place to stage our next major conflict.

But if we have to go to war some day, don't think for an instant that our troops are bumbling nitwits who will be overridden by someone else's highly skilled, more effective, better equipped soldiers. There is no such animal.

It is obvious to anyone with eyes that while we may disagree heartily with our military and the direction it takes from time to time, our soldiers, if Fort Knox is any example, clearly are learning to be the best in their business.

Philip Sherman is editor of the West Bloomfield and Lakes Ecoville newspapers. He lives in Canton Township.

## New Year's Eve isn't an awkward night any more

FOUR YEARS AGO, my husband and I ushered in the Chinese New Year in Hong Kong. As the clock neared midnight, swarms of people, mostly in family groups headed for the public parks and celebrated the New Year by purchasing bouquets of flowers.

And I thought — how refreshing.

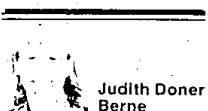
Two years ago, my daughter sent me an article from the Boston Globe announcing Boston's annual New Year's Eve celebration called First Night — a non-alcoholic, family festival of the arts which draws 600,000 people and takes over most of that city.

And I thought — how refreshing. Because it doesn't matter whether you are single or married, young or old, rich or poor, male or female, the hype about New Year's Eve rarely meshes with the reality.

It is essentially an awkward night.

BUT ON NEW Year's Eve 1990, the Birmingham-Bloomfield community shattered that reality.

On a cold, clear night under a full moon in Shain Park, several thousand people high on the artistic performances they had seen and the spirit which permeated the city,



Judith Doner Berne

raised their voices in Auld Lang Syne.

First Night Birmingham was a success.

It had sold out its 10,000 tickets, drawing people from Ann Arbor and Sterling Heights, Livonia and Farmington Hills as well as Birmingham residents who could walk from their homes.

For \$5 a person, you could have heard jazz musicians Ursula Walker and Buddy Busson or been captivated by the story telling of Corinne Staveish.

You might have left the Michigan Opera Theater's medley of Broadway hits with the stirring notes from Phantom of the Opera ringing in your ears. Then, decided to head for the Village Players to watch a dazzling recreation of a 1940's radio hour.

Some lines were long. But people

didn't complain. They joked about the cold and compared notes on the performances they had seen.

They call Paris the city of lights. Well, Birmingham had its own glow as excited First Nighters scurried from site to site wearing iridescent lavender glow lights provided by Michigan Bell.

"THANK YOU for doing this," was the prevailing comment as people called early in the day to get directions, as they were checked in by volunteers at each performance site, as they headed home.

Incredibly, it looks as if this First Night for the metropolitan Detroit area may break even, thanks to the generous contributions of many companies and people and to the volunteers who beat the bushes to get them.

Cooperation from the city of Birmingham and owners of all the major buildings which hosted performances was essential. Glaringly obvious was the failure of Harry Norderlander and the Birmingham Theatre to participate in any way.

There is no decision to be made as to whether First Night/Birmingham will return in 1992. The issue is only how to make it even better.

*Dee Heucheltes*  
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