HORRIBLE HERB, ’54

by Professor Eric Pearson

Cantankerous.
Hell-raising. Gutsy.

Herb Denenberg, aka "Horrible Herb," a 1954 graduate of Creighton Law, seems to attract these descriptors at every turn. Why? Omaha born-and-bred, Denenberg has been rattling the cages of the hypocritical, cutting through the bureaucracy of bloated government, and calling the shots not pretty much as he sees them but exactly as he sees them, for three decades. And he's been doing it all with a twinkle in his eye and an unerringly sense of humor.

Who is this Herb Denenberg, anyway? In demeanor, he is a dynamo, slight in build, horn-rimmed glasses shielding twinkling eyes, thinning red hair, and a speech tempo faster than a speeding baud rate.

On paper, he is Herbert Sidney Denenberg, Ph.D., LL.M., J.D., B.S., C.L.U., C.P.C.U. After graduating from Omaha's Central High School, he attended the University of Nebraska at Omaha for two years and the University of Chicago for one semester. His degree there was followed by a Juris Doctor degree (then a LL.B.) from Creighton University School of Law in 1954, a Bachelor of Science degree in Social Sciences from Johns Hopkins University in Baltimore in 1958, a LL.M. from Harvard University School of Law in 1959, and a Doctorate in Applied Economics from the Wharton School of Finance of the University of Pennsylvania in 1962. And let's not forget the honorary Doctorate in Law from Allentown College in Pennsylvania, awarded in 1989.

But Denenberg is more than a man-of-letters. In fact, the post-name add-ons, even if impressive to us academics who tend to measure self-worth in such terms, shed little light on Herb Denenberg the person. To get the real story, one needs to look beyond, to the self-styled "triple-A workaholic" with strong views on everything. Denenberg is a public speaker, a spoiler of the corporate party, a consumer in disguise looking not for bargains but for
rip-offs. He is, in short, a dedicated citizen who resolved early on to apply his impressive education and superlative mind to a task long on work, high in stress, and awash in controversy. His objective was not the perfectly respectable one of personal wealth; instead, Denenberg chose government, as Pennsylvania’s Commissioner of Insurance from 1971-1974, and media, as Investigative Reporter Extraordinaire for WCAU-TV in Philadelphia, Pennsylvania, for the last eighteen years.

Denenberg selected this path because he knew that consumer fraud was rampant and largely unchecked, and he knew he could do something about it. So Main Street, not Wall Street, is his home. He works for all of us, not just for Herb.

Does this mean Herb Denenberg is not cantankerous, hell-raising, and gutsy? Certainly not. Ralph Nader calls Denenberg a “genius” and “the most consumer-oriented insurance commissioner in American history.” Denenberg has also been termed a “tireless advocate of the little guy”; “more trustworthy than Walter Cronkite” (this, a finding of a 1973 statewide poll in Pennsylvania); and, in a biography piece in Philadelphia magazine, “the best TV reporter in town [even though] he doesn’t even own a blow dryer . . . .” Let’s add to that list “honest,” “competent,” and “concerned.” I’ll leave “mischievous” to your judgment.

**EARLY DAYS**

Herb Denenberg was born in Omaha, Nebraska, in 1929, as he puts it, “conceived before the Crash and born after.” In many ways, he was an unusual youngster. For one thing, he developed, or had instilled in him, a love for knowledge and a disgust for unfair play. Denenberg credits his parents for these traits. “My dad sent me newspapers to read at camp when I was seven,” he relates. And his mother, remembered as “Fearless Fannie,” was prone to use the dinner hour to launch into complaints about shoddy consumer products, misleading advertising, and the like.

By the time young Denenberg enrolled in Central High School, he was already well-attuned to the workings of the marketplace and the foibles of human nature. In high school, the shy student shined academically. High school, he says even now, gave him everything he needed to know. “Everything after that was an elaboration,” he says. But while Central gave him good information, Denenberg still had a way to go in sharpening his analytical skills. He shored up those deficiencies at Creighton Law. Enrolling in 1951, Denenberg found Creighton to be, as he terms it, “fabulous.” Creighton Law turned out to be the site of the best teaching he ever experienced, before or since. Who were Denenberg’s best teachers at Creighton? He names them readily: the renowned William Sternberg and Father Paul Gregg, S.J.

