

The BROWARD BARRISTER

PUBLISHED BY THE BROWARD COUNTY BAR ASSOCIATION
Executive Offices, 733 Northeast Third Avenue, 305/764-8040, Fort Lauderdale, Florida 33304

JANUARY, 1978

Volume 7

Number 1

GENERAL MEETING THURSDAY, JANUARY 19, 1978

THE HILTON HOTEL

4060 Galt Ocean Drive — Fort Lauderdale, Florida

Cocktails 6:30 P.M. — Cash Bar

Dinner 7:15 P.M. — \$11.00

Program: **Progress and Status of the Constitutional Revision Commission**

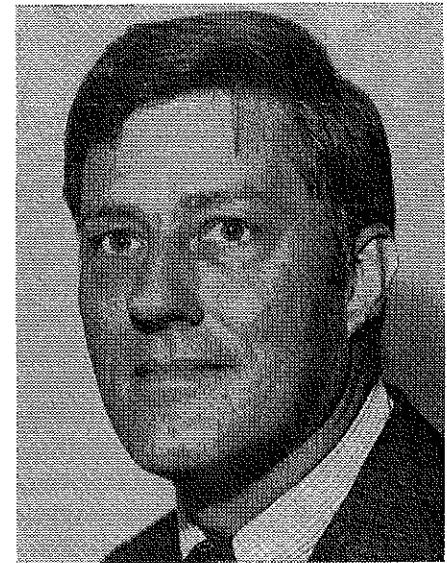
Speaker: **Talbot "Sandy" D'Alemberte, Chairman**

"Sandy" D'Alemberte is the Chairman of the Constitutional Revision Commission, and he will talk to the Broward County Bar Association about the work of the Commission. Mr. D'Alemberte is well known for his work as a member of the Florida House of Representatives from 1966-1970. He was selected "Outstanding First Term House Member" in 1967 and nominated by the Capitol Press Corps for "Most Outstanding Member" 1969-1972. On the national level, Mr. D'Alemberte is chairman of the American Bar Association Special Committee on Resolution of Minor Disputes and is also a member of the Council on Legal Education and Admission to the Bar.

The Broward County Bar Association will honor the Broward Legislative Delegation at this meeting. You are urged to attend this meeting and meet your Representatives in Tallahassee. Please be a "concerned" lawyer.

Please note change of location of meeting. The Hilton Hotel is on Galt Ocean Drive. There is valet parking, but the Hotel Management has agreed that you may also use the employees' parking lot which is on the west side of Galt Ocean Drive and across the street from the Hilton.

• Please make reservations by January 17, 1978, using the enclosed card. •



YOUNG LAWYERS SECTION MEETING

Thursday, January 26, 1978

— 12:00 Noon —

CAFE de PARIS

715-A East Las Olas Blvd.
Fort Lauderdale, Florida

Lunch: \$5.00 Members & New
Admittees

\$6.00 Non-Members

Topic: Local Rules of the 17th
Judicial Circuit

Speaker: Judge Stephen Booher

Please send reservation with check to:

William Davell
Post Office Box 14098
Fort Lauderdale, Florida 33302

OPERATION: UPDATE/TRANSITION

Wednesday, January 18, 1978

— 4:30 P.M. —

"Economics of Law Practice"

1. Fees and Billing Arrangements
2. Courtroom Demeanor
3. Managing Non-Lawyer Personnel
4. Pitfalls and Problems

Broward County Courthouse
Room 250

February 15, 1978

"Use of and Examination of Expert Witnesses"

Speakers: John E. Donahoe (Defense)
Charles Prince (Plaintiff)
(\$1.00 printing donation requested)

The December program was cancelled due to lack of attendance. This was regrettable as two very fine lawyers had spent hours in prepara-

tion for the program. The "Operation: Update/Transition" programs are excellent, and it is just too bad that the lawyers of this community do not take advantage of the programs offered rather than complain about what the Bar fails to do.

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FAMILY LAW SECTION SEMINAR

THURSDAY, JANUARY 26, 1978

1:00 p.m. - 5:00 p.m.

Auditorium

Hollywood Mailman Building
Nova University
3301 College Avenue
Davie, Florida

See enclosed registration form for additional information and prices.

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

OFFICERS

A. J. Thomas, Jr. _____ *President*
Paul B. Anton _____ *President-Elect*
Ronald P. Anselmo _____ *Secretary*
Maurice O. Rhinehardt _____ *Treasurer*
Norma Howard _____ *Executive Secretary*

**Attention Young Lawyers
And Lawyers-To-Be**

If you think that the probate division is located in the basement of the Courthouse, or if you have attempted to go to the Sheriff's office on the 11th floor, you need help. Even if you haven't gone to these extremes you still may want a brief refresher course in the basics. Help is on the way. The Young Lawyer's Section of the Broward County Bar Association will sponsor an afternoon session entitled, "How to Find the Courthouse — Nuts and Bolts of Broward County Practice", in order to help young lawyers and lawyers-to-be learn a little more about local practice. The program will be held on Fri-

day, January 27, 1978 from 1:00 p.m. to 5:30 p.m. in Room 250 of the Broward County Courthouse (where else?). The areas to be covered include appellate practice, probate practice, real property, civil practice, federal practice, workmen's compensation, law of office economics, and the Sheriff's civil department and circuit court Clerk's office.

