



NCACC NEWSLETTER

Vol. 7, No. 1

January-April 1980

PRESIDENT'S MESSAGE

The Executive Committee held its business meeting on Saturday, March 22, at which time plans were finalized for our conference in Orlando, Florida, August 24 through August 28.

One of the major objectives at the executive committee meeting was to finalize plans for an educational program at Orlando which would be both beneficial to the members of the conference and fall within our budget restrictions.

The Educational Committee has done an excellent job of planning a well-balanced program featuring several well-known speakers combined with clerk participation workshops, and I commend them for their work.

Due to the unlimited entertainment facilities available to the members on an individual basis at Disney World, the only planned group activity will be a cash bar reception on Sunday from 6 p.m. to 8 p.m. and the West Publishing Company's reception Tuesday night. Our annual banquet will be held on Wednesday night. This will give each member an opportunity to enjoy the activities that best suit their particular interest.

Looking forward to seeing you all in Orlando.

Lewis C. Carter
President, NCACC

Officers and Executive Committee

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COMMITTEES (Chairpersons)

ABA Standards - Loren Hicks

Finance and Funding - Hazel M. Davis

Long Range Planning/Outreach - John Wilkerson

Site Selection - Frans J. Labranche, Jr.

Professional Improvement - Robert St. Vrain

Nominations - Ronald Dzierbicki

Parliamentarian - Bill Young

Publications - Newsletter - Morgan Thomas
ACA Review - Claire Whitaker

Education - Alexander L. Stevas

Membership - Luella Dunn

Awards - J. O. Sentell

Historian - Jean Kennett

Resolutions - John A. Parker

Bylaws - James H. Norris

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The Lighter Side of the Law

Sometimes you try to be funny and end up flat on your, well, back. Quite a number of years ago, this appeared in the Georgia Supreme Court Reports:

"This case was tried in a justice's court on appeal before a jury, the Honorable R. G. Riggins, justice of the peace, presiding. His honor charged the jury as follows: 'Gentlemen, this is a case which has been tried by me before, and I decided in favor of the defendant; I further charge you gentlemen, that if you find that any settlement has been made, you find for defendant; retire and make up your verdict.'

"The law does not require a justice of the peace to charge the jury at all; his ignorance of the law, as well as propriety, would deem to demand that he should not, but if he undertakes to instruct the jury, he must do it correctly and in accordance with law. A justice of the peace is generally a man of consequence in his neighborhood; he writes the wills, draws the deeds and pulls the teeth of the people; also he performs divers surgical operations on the animals of his neighbors. The justice has played his part on the busy stage of life from the time of Mr. Justice Shallow down to the time of Mr. Justice Riggins. Who has not seen the gaping, listening crowd assembled around his honor, the justice, on tip toe to catch the words of wisdom as they fell from his venerated lips?

""And still they gazed,
And still the wonder grew,
That one small head
Could carry all he knew.""

The postscript is that when the author of the opinion ran for another term on the Bench, the JP's got together and defeated him.

* * * * *

RENDEZVOUS WITH RON:

Ron Dzierbicki, mentally romancing in Lansing, sent me a copy of "Grand News from Mackinac," a publication of the Grand Hotel.

It seems that Universal made a movie up there in 1979. It is titled "Somewhere in Time" and stars Christopher Reeve, Jane Seymour, Christopher Plummer, and Theresa Wright.

Ron says that you members who attended the 1978 Conference might want to watch out for the movie. You may, he says, discover that the torrid love scenes are being played in your old room. Sigh!

Morgan

Annual Conference

NCACC ANNUAL CONFERENCE

AUGUST 24-28, 1980

(Sunday) August 24

4:00 p.m. - 8:00 p.m. Welcoming Reception -- Cash Bar
Yosemite Room

(Monday) August 25

8:00 a.m. - 9:00 a.m. Outgoing Executive Committee Meeting
Yosemite Room

9:00 a.m. - 9:15 a.m. Welcoming Remarks -- Atlantic Room
Chief Justice "Duke" Cameron
Florida Appellate Judges' Conference Chairman

9:30 a.m. - 10:45 a.m. "Bringing Method to Our Madness"
An Overview of Administrative Techniques that Work
Atlantic Room
Earl C. Bolton, Esq.
Former Vice-President, Booz, Allen & Hamilton, Inc.