For Denenberg’s part, he came to Creighton ready to work. Previous labors in an Omaha packing house had given him all the incentive he needed to succeed in law school. Denenberg simply poured on the effort. He was well-known for his array of spiral notebooks, for briefing every case in every class, and for taking elaborate notes (so much so that one teacher approached Denenberg for a copy of his course notes to see what had been said in the course). At the end of every week, Denenberg recapitulated the entirety of the semester’s material to that point. His normal examination procedure was to arrive early, line up eight or ten pens, and feverishly attack the questions.

His workaholic character traits were evident even then. Denenberg still recalls vividly the look of shock on the face of a roommate who, returning from a round of parties, was startled to find Denenberg hard at the books at 3 a.m. “You’ll never change!” accused the roommate; in retrospect, Denenberg concedes the point.

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Denenberg’s work paid off. He became legendary among faculty for, among other things, the ability to comment extensively on obscure footnotes during examinations. He was so well-prepared for classes that law professors were forewarned—they had better be prepared also. At the end of it all, Denenberg amassed the highest cumulative grade-point average in his class. (Could I borrow your notes, too, Herb?)

A notable, but little-known addendum to Denenberg’s otherwise blemish-free law school career, however, is the fact that he did not receive his degree on time! In those days, missing the graduation Baccalaureate Mass was grounds for severe penalties. The same Denenberg who never missed a law school class skipped out on this mandatory event and suffered the penalty. Three
months later, the University, apparently thinking better of its punishment, mailed his degree along with a nice note.

To this day, Denenberg credits Creighton Law for much of his success. "You only learn the importance of some courses ten or fifteen years later," he maintains. The great value of law school, in Denenberg's view, is its invaluable lessons in problem solving. Law school training, he says, teaches students to analyze, to spot ambiguities in language and reasoning ("Law school teaches you how to read!"), to reason in a structured fashion, to speak articulately. He maintains that nothing before or since compares with Creighton in the quality of education he received.

In that same vein, Denenberg, when recently commenting on the "five mistakes of the educated man," identified as Mistake Number Two the tendency of educated people to "underestimate the power and value of your education." Denenberg makes the point with typical clarity and direction: "Don't assume that because you are a graduate of [a regional college] you can't compete with graduates of Harvard, Yale, Princeton, or the other so-called prestigious schools. Let me assure you that I have seen more plum-assed dingbats from Ivy League schools than almost any other source of that large and ever-growing species."

All right, I know you're dying to know the other four mistakes of the educated person. Here they are:

Number One: being intimidated into thinking that somehow you can't do what you want to do, because the field is crowded with bright people.

Number Three: forgetting to apply what you have learned (aka use your head).

Number Four: accepting the views of experts at face value. ("... [T]he experts ... are often blinded by their economic self-interest and the narrow focus of their concerns.")

Number Five: thinking that the problems of your neighborhood, city, state, and country, will be solved by government, or by someone else.

What advice does this accomplished man have for law students? His message is to learn now, while you have the chance. The time to learn is limited; no one can wait and get it all later. That's why law students, Denenberg asserts, really need to read cases closely. Even if a particular case involves a subject matter never to be encountered again, reading and studying the case is essential. "Analytical tools must be built over a lifetime," he says. So get to the task now. Moreover, he says, if you can't commit something to writing, you don't know it.

After law school, Denenberg launched an impressive career. Quickly realizing that the private practice of law was not for him, he entered the Judge Advocate General's Corps during the Korean war. Did he like this stint? As Denenberg dryly observes, "I was in [the Corps] for three years, three months, ten days, and six hours." His military service did have one good feature, however. It was stateside, in Baltimore, and that location allowed him to further his education at Johns Hopkins. From there it was on to Harvard and then to the Wharton School at the University of Pennsylvania.

REMAKING GOVERNMENT

At about this time, Denenberg became interested in legal issues of insurance, an interest which became the centerpiece of his career. He was a darling of industry regulators, because of his expertise in both law and insurance and because, unlike other experts, he was unaffiliated with the insurance industry itself. His reputation as a common sense, hard-nosed observer and consultant grew quickly and ultimately caught the attention of Milton Shapp, Governor of Pennsylvania. Shapp tabbed Denenberg to be his Commissioner of Insurance. Thus, at the age of 41, Denenberg began a truly pathbreaking tenure of public service. In a few short years, he completely remade the Pennsylvania Insurance Department. No longer was there interminable hand-wringing and red tape. No longer was delay and half-hearted regulation the Department's hallmark. The Denenberg regime was a whirlwind of controversy, media attention, and, crucially important, improvement for the citizens of Pennsylvania.