Speakers on the program will include local practitioners, Judges, and Court personnel. The program is designed to aid the new lawyer in bridging the gap between law school and the "real" world. In addition, the lecturers will present outlines and other material to supplement the course. The cost of the program will be \$5.00 per person, which will be used to cover the outline reproduction costs. R.S.V.P. Wm. Davall —462-33301 or Mike McNearney 566-0600.

You are all invited to a party later that night. (See article on Young Lawyer's party.)

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**Young Lawyers To Hold
First Annual Jan. 27, 1978
Party**

Inasmuch as January 27, 1978 has been singled out by the Young Lawyers' Section of the Broward County Bar Association, the Executive Committee thought it would be a good idea to have a party to commemorate that day. And so, it's party time. Featured will be live music and a "low cost"

cash bar. The fiasco is open to all members of the Bar Association, their guests, as well as all young lawyers-to-be. The party begins at 8:30 p.m. and will last as long as there are party goers. We will see you at the Sheraton Hotel, 303 North Atlantic Boulevard (A1A). One more thing: the theme of the party is "dress as your alter ego". In addition, there will be a 'dry' tee shirt contest, so all you tee-shirt nuts, bring out your wild 'wares'. No diapers, please!

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**BROWARD COUNTY
TRIAL LAWYERS
ASSOCIATION**

WEDNESDAY, FEBRUARY 1, 1978

THE SHERATON HOTEL
303 N. Atlantic Blvd.
Fort Lauderdale, Florida
6:30 P.M. Cash Bar
7:00 P.M. Dinner

**"The Implementation of the General
Masters Program**

Speaker: Judge Jose' A. Gonzalez

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**Broward County Chapter
Federal Bar Association
Meeting**

THURSDAY, JANUARY 12, 1978

— 12:00 Noon —

CAFE de PARIS
715-A East Las Olas Blvd.
Fort Lauderdale, Florida

▶ **Lunch — \$6.00** ◀

Speaker:—

Professor Henry R. Rosenblatt

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**Investiture of U.S. Magistrates
Southern District of Florida**

The formal investiture of Herbert S. Shapiro and Patricia J. Kyle as magistrates for the Southern District of Florida will be held on Friday, January 13, 1978, 4:00 p.m., in the Central Courtroom at the U.S. Courthouse, 300 N.E. 300 N.E. First Avenue, Miami, Florida.

Members of the Bar, friends, and the general public are cordially invited to attend the ceremony which will be presided over by Chief U.S. District Judge C. Clyde Atkins.

☞ **NOTICE** ☞

RE: REAL PROPERTY DIVISION of the REAL PROPERTY PROBATE AND TRUST LAW SECTION OF THE BROWARD COUNTY BAR ASSOCIATION.

MEETING: Tuesday, January 24, 1978, at 4:45 p.m. at the Law Offices of Moraitis and Cofar, 2631 East Oakland Park Boulevard, Suite 208, Fort Lauderdale, Florida.

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**PROFESSIONAL ADVISORY
SEMINAR**

“New Techniques for Professionals
in Real Estate Planning”

Speaker: **Richard W. Coughlin**

WEDNESDAY, JANUARY 25, 1978
— 5:00 P.M. —

Lecture Hall
Institute for Civic Involvement
Pine Crest School
1501 N.E. 62nd Street
Fort Lauderdale, Florida

▶ **No Admission Charge** ◀

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**Tips From Your Public
Relations Committee**

Do you have good relations with local journalists or media representatives? If you do, don't be timid about making your journalist friends aware of your responsibilities and problems as a practicing lawyer. Your Broward Bar Association Public Relations Committee is striving continually to educate journalists as well as the public about the law and lawyers. Your individual contribution, however, is even more important.

If you have a public relations emergency and aren't sure about how to handle it, call the Broward Bar Association Office. The Association staff will be happy to direct you to Association Officers or Public Relations Committee members with knowledge or information that will help you resolve any public relations problems.

