

The BROWARD BARRISTER

JUNE, 1973

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

General Meeting . . Wednesday, June 27th

12 NOON

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PROGRAM:

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The program is a 16 mm, color sound film featuring J. Harris Morgan of Greenville, Texas, a frequent lecturer throughout the country on law office economics, speaking on fees and billing techniques. The film is approximately 45 minutes in length. You will find this program interesting, informative, and humorous.

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Young Lawyers Section Meeting

THURSDAY
JUNE 21, 1973
12:00 NOON

Governors' Club Hotel Senate Room

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SPEAKER

Judge James H. Walden
Fourth District Court of Appeal

FOR RESERVATIONS

Call Drake Batchelder — 764-2410

At the May meeting of the Young Lawyers' Section the following were elected to office for the coming year:

President, Drake M. Batchelder; President-Elect John Hume; Secretary-Treasurer, E. Hugh Chappell, Jr.

Executive Committee Members: Edmund G. Sciarretta, Lawrence J. Cofar, Nick Gunther, Steve E. Moody, and Ledford A. Parnell, Jr.

In addition to the elections the By-Laws of the Section were amended in accordance with the notice of the May meeting. The Executive Committee has set the dues for the fiscal year 1973-1974 at \$10.00. Members of the Young Lawyers' Section should send dues to

Mr. E. Hugh Chappell, Jr.
402 Courthouse Square Building
200 S.E. 6th Street
Fort Lauderdale, Florida 33301

Checks should be made payable to Broward County Bar Association Young Lawyers' Section.

The Florida Bar Annual Convention

DIPLOMAT HOTEL
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JUNE 14-16, 1973

Robert C. Scott, General Chairman

Broward County Bar Association Annual Meeting

Election of officers for the year June 1, 1973, through May 31, 1974 was held on May 23, 1973. The following were elected to office and to the executive committee:

President, Nicholas J. DeTardo; President-Elect, William F. Leonard; Secretary, George A. Patterson and Treasurer, Ray Ferrero, Jr.

Executive Committee: Past President, L. Fred Austin; Members, Robert C. Abel, Jr., Ronald P. Anselmo, Paul B. Anton, Richard J. Cory, W. Tinsley Ellis, R. M. Gardner, Lawrence J. Meyer, Maurice O. Rhinehardt, Barry J. Stone and Angeline G. Weir.

The budget, as noticed in the Barrister, was also adopted.

Broward County Bar Association
735 N.E. Third Avenue
Fort Lauderdale, Florida 33304
764-8040

OFFICERS

President Nicholas J. DeTardo
President-Elect William F. Leonard
Secretary George A. Patterson
Treasurer Ray Ferrero, Jr.
Past President L. Fred Austin
Executive Secretary Norma Howard

Golf Outing

Winners of the golf tournament are as follows:

Low gross First Place, Tom Schwarz 76.
Low gross Second Place, William Laystrom 79. Low net individual — three way tie: Leonard Robbins 72, William Laystrom 72, and Lawrence Baggett 72. Low team gross First Place — Tom Schwarz and Lewis D. Haines, II — net 145. Low team gross Second Place — W. J. Kelley and Rohan Kelley — net 147. Closest to the hole on #7 — W. J. Kel-

ley. Closest to the hole on #17 — Anthony Titone. Longest drive on #15 — Lawrence Baggett.

The Bar Association extends its thanks to Eugene Rimes who managed the golf outing and delivered refreshments to the golfers.

Court Decisions

By Henry J. Prominski

A Dade County employee was recently dismissed for being overweight. The Circuit Court found that a dismissal on these grounds was in violation of her civil rights. The Third District Court of Appeal reversed. (Metropolitan Dade County vs. Wolf, 274 So 2d 584.)

The Appellate Court held that a regulation related to weight, like other health requirements may be made a condition of employment since there is reasonable basis to conclude that one who is overweight, as for other health reasons is more likely to become disabled during

employment to the detriment of the County financially and otherwise.