Perhaps the writing was on the wall when Denenberg chose his official motto. Duly inscribed on a plaque in his office, the motto read: "Populus Iamdudam Defuturus Est." ("The consumer has been screwed long enough.")

As Insurance Commissioner, Denenberg set upon a course pioneering for its time. Harboring a strong distaste for the typical approach to agency regulation, with its slow and tedious deliberations, its mind-numbing regulations designed to insert government into every aspect of private enterprise, and its endemic unresponsiveness to day-to-day concerns of the people, Denenberg moved to empower the citizenry. The underlying theory, still (unhappily) in its infancy in the administrative
 regulatory world, was simple: government as a managerial enterprise has always been, and always will be, an abject failure. In Denenberg's view, government is institutionally incompetent to regulate in any broadscale way and is unable, among other shortfalls, to predict the array of unintended consequences that its regulatory intrusions will produce. Moreover, as Denenberg puts it: "Government doesn't give a damn about anybody. You can be bleeding to death; you can be drowning; you can be dying of disease; you can be banged on the head by burglars and robbers and rapists. Government just sits there. They respond only to forces that are exerted." (He adds for good measure: "Bureaucrats are jerks.")

The preferred Denenberg course was to equip people to fight their own battles. "Inform, publicize, and popularize," he says. To that end, Denenberg took to issuing his now-famous Shoppers' Guides pamphlets aimed at giving Joe Six-Pack all the information he needed to make his own way in a complex world. The Guides gave ordinary folks the information they would need to understand and question pronouncements of insurance companies, to make intelligent consumer choices, to understand the intricacies of warranties, and much more. The Guides covered a range of topics - health, life, auto, and homeowner's insurance; lawyers; pensions; dentists; surgery; polluters; even nuclear power - and they occasioned a crescendo of opposition.

One story speaks well to both the controversy of the Denenberg years and the resolve of the man himself. At one point, the legal community, already exercised by much of Denenberg's public commentary, became particularly vehement when Denenberg, with typical lack of aplomb, compared lawyers with cockroaches. The Trial Lawyers' Association complained vigorously about that remark, to none other than the governor himself. Denenberg responded by apologizing for the comparison. One small twist - he apologized to the cockroaches.

Denenberg did more than issue Guides, of course. Among other things, he held the nation's first hearings on the economics and safety of nuclear power. (This not long before the Three Mile Island accident just outside Pennsylvania's capital city, Harrisburg). He intensified the debate on no-fault insurance and launched an initiative to remove sex discrimination in insurance. Additionally, he held televised hearings during which he personally cross-examined top-run officers of insurance companies operating in the state. During one such hearing, the President of Blue Cross testified that existing contract restrictions limited the company's ability to make important cost-saving changes in their contracts with hospitals and doctors. Denenberg grabbed his yellow pad and scribbled out an order requiring contract renegotiation. The move worked and, to hear Denenberg tell it, "saved the public millions."

While this sort of decisive action by a government official was surely unsettling to an industry accustomed to government-at-a-geologic-pace, overall it cut to the benefit of regulated industry. Several industry representatives were heard to comment after Denenberg's tenure in public office that the Denenberg modus operandi of swift and decisive government action actually liberated their companies' long-range planning efforts. The insurance industry did not like the substance of some of Denenberg's decisions, but they at least had the benefit of knowing where they stood, and they did not have to wait years to find out.

Denenberg's tenure as Insurance Commissioner came to a close in 1974 when he decided to seek the United States Senate seat from Pennsylvania. Having reformed much of the state executive branch, he set his sights on legislative matters. There was work to be done. As Denenberg had stated (in commenting on the Pennsylvania state legislature): "[T]he ... [legislature] ... is a pesthole of corruption, incompetence, and conflict of interest." Denenberg's bid for federal office failed, perhaps because of his newfound enemies, and gave him the chance to move into Part Two of his career.

**REMAKING TELEVISION NEWS COVERAGE**

The electronic media always interested Denenberg, because of its capacity for immediacy and impact. How better to continue the task of teaching the public to protect itself from rampant consumer fraud, he thought, than to take on the assignment of investigative reporter for WCAU-TV in Philadelphia.