10:45 a.m. - 11:00 a.m. Coffee Break

11:00 a.m. - 12:15 p.m. General Discussion/Afternoon Workshop Leaders
Atlantic Room

12:30 p.m. - 1:30 p.m. Luncheon Break

2:00 p.m. - 4:00 p.m. Workshops
Leaders
Clay Robbins, Jr.
Clerk, Court of Appeals, Los Angeles

Carol Justis
Records Administrator, Supreme Court of Oregon

Ross Lillard
Clerk, Supreme Court and Court of Criminal
Appeals of Oklahoma

John J. Champagne
Clerk, Supreme Court of Washington

6:30 p.m. - 9:30 p.m. Lake Outing (Optional)
"Hoopdee-Doo" Musical Review

NOTE: Ray Rhodes called to correct an item which appears in the Conference Registration material. American Express cards, as well as Master Charge will be accepted in the whole Disney World complex.

(Tuesday) August 26

- 9:00 a.m. - 9:30 a.m. Honorable James M. Dolliver
Chief Justice, State of Washington
- 9:30 a.m. - 10:15 a.m. Case Management/Monitoring Appeals
Atlantic Room
(To be announced)
- 10:15 a.m. - 10:45 a.m. Coffee Break
- 10:45 a.m. - 12:30 p.m. Panel Presentation
Frans J. LaBranche, Jr.
Clerk, Supreme Court of Louisiana

Thomas R. Appleton
Clerk, Fourth Appellate District,
State of Illinois

Mac V. Danford
Clerk, Court of Appeals, State of Colorado

Corbin R. Davis
Deputy Clerk, Supreme Court of Michigan
- 12:30 p.m. - 1:30 p.m. Luncheon Break
- 2:00 p.m. - 5:00 p.m. Workshops (same room)
- 6:00 p.m. - 8:00 p.m. West Publishing Company Reception
Atlantic Room

(Wednesday) August 27

- 9:00 a.m. - 12:30 p.m. "Stress Management" -- Atlantic Room
Dr. Herman L. Glaess
Professor of Education, Concordia Teachers' College
- 1:30 p.m. - 2:00 p.m. Charles Nelson
Managing Editor, West Publishing Company
- 2:00 p.m. - 5:00 p.m. Annual Meeting
- 7:00 p.m. - 8:00 p.m. Reception -- Atlantic Room
- 8:00 p.m. Banquet -- Pacific Room
Honorable Arthur England
Chief Justice, State of Florida

(Thursday) August 28

- 8:00 a.m. - 9:00 a.m. Incoming Executive Committee Meeting -- Shenandoah Room
- 9:00 a.m. - 10:00 a.m. Critique and Planning -- Atlantic Room
- 10:00 a.m. - 12:00 p.m. Committee Meetings (Many rooms reserved)

Jackson Hole Meeting

EXECUTIVE COMMITTEE

MARCH 21, 1980

The meeting was called to order at 9:00 a.m. by President Carter. Present at the meeting were Lew Carter, Mary Ann Hopkins-Young, Dorothy Norwood, Loren Hicks, John Scott, Frances Smith, Al Stevas, Kevin Swanson, Claire Whitaker, and Rita White. Also present as guests were Jean Kennett, Joline Williams, Ron Dzierbicki, Larry Gill, and Richard Conboy of the Montana Supreme Court.

The President asked that all guests make their presentations at the beginning of the meeting, and the Executive Committee would then meet in closed session to discuss the presentations and other business.

The first presentation was by Jacqueline Bradford of the Ramada Snow King Inn. Ms. Bradford stated that Jackson offers a wide variety of recreational activities during the summer months, including tours of Yellowstone and Grand Teton Parks, fishing, boating, nature trails, horseback riding, and also a rodeo four nights a week. Frontier Airlines, which services Jackson through Denver and Salt Lake City, puts on additional flights during the summer months. The other alternative is to fly to Idaho Falls and drive to Jackson. The hotel has tentatively reserved 100 rooms for August 2-6, 1981. The rates this year were \$42, single, and \$52, double, with no charge for children under age 18 staying in the same room with their parents. Family, parlor, and kitchen suites are available. The hotel provides one complimentary room for every 50 rooms booked. If we book 100 rooms, we may either have two single rooms without charge or a parlor suite. Ms. Bradford guaranteed one person from the hotel for assistance with registration. Other assistance may be available for a charge from the Chamber of Commerce.