The employee in the instant case was a communications operator in the fire alarm division of the County Fire Department. One must surmise that communications operator, as opposed to a fireman, does not need any specific physical requirements.

It is hard to visualize the job related weight requirement. Job related requirements, such as the length of hair, both male and female, certainly could equally be upheld in the Court, that long hair would tend to disable anyone in an emergency, particularly fires or operation of machinery.

Similarly, personal habits such as drinking coffee, smoking, manner of dress (platform heels, etc.) could be regulated and considered job related under the instant case as long as the requirement is applicable to all and not of a discriminatory or other invidious purpose. Healthwise anyone with a previous history of skin rash or recurrent itching or any number of insignificant afflictions which, however, may have and usually does have some peripheral effect on employment, may be the basis for dismissal.

It is hard to equate this case with Civil Service decisions which do not allow dismissal for drinking or some psychiatric disorders. These two grounds wherein there is a health condition likely to be detrimental to the employer generally are held not to be grounds for dismissal because they are considered illnesses that should be treated.

This appears to be a most perplexing area of law wherein perhaps the best solution would be to return to the free enterprise system and the open market place rather than have any state or federal regulations on employment. On the one hand the federal laws prohibit individual selection on a broad basis where as in the instant case, selection could well be justified on the basis of color of hair, weight, whether skinny or overweight, or a myriad of other basis.

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Legal Services Bill

The House Committee on Education and Labor has overwhelmingly approved a compromise bill (H.R. 7824) creating an independent National Legal Services Corporation. The 32 to 3 committee vote has encouraged proponents of the Corporation to hope that final Congressional action can be completed before June 30 when the present Legal Services Program of the Office of Economic Opportunity is scheduled to run out of funds. However, a jurisdictional question — whether the bill should be acted on by the Judiciary Committee or the Committee on Labor and Public Welfare — could delay action in the Senate.

The House bill will go to the floor June 5 with a vote expected during the week of June 11.

President's Bill

The legislation in both houses is based on a bill sent to Congress May 13 by President Nixon. It is similar to legislation sponsored by the administration in the last Congress and contains the President's original (1971) request for an 11-member board of directors appointed directly by the President with consent of the Senate.

Revenue Sharing Defeated

Newspaper accounts have stated the new bill represents a victory for liberal administration officials including Leonard Garment, recently named acting counsel to the President, over conservative aides including Howard J. Phillips, acting director of the OEO. Phillips reportedly favored a revenue-sharing approach which would have funded, under

a formula based on population and per capita income, legal services programs drafted by the states.

ABA Review

At the request of President Nixon, as conveyed by Mr. Garment, the Administration Committee of the American Bar Association reviewed a draft of the bill prior to its introduction and approved it in principle. However, ABA President, Robert W. Maserve, in a letter to Mr. Garment, said the Association reserved the right to offer such concerns and suggestions as may arise from detailed study of the bill at the appropriate juncture during Congressional consideration of the legislation.

In an earlier letter to John D. Ehrlichman, President Nixon's former assistant for domestic affairs, Mr. Meserve expressed concern over reports that the legal services program would be converted to the revenue sharing approach.

"After reviewing policy positions of the Association in the area of legal services to the poor," Mr. Meserve wrote, "I have concluded that such a proposal would appear to be inconsistent with the national approach to the Legal Service Program which the Association has supported in the past."

New Provisions

As ordered reported by the House Education and Labor Committee, H.R. 7824 retains key new provisions of the President's bill which would:

**Authorize the governor of each state to appoint a nine-member advisory council, to conduct a continuing review of legal services programs and file with

the national board complaints involving any violations of the act or the rules, regulations and guidelines issued to implement it. A majority of the council must be lawyers admitted to practice in the state.

**Direct the Corporation to conduct a study of alternative ways of delivering legal services, such as judicare, vouchers, prepaid legal insurance and contracts with law firms. A report of the study is to be submitted by June 30, 1974.

