

# The BROWARD BARRISTER

MARCH, 1973

Volume 2

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PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION  
Executive Offices, 735 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

## General Meeting . . . Thursday, March 15th

12:00 NOON

### THE RED COACH GRILL

1200 North Federal Highway, Fort Lauderdale, Florida

Lunch: \$3.50 (Includes tax and tip)

#### PROGRAM

Utilization of Psychological Services Within The Legal Profession

By DR. WILLIAM G. RYAN and JUDGE FRANK A. ORLANDO

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### Medical - Legal Meeting

The Broward County Medical Association has invited all members of Broward Bar Association to a joint meeting on

Tuesday, March 27, 1973

#### WILLIAMSON RESTAURANT

U.S. 1 at 14th Street  
Fort Lauderdale, Florida

7:00 P.M.

Social Adjustment hours (cash bar)

8:00 P.M.

Dinner (\$5.00 per person)

#### PROGRAM:

LAST YEAR and NEXT YEAR

by DOUG DICKEY, Coach  
University of Florida

(Please use the enclosed card for reservations.)

### Board of Governors Considers Judicial Selection

Reece Smith, President of The Florida Bar, requested the Board of Governors of The Florida Bar to consider modifications to the present system of Judicial selection and election. The recent report of the Committee on Judicial Selection Compensation and Tenure requested a poll of the Board of Governors on specific questions relating to the question. This poll is complete. Here are the results:

1. Are you satisfied with the present non-partisan election of judicial officers?

Yes	No	Qualified Answer
8	18	1
2. Do you oppose any change in present manner of selection?

Yes	No	Qualified Answer
4	21	2
3. Are you in favor of some form of appointment of judges?

Yes	No	Qualified Answer
22	2	3
4. Are you in favor of some form of certification and testing before qualifying for election?

Yes	No	Qualified Answer
15	11	1

President, Reece Smith now requests the members of the Board of Governors solicit the views of lawyers in their circuits on these same questions. The questions are enclosed on a separate sheet with this issue of "The Barrister" for your response.

Russell E. Carlisle and John Neely, your representatives on the Board of Governors, appreciate your views. Please send the questionnaire to:

Russell E. Carlisle  
John S. Neely, Jr.  
P. O. Box 327  
Fort Lauderdale, Florida  
33302

### Young Lawyers Section Meeting

THURSDAY, MARCH 29, 1973

12:00 Noon

Lunch — \$3.50

HEILMAN'S RESTAURANT  
1701 East Sunrise Boulevard  
Fort Lauderdale, Florida

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

#### OFFICERS

President ..... L. Fred Austin  
President-Elect ... Nicholas J. DeTardo  
Secretary ..... Lawrence J. Meyer  
Treasurer ..... Ray Ferrero, Jr.  
Past President ... Bruno L. DiGiulian  
Executive Secretary ..... Norma Howard

### Lawyer Referral Service

An answering service for "after-hours", week-ends and holidays is being maintained by the Lawyer Referral Service of Broward County Bar Association in compliance with the Rules of Criminal Procedure. The cooperation of those attorneys who have volunteered to help in this program is very much appreciated. This is an opportunity for the panel members to make a contribution to the community.

At a recent Lawyer Referral Workshop program, Chesterfield Smith, President-Elect of the ABA evidenced a great

deal of insight into the functioning of lawyer referral services as he introduced some innovative ideas as to the directions lawyer referral might take in its future.

Mr. Smith suggested that the organized bar has not attached sufficient urgency to its effort to restructure the justice system so as to make it work better for the average person. He maintains that there is a real danger of the public losing confidence in our justice system as it exists today, and that it is appropriate that the existing legal institutions be reexamined to find the causes for this discontent. It is recognized by the organized bar that legal services should be made available to all who need them, but implementation and acceptance of this principle in practice is a very great difficulty.

The bar must strive to overcome the obstacles that now virtually exclude a large portion of the population from obtaining legal services. Such obstacles as the high cost of legal services, the unavailability of competent counsel, the ignorance of the public as to how to go about finding an attorney along with a myriad of other reasons, place many

restrictions on the free use of the legal system by all people. Mr. Smith observed that Lawyer Referral Services have served a significant role in this regard, but that lawyer referral at its best does not provide a complete answer to the dilemma of presenting readily accessible legal services to everyone. However, it does have a great potential of tremendous contributions in the area.

It was suggested that new ways be found to overcome the general reluctance of bar associations sponsoring lawyer referral services to confront the issue of quality. The services have a responsibility to provide competent legal services and to periodically examine the legal proficiency of its panel members.