Jean Kennett next extended an invitation to the Conference to hold its 1982 Conference in Boston. She suggested holding the convention at either the Parker House or the Copley Plaza. A written proposal was presented to each member of the committee. Jean requested a decision at this time since many conventions in the Boston area are planned four and five years in advance.

Ron Dzierbicki gave a report on interrelated activities with other court organizations. He stated that the First National Symposium on Court Management is scheduled to be held in San Diego from September 13-16, 1981. The symposium initially was funded with a \$10,000 LEAA grant and private foundations will be solicited for additional funds. Three organizations are going to hold annual conferences at the same time of the symposium. Although, NCACC and COSCA will not be holding annual conferences at the same time, it is estimated that 30 members of these organizations will attend.

The current projects of the Interorganizational Coordinating Committee are the symposium and the Court Management Journal. This committee is primarily for the purpose of having contacts with other court organizations. The next meeting will take place during the NACA/NATCA conference in August.

Ron further reported that the workshops designed by the Appellate Justice Improvement Project are near completion. Sometime during the year, a three-day program will be offered to appellate court clerks and other interested programs. There will not be a tuition fee since the project is LEAA supported.

President Lew Carter next reported that he had spoken with Lee Powell and that presently 82 members have paid dues. Also one newsletter was cancelled for a savings of \$440.00.

Lee Powell will go to Orlando early to assist Ray Rhodes and Sid White with conference arrangements.

When no objections were made from the membership to asking Lawyers Co-operative and the Bureau of National Affairs to become sustaining members of our organization, the invitations were issued, and a check has been received from Lawyers Co-op. BNA will be forwarding a check shortly.

Dorothy Norwood gave a report of the Awards Committee for Chairman J. O. Sentell. Al Stevas moved that the report of the Awards Committee be accepted and that the recommended recipient be approved. Mary Ann Hopkins-Young seconded and the motion was unanimously adopted. The report of the awards committee is attached as Exhibit 1 to the original of these minutes. President Lew Carter will notify the recipient who will be presented with the award at the annual conference banquet. Al Stevas next moved that the annual award be entitled the J. O. Sentell Award. John Scott seconded and the motion was adopted.

After additional discussion of the process in selecting the recipient for the annual award, it was agreed by all members of the Executive Committee that in future years the Awards Committee should follow the process for selecting the recipient adopted by the Executive Committee. The process adopted was that suggestions be solicited from the membership in the newsletter, that the newsletter give the specific criteria for the award, and that the member nominating a recipient state what the contributions were and why the person was recommended. The Awards Committee would be responsible for recommending not more than 3 possible recipients to the Executive Committee for final selection.

Al Stevas reported that we now have approximately 75 biographical sketches for our directory. Preceding the biographies from each state will be a list of the various courts with the names of the clerks and deputies. The front of the directory will also contain a brief history of the NCACC.

Loren Hicks, as Chairman of the ABA Standards Committee, stated that there is not much that appellate court clerks can do in implementation of the standards, and he recommended that the committee be discontinued, stating it could be reappointed on an ad hoc basis if necessary.

Lew Carter reported that the Arrangements Committee has stressed that reservation cards sent to members by the hotel must be used for the Orlando conference.

The Executive Committee discussed at length proposed amendments to the bylaws, which will be presented at the annual meeting. The Bylaws Committee did not make a report, but copies of proposed amendments by some members of the committee were available.

Kevin Swanson reported that Lu Dunn has prepared a packet for prospective members. The packets were furnished to the Membership Committee for use in seeking prospective members within each geographical location.

Next on the agenda was the 1981 conference site. The discussion centered around financial problems, and the possibility of holding the annual meeting in connection with the national symposium in San Diego. The Ramada Snow King in Jackson agreed to

hold space for our 1981 conference until after our Orlando meeting. By that time we will know if LEAA funds will be available for 1981. Loren Hicks moved that if we have an annual meeting apart from the symposium that it be held in Jackson Hole, Wyoming, with the final decision to be determined at the annual conference in Orlando, Florida. Kevin Swanson seconded and the motion carried.

The Executive Committee next approved Boston for the 1982 conference site. This meeting will be held at the Parker House, August 1-5, 1982.