**Require that at least 10 per cent of program funds go to activities which are non-staff-attorney oriented.

Local Lawyers

Efforts to amend the bill to require appointments of local lawyers as legal services staff attorneys were defeated by the House Education and Labor Committee. However, the chairman, Carl D. Perkins (D-Ky.), said he would resubmit the amendment on the House floor. As reported, the bill requires legal services programs to give consideration to local attorneys recommended by the bar association.

The bill also requires the Corporation to notify state governors and bar associations, and to solicit their comments, before approving grants in their states. However, there is no provision for veto by either a governor or bar association.

Committee Changes

In other actions the committee amend-

(Continued on Next Page)

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ed the administration bill to further define eligibility standards for indigent clients, deleted a section that would have permitted "any interested persons" to bring suit in federal court to enforce compliance with prohibitions of the act, and modified the prohibitions against political activity and lobbying by legal services attorneys.

As amended the bill forbids legislative advocacy unless the attorney is requested to appear or is providing legal assistance to an eligible client under guidelines to be set by the Corporation.

Political Activity

Political activities is prohibited as a program activity of staff attorney, but the prohibition does not apply to an attorney's personal time. The bill also restricts "on the job" involvement in strikes, boycotts and demonstrations but does not preclude advice to eligible clients concerning constitutional rights.

Project attorneys also are prohibited from engaging in the outside practice of law or taking fee-generating cases. They also are forbidden to organize or assist to organize associations, coalitions, federations and related groups except to provide appropriate legal assistance in accordance with guidelines to be promulgated by the Corporation.

Public Interest Firms

Private law firms cannot receive funds under the act if they expend 75 per cent of their time and resources litigating issues in the broad interests of a majority of the public or the collective interest of the poor.

Representation also is prohibited in criminal cases and on behalf of convicted persons seeking a civil action to challenge a conviction or bring an action against an officer of the court or police.

Guidelines For Appeals

The bill also authorizes the Corporation to establish guidelines for the consideration of possible appeals that will "insure the efficient utilization of resources," but will not interfere with the responsibilities of an attorney to his client.

Transitional Period

The Secretary of Health, Education and Welfare is authorized to assume op-

eration of the present OEO Legal Services Program until the new Corporation is established.

New OEO Regulations Would Downgrade Law Reform Aspect of Legal Services Program

Howard J. Phillips, acting director of the Office of Economic Opportunity, has issued new regulations that would redefine the goals of the agency's Legal Services Program. They were published in the *Federal Register* on May 25 and are scheduled to become effective June 25. However, under present administration plans, the OEO is scheduled to go out of existence June 30, and the Legal Services Program is to be succeeded by the proposed National Legal Services Corporation.

Law Reform Not Primary

The new regulations, which Phillips said provide "the first formal pronouncement" of goals for the Legal Services state that "law reform will no longer be a primary or separate goal of the program or the chief criterion in evaluating or refunding projects."

The program, the regulations state, "has only one major goal and therefore only one overriding objective for the line attorneys and backup attorneys employed in the program: To provide quality legal services in noncriminal matters to individuals who meet the eligibility criteria . . ."

Aid To Groups

A second set of new regulations, published in the *Federal Register* of May 30 and effective June 29 sets forth new rules for providing legal services to groups as opposed to individuals. The regulations also require legal services attorneys to maintain logs of their working and leave time, and encourages them to become members of their state and local bar associations.

WASHINGTON LETTER
Vol. 9, No. 4

Help, Help, Help!!!

There is a desperate need for articles for the Barrister. All contributions will be most welcome . . . ideas, articles, suggestions, etc.

Have You Moved?

There have been many moves of offices in the past two months. If you have *not* notified the following of your correct address and telephone number PLEASE DO SO NOW.

Broward County Bar Association
The Florida Bar
American Bar Association
Clerk of The Circuit Court

Change of Address

The Broward County Bar Association office has been moved to

735 N.E. Third Avenue
Fort Lauderdale, Florida 33304

The telephone numbers are as follows:
Broward Co Bar Association 764-8040
Legal Aid 764-8110
Lawyer Referral Service 764-8310

"Light is the task when
many share the toil"

