

CHAPTER ONE

HOW I FIRST MET W. D. KELLEY

Graduation from law school was a long time in coming for me. I had started UT Law School in 1967, taken off time between my first and second year to spend three and one-half years in India in the Peace Corps and a year and a half working for Channel 8 Public Television in Houston. It was now May of 1976, the bicentennial year, and I was 31 years old, and married.

I stood at graduation waiting for Dean Ernest Smith to call my name. He was in the "H's" and I remember thinking that there were so many "H's". My stomach was so upset that I wasn't sure I could make it across the stage when he did call my name. I hadn't received any honors or other distinctions in Law School so when Dean Smith called my name he very kindly said how grateful he was that I was the only "I". Law School had taken a great toll on me. But I did have a law degree, even if I didn't have much confidence. After graduation I began to look for a job but realized quickly that I wanted to open my own law practice. I met an old friend, Jim Bryce, at the Travis County Courthouse one morning. He invited me back to his office and said I could work for him in exchange for the use of his library as an office. I picked up a few small cases; I talked to an older lawyer down the hall who told me the story of how he started his own law practice; I was hooked.

In July 1976, the State Bar of Texas had its annual convention in Austin. As this was my first year to be a lawyer and it was the bicentennial celebration, I wasn't going to miss it. My father and mother came up to attend my father's 1933 class reunion breakfast. My father asked me to drop them off at the breakfast and pick him up an hour and a half later. I was fortunate that when I came back the members of the class were just standing up to tell about themselves. One of the lawyers, E. H. Smartt of Austin, lamented the fact that he had too many clients. They were mostly older ladies and they wouldn't leave him alone and he couldn't quit the practice of law and he didn't know what to do about it because he couldn't refer them to anybody else because they wanted him, and he was tired. A young man like I was then does not hear those words and not take notice of them. I put on my "things to do list" to go see E. H. Smartt because if he had too many clients, I could certainly use some of them.

It was a few weeks before I actually went to see Mr. Smartt, but when I did, the visit was very important. After a brief visit, he looked at me and said, "You are a young man, Dale. You need to go to Georgetown." I said, "Okay." He said, "I am going to call an attorney in Georgetown, Bill Lott. He has just been elected Judge. He has to give up his practice and there will be clients out there in Georgetown who are going to need a lawyer. You ought to go there and see if you can set up an office in Georgetown." The next thing I knew I was sitting in Bill Lott's office talking to Merrill Persons, Bill Lott's long time personal secretary. Bill was busy with a client when I got there so Merrill and I talked for 30 minutes or so. She was very friendly and told me all about Georgetown and encouraged me to come to Georgetown to set up a law practice. When I finally got

to see Bill Lott he also was very friendly and in fact, spent about an hour with me. I wasn't used to people being so available and encouraging. I visited Bill Lott's office several times in the next few weeks and word got out that I was looking for a place to office. A young attorney by the name of Mike Riddle who worked in the Southwestern University Development Department was interested in having a private law practice in addition to the work he did for Southwestern. Mike and I looked around "the Square" and discovered that the space above US Life Title was vacant. We approached the building owner and made a deal but it would take about 60 days before the offices were finished. Mike's wife was a realtor. She said, "Dale, if you are going to come to Georgetown, you need to buy a house." We went to one of the newer subdivisions in Georgetown and found a beautiful home that was 75% complete so that we would be able to make all the decisions about color and carpet. I told Debbie Riddle that I had enough money for a down payment but I really doubted that a mortgage company would approve me for a loan because all we had at this point was my wife's salary as an administrative assistant at UT and a lot of hope about my new law practice. But I told her, if she could arrange financing for me, I would buy the house. The mortgage company approved us and we moved in November 1976, about the same time I opened my law practice on "the Square".

My father and mother had been out of the country when I had made these decisions. When they returned, I remember calling my father in Houston. I knew in advance that he would be critical of my impulsive decisions. I picked up the phone, "Guess what Dad. I opened a law practice and bought a house in Georgetown." There was a heavy silence. Then he said, "Dale, you will never make it. You will never be able to make the monthly payments and you will lose the money you put into it" and on and on. My father, who was a very successful corporate attorney in Houston, was a child of the depression and never took chances. He also knew that the only steady jobs I ever had were as a Peace Corps volunteer in India and a short stint at the TV station in Houston.

I had anticipated my father's negative reaction but I had remembered the tape he had sent me when I was in India. We used to exchange tapes because there were no telephones where I was stationed and the tape recorder gave us a chance to talk to each other. My father had never talked to me about faith or love. He wasn't comfortable with anything intimate. But on this particular occasion when I was safely 13000 miles away from him in a village in the eastern provinces of Uttar Pradesh he told me that if I ever lost heart and needed inspiration to remember the words of Isaiah 40:31: "But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint." I waited until my father finished his negative harangue; then, in a quiet but determined voice, I quoted the passage from Isaiah to him. He never said another negative word about my decision to move to Georgetown and did everything he could from that point on to help me succeed. He had always wanted me to be a lawyer. Now I was a lawyer; I just needed some clients.

