

The **BROWARD** **BARRISTER**

JULY, 1973

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Executive Offices, 735 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

BROWARD COUNTY BAR ASSOCIATION AND YOUNG LAWYERS SECTION MEETING

FAMILY SUMMER BARBECUE

SUNDAY, JULY 22, 1973

3:00 P.M.

BARBECUE, BEER, SOFT DRINKS, ETC.

Volleyball, horseshoes and other sporting activities.

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DIRECTIONS: 2700 West Commercial Boulevard, just west of Prospect intersection on north side of Commercial Boulevard.

RESERVATIONS: Please make reservations with Broward County Bar Association, 735 Northeast Third Avenue, Fort Lauderdale, Florida 33304, or call 764-8040. Advance, prepaid reservations are requested. Reservations should include the number and names of those attending and a check to cover the total amount due. Make checks payable to Broward County Bar Association.

**USE THE ENCLOSED CARD FOR RESERVATIONS
No general meeting in August**

Federal Court News

For years Broward County lawyers contended that there was more than enough Federal litigation to justify a Federal Court's existence in Broward County. Unfortunately, there was little statistical basis to prove the need existed, largely because Broward County lawyers referred Federal matters to Miami attorneys or out-of-state corporations chose Miami counsel because the court was located there.

Despite the lack of statistical basis, the efforts of Judge Cabot, Congressman Burke, Broward County Bar Association, the leaders of Broward municipalities and the County government, and

many interested lawyers and citizens prevailed and Congress established Fort Lauderdale as a place for holding court.

The abundance of Broward County litigation in the United States District Court has now been clearly demonstrated. On September 29, 1972, the United States District Court facility in Fort Lauderdale was dedicated. At that time statistics compiled in the Clerk's office indicated that the number of Broward County case filings amounted to one-half of a judge's case load in the Southern District of Florida.

Beginning with October 2, 1972, all of the new cases whose venue was Broward County were assigned to Judge

Roettger. By the first week in December — only nine weeks later — the volume of Broward County case filings had reached the point that no Miami cases were being assigned to Judge Roettger.

By the end of March, 1973, the number of Broward County case filings had reached a case load requiring the services of one and one-half judges.

By virtue of receiving all the Broward County case filings, Judge Roettger's case assignments exceeded the new case load assigned to the other United States District judges to such an extent that no new civil cases were assigned to him from late April to the end of June.

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Broward County cases filed during that period were assigned to the other six judges in the Southern District of Florida. Some of these judges have already expressed interest in coming to Fort Lauderdale to try these cases; in order to keep the cases moving expeditiously, it is anticipated that trials will be scheduled in the main courtroom at the same time non-jury cases are tried in the bankruptcy courtroom.

The first petit jury will be impanelled July 16th and the first grand jury July 24th. Federal criminal cases arising in Broward County will be tried in Fort Lauderdale after that time.

Notice re Filing in Federal Cases

Federal Court cases arising in Broward County must be filed in Fort Lauderdale rather than Miami.

Pleadings in all Broward County cases initiated after July 2, 1973 and Broward County cases which were filed before July 2, 1973 and are assigned to Judge Roettger's division must be filed in the Clerk's office, Room 125, 301 North Andrews Avenue, Fort Lauderdale, Florida 33301.

Pleadings in Broward cases filed before July 2, 1973 which are assigned to other divisions, as well as all Miami cases and bankruptcy matters, must be filed in Miami.

Court Decisions

By Henry J. Prominski

A St. Petersburg municipal ordinance providing "no person shall sleep upon or in any street, park, wharf or any public place" was recently held unconstitutional.¹

The Appellee, Earl L. Penley, was sitting on a bench at a city bus stop in St. Petersburg. A police officer found him asleep, arrested him in violation of the city ordinance. The Second District Court of Appeal, following the vagrancy statutes held that this ordinance was void due to its vagueness in that it fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden.

It would appear that the Appeal Court is stretching a point to apply the above mentioned reasoning. Surely a prohibition against sleeping in the street can be conduct that a person of ordinary intelligence could contemplate as forbidden. It would appear that a better line of reasoning would be that this statute is unconstitutional because it has no relation to the health, safety and welfare and surely sleeping is not a dangerous act that merits governmental control. *State of Florida v. Earl L. Penley*, 276 So 2d 180 (1973).

***BETTER ABSTRACTS**
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Adult Rights Law, Financial Responsibility of Parents

*Opinion of Robert L. Shevin,
Attorney General, State of Florida*

Re: ADULT RIGHTS LAW—financial responsibility of parents. Ch. 73-21, Laws of Fla.; §62.011, F.S.

Does Chapter 73-21, Laws of Florida, the Adult Rights Law, emancipate the parents from being legally responsible, financially, for their children who are 18, 19 or 20 years of age?