**Awards might be nice, but it is investigation Denenberg really cherishes.**

Denenberg's work in media has been award-winning as well as longstanding. Over the years, Denenberg has received many awards and honors, including one from the U.S. Consumer Product Safety Commission for his work in uncovering illegal sales of Tris-treated children's sleepwear, six from the National Press Club, and twenty-four Emmys from the Philadelphia Chapter of the Academy of Television Arts and Sciences (he was nominated over fifty times!). Other awards have come from the Pennsylvania Associated Press, the Sigma Delta Chi Journalism Fraternity, the Philadelphia Press Club, the Association of Trial Lawyers, the National Headliner Awards, the American Chiropractic Association, and the...
American Osteopathic Association.

One particularly prestigious award, the DuPont-Columbia Journalism Award, recognized Denenberg’s regular news feature known as “Denenberg’s Dump.” For this feature, Denenberg shuns the preppy garb of the typical newscaster and opts instead for the clothes of a garbage man. Suitably outfitted, Denenberg critiques poorly manufactured consumer products and casts them unceremoniously into the trash heap.

Regarding the awards he receives, Denenberg once commented in his usual caustic fashion: “They’re really only good after you’ve been fired, so the press can refer to you as an award-winning reporter.”

Awards might be nice, but it is investigation Denenberg really cherishes. Although lacking the elixir of power, Denenberg’s position as investigative reporter enables him to root out and often stop fraudulent practices in the marketplace. Working with a small staff, including the stalwart assistance of his trusted wife Naomi, Denenberg has used the position for all it is worth. Consider his well-known investigation of the jewelry business in Philadelphia. In 1984, Denenberg learned that a particular jeweler might well be systematically overvaluing gems he sold to unwary customers. Denenberg set out to learn more. He undertook an extensive investigation which included appraising hundreds of the diamonds sold by this particular outlet. In a matter of months, he compiled an overwhelming body of evidence demonstrating a consistent pattern of misrepresentation on the weight, color, and purity of diamonds sold by the jeweler. No stone was left uncovered (pun intended), and when the story hit the airwaves, it caused an uproar. Ultimately, the jeweler was forced into bankruptcy and was indicted on 213 counts of theft by deception and 213 counts of deceptive business practices and was convicted.

This investigation is one of many. Denenberg has also investigated, among other things: asbestos contamination; look-alike drugs; methanol in gasoline; small claims court deadbeats; sinking homes in Delaware Valley; mislabeled products of every sort; and much more. Amazingly, despite all of this, Denenberg has never been taken to court. “We make sure we are right, and that’s why we don’t get sued,” he comments.

His face now well-known, Denenberg often resorts to costume. The disguises range from old man to Pilgrim to after-six gentleman to wheelchair-bound woman. Denenberg has even caused a stir at his own television station - his penchant for walking around unrecognized has worried station managers on more than one occasion.

In other pursuits, he has secured a honeymoon for a couple whose plans folded with the travel agency, and a heart-lung transplant for a patient facing a do-or-die problem. He has singlehandedly stopped a run on a money market fund by assuring investors their money was safe and has checked on the accuracy of a handwriting analyst hired by a company to screen potential employees. This latter event was particularly fun.

Denenberg had the analyst evaluate anonymous handwriting samples. The results: a convicted dangerous felon would have made a fine and upstanding employee; Julius Erving (the legendary “Dr. J” of professional basketball fame) lacked initiative; and Denenberg himself wasn’t too bright! So much for that.

Now sixty-four, Denenberg has no thoughts of retirement. He still follows a rigorous schedule, often up reading until the wee hours at home. For relaxation, he quips, he goes out and reads food labels. His life is his work; you’ll not find him on the putting green. Much, much has been done, but more remains to be done.

So, happily, we can all rest assured that Herb Denenberg will be there for years to come, to fight the good fight, to never lose the twinkle in his eye and the spring in his step, or his infectious grin, or his abiding irreverence. Denenberg will keep on.

And his life will continue to be a model for our own lives. Denenberg’s life is doing good deeds for a living, making the world a little better each day, teaching people about the nonsense in the world. And having a great deal of fun doing it! Not a bad recipe, I think.

Thanks, Herb!