The proposed program for Orlando was discussed in detail. Because of the costs involved, the proposed luncheon meetings with speakers will be deleted. Workshops will be a major part of the program. The main speakers on the program will be Earl Bolton and Dr. Glaesse. Their topics will be personnel management and stress management, respectively. It was recommended to the Education Committee that workshop leaders be selected from the members of our organization who have not previously served on the program. A tentative list of names was given to Program Chairman Stevas. Members of the Executive Committee who had been selected tentatively for workshop chairmen, asked that their names be removed. It was further agreed that to cut costs, breakfast would not be served at the morning Executive Committee meetings.

The President expressed our appreciation to Rita White and to the local bar association for the Thursday evening reception and for their gracious hospitality during our visit to Jackson.

The final item on the agenda was a unanimous wish for a most happy birthday to John Scott.

The President adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Dorothy Norwood
Secretary-Treasurer

PROPOSED AMENDMENTS TO THE BYLAWS

To amend Article III, S. 1, by adding the underscored portion:

1. Membership shall be open to all clerks, assistant clerks or deputy clerks, or other similar positions bearing different titles, or courts of last resort or intermediate appellate courts in the federal, state, commonwealth, District of Columbia and the United States territories and possessions court systems. Sustaining membership shall be open to any individual, unit of government, corporation, association, or organization upon invitation of the Executive Committee provided that thirty days prior to the invitation the Executive Committee has referred the name of any such individual, unit of government, corporation, association, or organization to the general membership for consideration and comment.

To amend Article III, S. 2, by deleting the words in brackets and by adding the underscored portion:

2. A regular member of this Conference may continue as a member upon termination of his or her service with an appellate court, but shall not be eligible to hold office

(other than ex-officio.) except that the immediate past president may continue to serve as a member of the Executive Committee as provided in Art. VI, para. 1, even though no longer serving with an appellate court.

To amend Article V, Section 2, by adding the underscored portion:

2. The officers shall serve until the close of the annual meeting following that in which they have been elected or succeeded to the office pursuant to Sec. 3 of this Article, except the Secretary-Treasurer who shall serve for two terms.

To amend Article V, Section 3, by deleting the words in brackets and adding the underscored words:

3. The President-Elect shall succeed to the office of President at the expiration of (his) the term as President-Elect. The Vice-President shall succeed to the office of President-Elect at the expiration of the (his) term as Vice-President. At each annual meeting, the Vice-President shall be elected by a vote of a majority of the members present at the meeting and entitled to vote; the Secretary-Treasurer will be elected every two years.

To amend Article VI by deleting the words in brackets and adding the underscored words:

1. The Executive Committee shall consist of the four officers, the immediate past president and six members of the Conference who shall serve for two years (and are to be elected by a majority of the members present at the annual meeting. When the Executive Committee is elected at the August 1978 annual meeting, three of its members shall serve for a term of one year and three for a term of two years. These terms will be determined by a lot at this meeting. Thereafter, all members of the Executive Committee shall be elected for terms of two years. No member of the elected Executive Committee shall serve for more than one term. Such person may be reelected after a lapse of one year.) Three of the six members of the Conference shall be elected at each annual meeting by a majority of the members present. In case a vacancy occurs among the six Conference members, the Executive Committee shall choose a successor who shall serve until the close of the next annual meeting. The successor so chosen shall be eligible at the next annual meeting for election to that or any other vacant position on the Executive Committee. No member elected to one of the six Conference positions on the Executive Committee shall be eligible for another term thereon until after the lapse of one year.

To further amend Article VI, by adding a new Section 6, which reads as follows:

6. The Executive Committee shall decide any question raised as to the interpretation and application of these bylaws.

THE ABOVE AMENDMENTS WERE RECEIVED FROM THE BYLAWS COMMITTEE.

Two additional amendments to Article VI, Section I, were received from Glen D. Clark, Clerk of the Court of Appeals, Division One, Arizona, and Clifford C. Porter, Clerk, Court of Appeals, First Appellate District, California, which are as follows:

SINCE THE PRESENT ARTICLE VI HAS BEEN QUOTED IN ITS ENTIRETY ABOVE, ONLY THE PROPOSED CHANGES AT THE APPROPRIATE PLACE ARE SHOWN HERE:

1. The Executive Committee shall consist of the officers, the immediate past president and six district representatives. One district representative will be elected

from the six districts of the Conference and shall serve for two years. Each district representative, one from each of the six districts of the Conference, will be elected by a majority of the members present at the annual meeting. The six districts of the NCACC will consist of the following states.