The Adult Rights Law changes the definition of minor from a person under 21 years of age to a person under 18 years of age. Florida law has consistently held that a parent is responsible for the support of minor children only. In *Perla v. Perla*, 58 So. 2d 689 (Fla. 1952), the court stated that "(g)enerally, the obligation of a parent to support a child ceases when the child reaches majority . . ." (The exception to this is for a child who is mentally or physically dependent.) Accord: *Fincham v. Levin*, 155 So. 2d 883, 884 (1 DCA Fla. 1963), in which the court quoted *Perla*, supra, and mentioned the annotation in 1 A.L.R. 2d at page 914 in support of the proposition that "the common law went no further than to impose on par-

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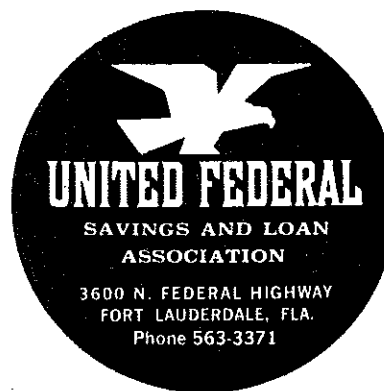
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"A statute is not to be given a retrospective effect, unless its terms show clearly that such an effect was intended. (cites omitted)

"The rule that statutes are not to be construed retrospectively, unless such construction was plainly intended by the Legislature, applies with peculiar force to those statutes the retrospective operation of which would impair or destroy vested rights." In *Re Seven Barrels of Wine*, 79 Fla. 1, 83 So. 627, 632 (1920).

Accord: *Herberle v. P.R.O. Liquidating Company*, 186 So. 2d 280 (1 DCA Fla. 1966).

Accordingly, your first question is answered in the negative. Your second question is answered in the affirmative.

SUMMARY

Chapter 73-21, Laws of Florida, does not act retrospectively and thus does not affect the rights and obligations acquired under a valid child support judgment which was granted prior to the effective date of this act (July 1, 1973).

Legal Aid

The Broward County Bar Association's request for funds to provide free legal aid to the poor was approved by the Broward County Commission in June 26, 1973.

The program will provide for an increase in the filing fee on all civil suits filed in Broward County. The program also restricts litigation against the United States, the State of Florida, or any political subdivision, municipality or governmental agency thereof.

The Broward County Bar Association will continue its own voluntary legal aid service and will coordinate its efforts with the funded program to provide the necessary services needed by the poor.

Russell Carlisle has been appointed chairman of the Legal Aid Committee of Broward County Bar Association. His committee will work with the County Attorney in formulating the guidelines and policies of the program.

This is the culmination of many years of work by the Bar Association to obtain the needed service for the indigent.

Notice For Trial, Circuit Court, Seventeenth Judicial Circuit

Attorneys filing Notice for Trial in cases SHOULD send a copy of the Notice directly to the office of the assigned Judge.

Digest of Official Opinions

Legal and Official Advertisements — Qualification of Newspaper — Entry as Second-Class Mail — For Sale To The Public Generally—Secs. 50.011, 50.031, F.S. 1971.

Publication of a legal notice in a newspaper not for sale to the general public is not legally sufficient in view of the requirements of Section 50.011, Florida Statutes.

Publication of a legal notice in a newspaper which has not been entered as, or is not qualified to be admitted or entered as, second-class matter at a post office in the county where published for a period of one year next preceding the first insertion of such publication is not legally sufficient in view of the requirements of Sections 50.011 and 50.031, Florida Statutes. May 8, 1973; 073-149.

Taxation — Homestead Exemption — Claim by Personal Representative of Estate of Deceased Owner — Secs. 196.031, 196.131, 731.27, 733.01, F.S.; Article VII, Sec. 6; Article X, Sec. 4, Fla. Const.

The personal representative may apply for and establish homestead exemption for ad valorem taxation for the deceased owner's estate if the property was not subject to the terms of Article X, Section 4, Florida Constitution. If the property was subject to the terms of said Article X, Section 4, then the personal representative may not apply for and establish the said exemption. May 9, 1973; 073-153.

Search Warrants — Authority of Municipal Judge to Issue—Article VIII, Sec. 2 (b), Fla. Const.

The current laws of Florida permit a municipality to authorize a municipal judge to issue search warrants for a violation of a municipal ordinance, that at the same time is a violation of a state felony statute. May 10, 1973; 073-161.

Public Records — Secs. 119.01, 119.011, 119.07 (1) (2), F.S.

Records of the "Internal Investigation Unit" of a Sheriff's office which involve the investigation of criminal matters are within an exception to the public records law and are confidential. However, records related solely to office or personnel matters within a police agency or other matters unrelated to the detection, apprehension and prosecution of crime are public records and must be made available for inspection by any citizen. May 17, 1973; 073-166.

Assessment of Court Costs — Secs. 23.103 and 23.105, F.S.

It is impermissible for a court to assess costs pursuant to Sections 23.103 and 23.105, Florida Statutes, when, in disposing of the cause, the court withholds the adjudication of guilt. May 18, 1973; 073-174.

Legality of Police Agencies Enforcing Circuit Court Orders.

A law enforcement agency does not need to secure a warrant charging contempt of court in order to enforce a court order. By the plain language of the order, an agency is required to do so. May 23, 1973; 073-181.

Notaries Public — Notarization of Document Subsequent To The Date Notary Public Sees Person Sign Same — Secs. 117.07 and 117.09, F.S.; Ch. 72-8, Laws of Florida.

Notarization of a document is not complete until the statutory requirements are met. The notary public must sign his official signature and the expiration date of his commission, affix his seal, require reasonable identification of the signer, and the signer must be present at the time his signature is notarized, and where the person whose signature is being notarized is not present during the notarization, the notary public is derelict in his duty, and has violated the provisions of Section 117.09 (1), Florida Statutes. May 24, 1973; 073-185.