

By Naseem Stecker

Reflections of a Modern Scribe

Once they were called scribes. Charged with preserving significant happenings through written records, they labored for posterity. Their hands recorded the Bill of Rights, the Emancipation Proclamation, and other historic documents. A modern equivalent in our judicial system is perhaps someone like Frank Douglas Wagner. A 1967 graduate of Cornell University and a 1970 alumnus of the Dickinson School of Law, Wagner has been the Reporter of Decisions for the Supreme Court of the United States for the past 18 years.

When he first joined the Court, after a career mainly as legal editor, opinions were published on paper and in book form. Much has changed since then. "Today, we basically e-mail them [opinions] to a list of 16 or 17 subscribers on our Hermes project and we've begun to publish them on our own website within a couple of hours after they're issued." These opinions, Wagner said, stay on the website until the printed bound version comes out. The printed version is then posted on the website as the books are released.

The nature, scope, and importance of the work of those responsible for publishing court opinions is often taken for granted—until a question from a curious visiting Russian years ago... Wagner's observations are reprinted here with his permission.

Public Access to Supreme Court Opinions

In the spring of 1993, I had an epiphany. I had been the Reporter of Decisions at the United States Supreme Court for six years, but it was not until that moment that I began to fully understand the significance of what I do. It was during a visit by Valery Zorkin, Chairman of the nascent Russian Constitutional Court, who was in Washington, D.C., to talk with officials of the federal judiciary about how to run a court of last resort. Near the end of our discussion, after we had parsed

the ins and outs of preparing and publishing court opinions, Chairman Zorkin asked me a final question. It nearly threw me for a loop when he inquired: "How do you keep the press and your enemies from lying about what you've decided in important cases?" As I understood it, the Chairman was not simply asking whether or how the Supreme Court tries to dissuade its critics from putting unwarranted spin on its rulings. Rather, he seemed to be asking the much more basic question of how we defend ourselves against bald-faced liars bent on distorting our work in order to destroy the Court's credibility and, thus, its effectiveness as a functioning arm of Government. The question was so astonishing to someone raised in the western democratic tradition that it took me several moments to arrive at the answer. Finally, a light dawned. I told Chairman Zorkin that what we do is disseminate our decisions as promptly and as widely as possible through a variety of print and electronic media so that those interested can quickly and easily determine for themselves what the Court has ruled on a particular question. Since the Chairman's visit, I have come to believe that public access to the Court's decisions, no matter what the medium or source, is one of the bearings that keeps democracy's wheels turning true. Though it is my job to publish the official United States Reports, I view public

access websites and other opinion redisseminators not as competitors, but as collaborators in a great and noble endeavor. While resorting to the U.S. Reports is a must for judges, lawyers, and litigants, unofficial publishers play a vital role by making the Court's cases available to a much wider audience than we would otherwise reach ourselves. Thus, even before we post new decisions on the Court's website, our Project Hermes tekkies transmit them to 17 legal publishers, news organizations, and law schools, who then reproduce them online or in books or newspapers. And every summer my office carefully updates and republishes a list of the URLs and other contact information of each of our Hermes subscribers, as well as every other legitimate redistributor of the Court's opinions we can identify. See "Where to Obtain Supreme Court Opinions," www.supremecourtus.gov/opinions/obtain_opinions.pdf. Whether a particular unofficial source reprints the Court's opinions unvarnished, or attempts to "add value" in the form of synopses, headnotes, or hyperlinks, it is helping the Court do its work by spreading its word to the world.

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