- District 1. Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, and Delaware.
- District 2. Pennsylvania, Ohio, Michigan, Indiana, Kentucky, West Virginia, Virginia, Maryland, and Washington, D.C.
- District 3. Tennessee, North Carolina, South Carolina, Louisiana, Mississippi, Alabama, Georgia, and Florida.
- District 4. Wisconsin, Minnesota, Iowa, Nebraska, North Dakota, South Dakota, Wyoming, and Montana.
- District 5. Illinois, Missouri, Kansas, Arkansas, Oklahoma, Texas, Colorado, and New Mexico.
- District 6. Alaska, Washington, Oregon, Idaho, Nevada, Utah, Arizona, California, and Hawaii.

A map of the United States depicting the six districts of the NCACC is attached as Annex A to the bylaws.

THE ADDITIONAL CHANGE SUGGESTED BY MESSRS. CLARK AND PORTER IS:

No member of the elected Executive Committee shall serve for more than one term. No member of the elected Executive Committee shall be succeeded by a member of a court from the same state. Such person or persons may be reelected after a lapse of one year.

A conference member submitted the following amendment to Article II.

A new paragraph 3 to read as follows:

3. No member shall be eligible to an elected office unless he or she has been a member in good standing for the two years immediately preceding the election or appointment.

The old paragraph 3 becomes new paragraph 4, and adds the underscored words:

4. Memberships are renewable by payment of annual dues. The annual dues shall be \$35 for regular members, and \$100 for sustaining members payable in advance on or before July 1 of each year. A membership that has lapsed for nonpayment of dues by July 1 of any year may be reinstated upon the payment of the dues for the immediate past year.

ANNEX A

SIX DISTRICTS OF THE NCACC

District 1: Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, and Delaware.

District 2: Pennsylvania, Ohio, Michigan, Indiana, Kentucky, West Virginia, Virginia, Maryland, and Washington, D.C.

District 3: Tennessee, North Carolina, South Carolina, Louisiana, Mississippi, Alabama, Georgia, and Florida.

District 4: Wisconsin, Minnesota, Iowa, Nebraska, North Dakota, South Dakota, Wyoming, and Montana.



District 5: Illinois, Missouri, Kansas, Texas, Arkansas, Oklahoma, Colorado, and New Mexico.

District 6: Alaska, Washington, Oregon, Idaho, Nevada, Utah, Arizona, California, and Hawaii.

Membership Committee Report

The Membership Committee of the NCACC, chaired jointly by Lu Dunn and Loren Strotz, met in Monterey to establish a plan of action for promoting membership in the National Conference.

Each member of the committee has been assigned certain states and will be responsible for contacting eligible persons in those states. The committee members feel this method will insure contacts in every state.

If possible, personal contacts will be made by the committee members. Otherwise, communication will be by telephone or letter. A follow-up call or letter will be made in each instance. The membership committee hopes these contacts will encourage new members to join our organization and attend the annual conference.

Lee Powell from the National Center for State Courts has prepared membership packets which will be disseminated by the committee to prospective members.

Anyone who knows of a prospective member is urged to contact a member of the Membership Committee.

Members of the committee and their designated states are as follows:

Loren J. Strotz:	Illinois, Missouri, Arkansas, Kentucky, Florida, Indiana
Mary M. Wakefield:	Texas, Louisiana, New Mexico, Oklahoma
George Pappagianis:	New Hampshire, Vermont, Maine, Rhode Island, Connecticut, Massachusetts
Kevin A. Swanson:	California, Utah, Nevada, Arizona, Colorado
George W. Singleton:	West Virginia, Virginia, Delaware, South Carolina, North Carolina
Richard D. Taylor:	Washington, Hawaii, Idaho, Alaska, Oregon
Hazel McLain:	Alabama, Georgia, Tennessee, Mississippi
John McCarthy:	Minnesota, Wisconsin, Michigan, Iowa
Shirley House:	Ohio, New York, New Jersey, Maryland, Pennsylvania, Washington, D.C.
Luella Dunn:	North Dakota, Nebraska, South Dakota, Montana, Wyoming, Kansas

NEW MEMBERSHIP POLICY: NCACC is now operating under a dues system that will enable the National Center Secretariat office to keep the membership list updated. Names of members who have not paid their 1980 dues will be deleted from the NCACC roster May 15. Individuals may resume their NCACC membership upon payment of their annual dues.

HELP...