Mr. Smith suggested some possibilities for the referral services to consider are

1. Utilization of the media and public forums to engage in active public education programs and sponsoring group legal clinics on common problems such as consumer protection, credit difficulties, domestic relations or small claims processing.
2. Legal clinics in highly accessible locations where people are likely to gather.
3. Sponsoring and supervising voluntary community arbitration services where lawyers attempt to resolve small disputes informally and economically without court action.

Mr. Smith pointed out that prepaid legal service plans may overcome the financial obstacles which have prevented large numbers of moderate-income people from utilizing lawyer referral services. He concluded his presentation with a challenge for those men and women involved in lawyer referral services. "We must respond in an imaginative and economically viable way to resolving the multitude of problems which on a day-to-day basis now go unresolved for a large segment of our population. If Lawyer referral services can provide economical methods for dealing with such matters, a very great stride will have been made toward equal access to the law for all those who need it — not just the rich, not just the poor — but moderate-income people as well."

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## Vacation Travel

Several inquiries have been made regarding a tour for the members of Broward County Bar Association. The feasibility of such a tour is being investigated. In order to proceed with this the desires and wishes of the members must be determined. Therefore, a questionnaire is enclosed for you to complete and return.

The following locations are submitted for your consideration and comments:

1. Caribbean cruise from San Juan to St. Thomas, Martinique, Trinidad, Caracas, Curacao — 7 days.
2. Cruise from San Juan to St. Maarten, Guadeloupe, St. Luica, Martinique, Antigua, St. Thomas — 7 days.
3. Palma — Mallorca, Madrid, Ter-ramolinos, Seville, Lisbon — about two weeks. By air, sightseeing by bus.
4. Ireland, Scotland, England — about two weeks. By air, sightseeing by bus.
5. Caribbean cruiseship from Miami or Port Everglades visiting 7-8 islands. Two weeks.

In order to obtain the better group rates at least forty people are needed for the tour. Please complete the enclosed card and return immediately. If there is sufficient interest, specific plans will be made and the information sent to you.

Your cooperation is needed and appreciated.

## Committee Selections

A list of standing committees of the Broward County Bar Association is enclosed for your convenience in making preference selections for the year beginning June 1, 1973. The president-elect, Nicholas J. DeTardo, will begin working on committee appointments in April. This is not an easy task and requires



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much time and study.

Certain policies have been established regarding appointments. No Executive Committee member will be assigned to a committee except as an ex-officio member.

To expand participation in Bar Association activities members of the bar will be limited to serve on no more than three (3) committees. Also, no two members from the same law firm will be assigned to the same committee.

Every effort will be made to appoint attorneys to committees of their preference. However, it will be necessary to appoint attorneys to committees where need exists, and your cooperation is needed.

Service on a committee is a valuable contribution to your association.

## The Florida Bar Annual Convention

DIPLOMAT HOTEL  
HOLLYWOOD, FLORIDA

JUNE 13-16, 1973

Robert C. Scott, General Chairman

## Opinion — Auto Inspection

A rather ambitious case found a plaintiff suing Seminole County because his automobile was involved in a one car accident as a result of brake failure. He alleged negligence against the vehicle inspector and the county for failing to discover the defective brakes in the course of the annual automobile safety inspection.

The lower court dismissed the plaintiff's complaint with prejudice and it was appealed to the Fourth District.

Judge Walden's opinion focused on Florida Statute 325.29 which states that the inspection of any motor vehicle shall not be construed as a warranty of the mechanical condition, that no vehicle inspector shall be liable in damages for any defect in, or failure, or improper function of any item of equipment in such motor vehicle occurring subsequent to such inspection.

Florida statute 768.15 construes waiver of immunity and states no action may be brought if the claim arose out of the issuance, denial, suspension, or revocation of a permit, license, or certificate or similar authorization. The court held that there was no waiver of immunity for suit against Seminole County.

Judge Walden went on further to state that Chapter 325 was intended to contribute to the elimination of traffic ac-

cidents and to allow the plaintiff's approach would punish and burden the government for its beneficial efforts to promote traffic safety.

*Hensley vs. Seminole County*, 268 So 2d 452, 1972.

## Supreme Court Decision

By Henry J. Prominski

A rather unusual decision was handed down by the Supreme Court of Florida in the constitutionality law area.

Justice Dekle, writing the opinion, reversed the Dade County Circuit Court which had held Florida Statute 867.01 constitutional.

The state statute sought to prohibit exhibition for pay any crippled or physically distorted, malformed or disfigured person. The Plaintiff was born a dwarf and was booked by World Fair Freaks and Attractions and labeled "Sealo" the Seal Boy.