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**DEPOSIT RECEIPT
CONTRACT**

The Broward County Bar Association and the Fort Lauderdale Area Board of Realtors have jointly approved a new form of Deposit Receipt and Contract for Sale and Purchase. The new contract is a culmination of approximately three years of work by a Joint Committee of the Bar and the Board of Realtors. The purpose of the project was to have available to lawyers and realtors a contract which could be uniformly used within the County and which would contain standard provisions necessary to protect the public. This contract was based on the Deposit Receipt Contract approved by the Bar and the Board of Realtors in 1973. The Committee felt that it was a great improvement on the prior contract in that it more accurately re-

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flects the standards for a real estate transaction which are being required by most lawyers in the County today. A copy of the contract is enclosed for your information. Additional information will be forthcoming on where to obtain additional copies.

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"How Deep Is Deep and How High Is High?"

by HENRY J. PROMINSKI

A rather unique case was decided by the Fourth District Court of Appeal in *Jupiter Inlet Corporation vs. Village of Tequesta* 349 So2nd 216. Here a condominium corporation brought inverse condemnation action against the Village alleging that the Village had taken water for a public purpose from a shallow aquifer underneath the condominium corporation's land, that they had deprived them of the beneficial use of the shallow aquifer. The Circuit Court granted Summary Judgment in favor of the Village and the Fourth District Court reversed and remanded.

The Appellate Court found "that the shallow aquifer beneath the surface of the land is a form of private property the beneficial use of which the owner of the land can not be divested by the government for public purposes without the process of law and paying full compensation." This is true notwithstanding the fact that the Village did not physically come upon the land but pumped water from the aquifer which drew off of the water beneath the corporation's property. The legal implications at first glance seem to be monumental. Just how far beneath the surface of one's property do rights vest? All of us are sitting on property which may be part of the aquifer furnishing fresh water to the municipali-

ties of the South Florida area. Are rights in the aquifer similar to mineral and other rights imbedded in the real estate? Is there a depth to which ownership would run? That is, here there was a shallow aquifer, whatever shallow is. Is this the same as air rights? In air law a person owns a column of air to the stratosphere. The air above your house is part of the property rights, however, the damages for violating these rights by an airliner going over your property at 5,000 feet does not give, at this time, rise to damages. If the airliner on a landing pattern went over your house at 500 feet, they would be disturbing your right to peaceful enjoyment of that airspace above your property. Further questions in this area still to be resolved are whether or not the destruction of the ozone in your column of air above your property is an asset for which you can be compensated by its destruction and if a matter of proof can be established for damage to your air space, perhaps we will have an entire new area of litigation. Is this same principle to be applied for underground property rights? Are there damages for "shallow aquifer destruction"? Will there, at some point, be damages for deep underground water flow? How does one in law establish damages and proof that this water belongs under this property.

In any event it is an interesting case and one in which the novelty was recognized by the Fourth District Court of Appeal and the question was certified to the Supreme Court:

"Can a municipality be held responsible through inverse condemnation for taking from private ownership for public purposes of underground shallow aquifer water to the extent that the owner is deprived of the beneficial use of the aquifer."

WELCOME, NEW MEMBERS

ALLEN R. BOSWORTH, a native of Lancaster, New Hampshire, received his undergraduate and law degrees from the University of Miami. He is associated with Legal Aid Service of Broward County, Inc., Fort Lauderdale.

MARK RICHARD BOYD, a native of Alliance, Ohio, received his undergraduate degree from the University of Miami and his law degree from the University of Toledo. He is associated with the law firm of Walsh, Kahn and Gustafson, Ft. Lauderdale.

FRANCIS B. BROGAN, JR., a native of Paterson, New Jersey, received his undergraduate and law degrees from Georgetown University. He is associated with the law firm of English, McCaughan & O'Bryan, Fort Lauderdale.

TOM BUSH, a native of Daytona Beach, Florida, received his undergraduate degree from Florida State University and his law degree from the University of Tennessee. He is associated with David Murray, Fort Lauderdale.

ARNE B. CARLSON, a native of Fairfield, Connecticut, received his undergraduate degree from Marietta College and his law degree from Western Reserve University. He is associated with Harry Schwenke, Fort Lauderdale.

STEPHEN T. CARY, a native of Buffalo, New York, received his undergraduate degree from Cornell University and his law degree from Boston University. He is associated with the law firm of English, McCaughan & O'Bryan, Fort Lauderdale.

DENNIS ALLEN VANDENBERG, a native of Dixon, Illinois, received his undergraduate degree from the University of Miami. He is associated with Pyszka, Kessler, Adams & Solomon, Fort Lauderdale.

H. DOHN WILLIAMS, JR., a native of Miami, Florida, received his undergraduate degree from Florida Atlantic University and his law degree from Florida State University. He is an Assistant State Attorney for Broward County, Florida.

RICHARD S. ZAIFERT, a native of New York City, N.Y., received his undergraduate degree from New York Institute of Technology and his law degree from the University of Miami. He is associated with Jones and Morcroft, Fort Lauderdale.

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