I would appreciate any help that you might be able to give me in setting up a budget for the National Conference of Appellate Court Clerks. I know that in our midst we must have someone who excels in this area. I have been able to come up with a Statement of Revenue and Expenses for the calendar years 1975 through 1978 (Chart No. 1). With this, I came up with a four-year average with a tentative budget in mind (Chart No. 2).

You will note that the LEAA money is not included in our budget, as those funds are never deposited in our account but are held by the Appellate Judges' Conference and are billed directly to them. The example below shows the LEAA Funds deposited and disbursed in 1979 and those available in 1980.

1979

1. Revenue	\$10,000.00	(\$7040-Travel; \$2960-Misc.)
2. Expenditures to Date	8,472.22	
a. St. Louis - Travel		\$2,708.25 (\$3840-Budget)
b. Monterey - Travel		4,289.08 (\$3200-Budget)
c. Printing & Postage (State of Michigan)		1,474.89
3. Balance	1,485.11	
4. Outstanding Bills		
a. National Center (Newspaper Expenses)		720.77
b. Monterey Hotel Costs		1,056.85 (approximately)

1980

1. Revenue	\$ 8,685.00
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Anything after that is tentative.

I would appreciate hearing from any and all of you regarding a budget for our conference.

Maryann Hopkins-Young
Co-Chairperson,
Finance & Funding Committee

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NATIONAL CONFERENCE OF APPELLATE COURT CLERKS

(Chart No. 1)

Statement of Revenue and Expenses
Calendar Years 1975-1978

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
<u>Revenue</u>					
Membership Dues - Regular		\$1,775.00	\$1,725.00	\$2,150.00	\$3,100.00
- Associate		525.00	660.00	645.00	
Conference Income		1,619.69	2,130.00		4,585.00
Book Sales			1,450.00	278.00	17.00
Contributions			400.00		250.00
Interest			125.00	313.00	315.00
Miscellaneous					217.00
Total Revenue		<u>\$3,919.69</u>	<u>\$6,490.00</u>	<u>\$3,386.00</u>	<u>\$8,487.00</u>
<u>Expenses</u>					
Travel - Board of Directors		\$ 70.00	\$ 331.00	\$	\$ 283.00
- NCSC				769.00	1,166.00
Office Expenses - Postage		196.74	355.00	522.00	513.00
- Xerox		25.91	19.00	30.00	9.00
- General Supplies		60.00	399.00	232.00	226.00
- Fees, Fines, Taxes				60.00	30.00
- Secretary Services					250.00
Printing - Newsletter		194.70	586.00	339.00	534.00
- Other		19.35	212.00	98.00	3,473.00
Conference Expenses		502.98	2,578.00	379.00	6,771.00
Miscellaneous		60.64		170.00	168.00
Total Expenses		<u>\$1,130.32</u>	<u>\$4,480.00</u>	<u>\$2,599.00</u>	<u>\$13,423.00</u>
Revenue Over (Under) Expenses Per Year		\$2,789.37	\$2,010.00	\$ 787.00	\$(4,936.00)
Fund Balance	\$2,007.35	\$4,796.72	\$6,806.72	\$7,593.72	\$ 2,657.72

NATIONAL CONFERENCE OF APPELLATE COURT CLERKS

(Chart No. 2)

	<u>4-Year Average</u>	<u>Tentative Budget</u>
<u>Revenue</u>		
Membership Dues - Regular	\$ 2,188	\$ 5,530 (158 members)
- Associate/Sustaining	458	100 (1 member)
Conference Income	2,084	
Book Sales	436	
Contributions	163	
Interest	189	
Miscellaneous	54	
Total Revenue	<u>\$ 5,572</u>	\$
<u>Expenses</u>		
Travel - Board of Directors	\$ 171	\$
- NCSC	484	
Office Expenses - Postage	397	
- Xerox	21	
- General Supplies	229	
- Fees, Fine., Taxes	23	
- Secretary Services	63	
Printing - Newsletter	413	
- Other	951	
Conference Expenses	2,558	
Miscellaneous	100	
	<u>\$ 5,410</u>	\$

Excerpt...

'THE BRETHREN': A CRUEL ATTACK ON HONORABLE INSTITUTION
as reprinted from Boston Globe, December 24, 1979.

The process of appellate justice in the United States has been dealt two heavy blows in recent weeks. First, there were the lengthy and disheartening hearings in California on the inner workings of its Supreme Court where allegations had been lodged that politics had played a role in the time of release of court opinions. Now we have the publication of "The Brethren" by Woodward and Armstrong which purports to cruise around inside the US Supreme Court and dissect its operations in a most unflattering manner. What could result from this publication?