"Sealo" was prohibited from being exhibited by virtue of the state statute. In attacking the statute, it was the Plaintiff's allegation that the statute was unconstitutionally discriminatory in that it deprived "Sealo" a right to earn a living and the basis of the statute to protect the health, safety, morals and welfare of the people was not accomplished.

The Supreme Court considered the conflicting factors of the right for all to earn a living and the fact that the display of deformed persons may be repulsive and it may possibly affect the morals and general welfare. The Court did not accept the State's argument that such exhibition tends to generate physically handicapped in the public conception as freaks and make it more difficult for the handicapped to obtain employment, ultimately placing the burden upon the State welfare.

The Court, after discussing these factors, concluded that no reasonable standards were stated in the Statute and that the individual right to pursue a lawful occupation is a constitutionally protected property right. The power to regulate is not synonymous with the power to prohibit absolutely. The Court noted that in the wording of this particular statute it was apparently no violation to display freaks if no admission were collected.

The thrust of the statute was not therefore to protect the welfare of the citizens but to prohibit a business interest of this sort.

The statute was struck down as being unconstitutional for failing to set reasonable standards to be followed in its application.

*World Fair Freaks and Attractions, Inc. vs. George Hodges, Fla.* 267 So 2d 817.

## Welcome, New Members

JAMES L. CASE, a native of Flint, Michigan, has attended Michigan State University, the University of Nigeria, the University of Hawaii, and received his law degree from Northwestern University. He is associated with the law offices of Arthur J. Berk, P.A., Fort Lauderdale, Florida.

WILLIAM S. CROSS, a native of Plainfield, New Jersey received his undergraduate and law degrees from Tulane University. He is associated with the law firm of Naze, Ray and Cross, Fort Lauderdale, Florida.

GENE DOUGLAS, a native of Charleston, West Virginia, received his undergraduate degree from Florida Atlantic University and his law degree from American University, Washington, D.C. He is associated with the firm of James, Bielejeski and Lunny, Fort Lauderdale Florida.

RUSSELL FORKEY, a native of Newton, Massachusetts, received his undergraduate and law degrees from Florida State University. He is associated with the firm of Carlisle and Tworoger, Fort Lauderdale, Florida.

JOHN A. FRIEDMAN, a native of New York, New York, received his undergraduate degree from Auburn University and his law degree from Stetson College of Law. He is associated with the firm of Kelley, Tompkins, Frazier & Kelley, Fort Lauderdale, Florida.

C. B. HANKEL, III, a native of Chicago, Illinois received his undergraduate and law degrees from the University of Miami. He practices alone in Pompano Beach, Florida.

MRS. CORINNE R. KORN, a native of New York City, received her undergraduate degree from New York University and her law degree from Brooklyn Law School. She practices alone in Coral Springs, Florida.

SHELDON C. KURLAND, a native of Brooklyn, New York, received his undergraduate and law degrees from the University of Miami. He practices alone in Fort Lauderdale, Florida.

ROBERT S. MILLER, a native of New Brunswick, New Jersey, received his undergraduate degree from Duke University, and his law degree from the University of Florida. He practices alone in Fort Lauderdale, Florida.

FRANK A. ORLANDO, a native of New York City, received his undergraduate and law degrees from the University of Florida. He is a judge in the Seventeenth Judicial Circuit.

CALVIN R. ROSEN, a native of Chattanooga, Tennessee, received his undergraduate degree at the University of Cincinnati and his law degree from Chase Law School. He is associated with Rosen and Jacobson in Hollywood, Florida.

MICHAEL E. SAMUEL, a native of Philadelphia, Pennsylvania, received his undergraduate degree from Penn State and his law degree from Temple University. He practices alone in Hollywood, Florida.

HAROLD S. TAGER, a native of New York, received his undergraduate and law degrees from the University of Miami. He practices alone in Fort Lauderdale, Florida.

V. J. VOORHEIS, a native of Illinois, attended Colgate University and the University of Denver. He received his law degree from the University of Detroit. He is associated with Rimes, Greaton, Murphy and Batchelder.

DAVID D. WELCH, a native of Washington, D.C. received his undergraduate and law degrees from the University of Florida. He is associated with Musselman and Rhinehardt in Pompano Beach, Florida.

ALAN B. WHITAKER, JR., a native of Binghamton, New York received his undergraduate degree from Villanova University and his law degree from the University of Miami. He is associated with Carey, Dwyer, Austin, Cole & Selwood in Fort Lauderdale, Florida.

ROBERT R. ZWICKY, a native of Iron Mountain, Michigan, received his undergraduate degree from Carroll College and his law degree from the University of Denver. He is associated with Robert T. Adams, Jr. in Fort Lauderdale, Florida.

## 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

## 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.

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The Florida Bar  
American Bar Association  
Clerk of The Circuit Court

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