The first twelve months were hard. I took whatever came in and it was mostly collection cases, divorces, petty disputes, criminal matters and all the other things that the other

lawyers in town were smart enough not to take. I was very green. I got encouragement and help from my lawyer father and my two brothers-in-law who practiced law in Houston. I made friends with some older lawyers in Georgetown who also were very helpful. I learned enough to get by. At the end of my first year of my law practice in December 1977, I had netted profits of less than \$1,000.00 after all expenses were paid.

The following February, I was sitting in my office interviewing a middle-aged woman who was complaining about her husband beating her. I knew it was going to be a long Friday afternoon and I knew I had to get to the courthouse before it closed to file a TRO (temporary restraining order) on the husband. I certainly didn't need any further interruptions at this point. So when my secretary buzzed me, I was annoyed. She knew I was busy; what was she doing? She told me that there was an older gentleman and woman who wanted to see me. They did not have an appointment. I told her to tell them I could not see them today and for them to make an appointment to come back next week. A few minutes later my secretary buzzed me again and informed me that the couple had refused to leave and they would not leave until they saw me. At that point I walked out and introduced myself. My first impression of Mr. Kelley was that he was scruffy. He wore an untucked Hawaiian shirt, had a day old beard and a slight smell of body odor and cigarette smoke. His hair was not combed, and he looked a bit disheveled. I asked him what they wanted. He said that they had been referred to me by E. H. Smartt in Austin and that they had driven out to Georgetown to see me and they didn't want to leave until they had had a chance to talk to me, that it was a very important matter. They said it had to do with a will contest. Briefly, they explained that Mary Palm, Mr. Kelley's elderly aunt, had executed a Will leaving her entire estate to Palm Valley Lutheran Church fifty-four hours before she died. The prior Will left one-half of everything to William D. Kelley, her nephew, and one-half to Marguerite, her sister. I told him I was unable to see him that afternoon but would be happy to see him on Saturday morning at 10. He agreed to come back then. Luckily, that gave me a few hours to research will contest cases.

At 10:00 a.m. on February 4, 1978, I began my relationship with William D. When he said he had been referred by E. H. Smartt, I knew that this was an important client, someone I had to take very seriously. E. H. Smartt had been the one to send me to Georgetown and I was very grateful for that. Kelley looked a little more reputable than he had the afternoon before. He was clean-shaven and smelled a little bit better. We got off to a good start. Martha, Kelley's cousin, was a distant cousin but one who had been available for Kelley when he needed help with his elderly aunts. Martha lived in Austin and Kelley, who was a semi-retired carpenter, lived in Altadena, California. So when Kelley came to visit his aunts at the nursing home in Round Rock, he would stay with Martha. He had no one else and he depended on Martha to help him. Martha was only distantly related, but she was a "Palm," and family was important.

At the end of the morning when Kelley and Martha left my office, I knew that this was a very important case; Kelley was incensed at what had happened. He didn't trust the church and he didn't like what they had done. It was not right and he would not be

appealed until we overturned the Will that Pastor Bergland had taken to Mary on the night of August 27, 1978. I felt a sense of fear that I didn't know enough to try this case, but I was also gratified that Kelley had entrusted me with something that was very important to him. I began to realize over the next months just how important Kelley considered this matter. Kelley did not have a large retirement. He had been a carpenter all his life and had a very meager income and paltry savings. But he was willing to risk all of this to pay me to right the wrong that had been done to his family, even if it meant going against the very church that his great grandmother, Anna Hurd Palm, had helped create in 1863.

So here I was, a very inexperienced lawyer who was up against a formidable foe. It was against the largest Lutheran Church in Round Rock, the witnesses to the new Will were highly respected people in Round Rock: Steve Pena, a CPA, Charles Parker, a banker, Grace Telander, a neighbor of Mary Palm's for many years and a big land holder in the area. Additionally, Oliver Bergland, the pastor of the church, Fred Toerne, Associate Pastor, John Carter, attorney at law, and his legal secretary, Joan Green, were in the room when the Will was signed and could testify as to what happened. I had to prove to a jury that all of these distinguished people were lying.

I began to realize that I needed help. I immediately called up Dale Rye, who officed behind me at 707 Rock Street and went over to see him and told him this story. Dale was a Rice graduate. He is very intelligent and he was good at many of the things where I was weak. It was a good partnership.

Before too long, in July 1978, Dale Rye and I entered into a partnership and bought the office building that he was then occupying at 707 Rock Street, where I am today. I was able to do that because Kelley had given me credibility as a lawyer and a stream of income and a sense of purpose. This was going to take a lot of time. It was going to cost a lot of money and I needed a lot of help. From the very beginning, W. D. Kelley was having a profound effect on my life, my law practice, and my self-confidence.