"The Brethren" is a cruel book. It is cruel because it does not spare the sensibilities of an honored court and honorable men. It is particularly cruel since it places under attack the one governmental institution to which the average citizen, worried at some of its pronouncements, yet looks for the ultimate support of his rights and beliefs. Where criticism of the Court and its work is constructive, constitutional government is aided by voicing it. There is a myriad of examples of this over the years. But the thrust of this work is utterly destructive. Anyone who believed all that "The Brethren" has to say would hold a very dim view of the third branch indeed.

The work of the appellate judge has to be understood. A case is argued on appeal. It is taken by the court to be written. Thereafter, an elaborate procedure of consideration is embarked upon. This involves study of the law, weighing of the facts, trying and testing of the result and decision. To these facets in decision-making the law clerks attached to the court bring their aid. They are young people, for the most part just out of law school, and generally standing at the top of their classes when they are hired.

Years ago there were no law clerks. The judges by themselves did all the checking and all the leg work that go into a decision. Horace Gray, a Chief Justice of Massachusetts who went to the US Supreme Court in the last century, retained the first law clerk in that court. Here in Massachusetts it is within 50 years that law clerks have joined the judicial establishment.

One might ask why there is need for them at all when the high courts of England and around the British Commonwealth do without them and where opinions come down from the bench immediately at the close of arguments on appeal. But we do need them. Our system picks up complicated areas in the law for treatment in the courts to a much greater extent than is elsewhere the case. A judge can only do so much in the time available to him and the average appellate judge in this country, state or federal, is a very hard working person.

The authors of "The Brethren" boast of having interviewed over 170 former law clerks at the Supreme Court. One vice of the book lies in its interference with the deliberative process--and that by getting certain former law clerks, not all by any means, to talk about it. The shaping of opinions is often time-taking, thought-provoking, and not seldom exasperating. It can produce inside a court occasional irritation and demonstrations of pique. But this is caused by the tension of the process and the desire to come out right--for the litigants and the law. The day after the release of an opinion incidents in its construction are past and gone and the court is busily engaged in work on the next one.

Furthermore, any one who is or has been an appellate judge knows that confidentiality is at the core of the relationship between the Court and law clerks. The former law clerk babblers who aided these authors in a rape of in-court memos and who

retailed in-house conversations are a disgrace to their profession. They have done great damage to the Court and to public understanding of what really motivates the judges.

The Court speaks through its opinions, majority and dissenting. The bar will have ample time to guide it from what is published. It does not need and will only be confused by descriptions of the oftentimes painful preliminaries to that publication. If, as Bacon once remarked, "An overspeaking judge is no well tuned cymbal," how much more so is that true of the law clerk. What these overspeaking clerks have done is to muddy the waters of appellate justice, create barriers between judges and clerks where none existed before, and raise large questions generally in the relationship between judges and clerks all over the country. In this regard at least, "The Brethren" may well produce some very disturbing results.

In Massachusetts we have been and are proud of the law clerks assisting its highest courts. So far as I know, all have honored the injunction laid upon them as they entered their clerkships that they should hold confidential what transpired between them and the judges to whom they were assigned. Based on "The Brethren" we have something to teach Washington.

Justice Holmes once said, "The attacks on the Court are merely an expression of the unrest that seems to wonder vaguely whether law and order pay. When the ignorant are taught to doubt they do not know what they safely may believe. And it seems to me that at this time we need education in the obvious more than investigation of the obscure."

Not a bad quote for Messrs. Woodward and Armstrong to ponder as we ponder the motives of those who, we are told, provided them with two years off from their journalistic duties with full pay and a \$350,000 advance to launch "The Brethren."

By Paul C. Reardon
A former chief justice of the
Massachusetts Supreme
Judicial Court.

Congratulations

SCOTT APPOINTED AS SUPREME COURT CLERK

Chief Justice John Palmore has announced the appointment of John Coleman Scott to the position of Clerk of the Supreme Court, effective December 11, 1979. The position became vacant upon the swearing in of former Clerk Martha Layne Collins to the office of Lieutenant Governor. Mr. Scott will also continue his duties as Clerk of the Court of Appeals, a position he has held for the three years since the inception of the new intermediate appellate court.

