

National Conference of Appellate Court Clerks

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FILED

MAR 17 1975

CLERK SUPREME COURT

NEWSLETTER

Volume 2, Number 2

March 1975

NEWSLETTER STILL CALLED "NEWSLETTER"

Like cats who are called "Cat" and dogs who are called "Dog," the NCACC Newsletter is still being called "Newsletter." The reason--few, if any, suggestions for a new and, hopefully, more distinctive name have been received by members of the NCACC editorial committee or by the National Center for State Courts, which publishes the newsletter as part of the secretariat services it provides the NCACC.

So don't be shy, don't be modest, don't let George do it. Be witty and clever and forthcoming. And if you can think of a name for this thus-far nameless publication, pass your ideas on to Florence Peskoe, John Powers, Hyman W. Gamso, or Corbin Davis, all members of the NCACC editorial committee, or send them to the National Center at 1660 Lincoln Street, Suite 200, Denver, Colorado 80203.

No prizes are being offered (do not send box tops with your submissions), other than recognition--we'll identify you as the source of the name--and appreciation.

DATE AND SITE SET FOR ANNUAL MEETING

The NCACC annual conference will be held this year in Flagstaff, Arizona. Please note the dates--July 16 through 19--and plan to attend. If your court does not have travel funds available for your trip, your LEAA State Planning Agency may have grant funds set aside for this type of meeting.

The NCACC executive committee will meet in New Orleans on the 21st of this month to discuss plans for the annual conference, and further details will appear in the next (April) issue of this newsletter.

CONGRESS TO CARRY OUT FIRST FULL-SCALE REVIEW OF LEAA

The first full-scale Congressional review of operations of the Law Enforcement Assistance Administration is tentatively scheduled to begin this spring under the direction of Rep. John Conyers, Jr. (D-Mich.), chairman of the House Judiciary Subcommittee on Crime. Conyers has asked his staff to begin preparations and has indicated he will launch the inquiry with a series of field hearings into LEAA funding for the courts.

Detroit, San Francisco, Denver, and Boston are among the field sites under consideration.

The so-called "oversight hearings" are expected to continue throughout the year and will provide background for formal legislative hearings next year when LEAA's authorizing act comes up for Congressional renewal.

Meanwhile, Sen. William Proxmire (D-Wis.) has launched a strong attack against LEAA, saying it has done "little but waste the taxpayers' money." Proxmire, who is chairman of the Joint Economic Committee's Subcommittee on Priorities and Economy in Government, said he hopes Senate subcommittees will "go into LEAA program weaknesses in great detail."

Among Proxmire's suggestions for change are that the LEAA budget be cut dramatically and "the funds either channeled into more productive criminal justice programs--strengthening federal courts and law enforcement effort, for example--or simply returned to the taxpayers."

He also said that "irrespective of funding level, LEAA should be barred from spending more than 40 percent of its 'action grant' appropriation on police projects and should be required to spend a minimum of 25 percent of its appropriation for the court system and a minimum of 25 percent for corrections."

NATIONAL CENTER TO DEVELOP JUDICIAL INFORMATION SYSTEM FOR NORTH DAKOTA STATE COURTS

Chief Justice Ralph J. Erickstad of the North Dakota Supreme Court recently signed a contract with the National Center for State Courts retaining the NCSC to provide consulting services to the State Court Administrator's Office for the development of a comprehensive statewide judicial information system.

The system will provide the means for gathering and analyzing data on the operation of the North Dakota courts with an eye to improving overall judicial management. The National Center, working with a 15-member advisory committee appointed by Chief Justice Erickstad to provide input from all court levels, will develop a master plan with cost estimates for the implementation of the management information system on a staged basis. One of the first needs is to provide the Supreme Court and presiding district judges with case-flow and case-status information, plus the procedures for making judicial assignments.

Luella Dunn, clerk of the Supreme Court of North Dakota and a member of the NCACC, is serving on the advisory committee.

HYMAN W. GAMSO REPRESENTS NCACC AT NATIONAL APPELLATE JUSTICE CONFERENCE

The National Conference of Appellate Court Clerks was represented by Hyman W. Gamso of New York at the National Conference on Appellate Justice in San Diego January 23-26.

The conference, the first of its kind, brought together 250 well-known judges, lawyers, law professors, and others to focus high-level attention on possible remedies for problems of the appellate courts. It was called by the Advisory Council for Appellate Justice and was cosponsored by the National Center for State Courts and the Federal Judicial Center.

Mr. Gamso, clerk of the New York Supreme Court, Appellate Division, First Department, said he felt privileged to attend the conference, having been invited as president-elect of the NCACC.

The conference was intended to elicit ideas rather than produce a consensus view or model appellate court plan.

"The 250 participants at this conference command the largest resources of knowledge, energy, and desire that could be assembled to effect reform," said Professor Maurice Rosenberg of the Columbia University School of Law, chairman of the Advisory Council which called the conference.

Participants at the conference heard speeches on key issues relating to appellate reform and then split into eight workshop groups. Proposals discussed at the workshops included shortening the length of opinions; procedures for waiver or limitation of oral arguments in certain classes of cases; limitation of the right of appeal in specific classes of cases; central appellate staff for screening of appeals; and unifying the review process to minimize collateral attack.

The National Center for State Courts has accepted responsibility for developing a follow-up plan to assist state appellate courts in implementing ideas for appellate overhaul raised at the conference.

LOWER COURT RECORDS "OPTIONAL" IN PETITIONS FOR CERTIORARI

Correspondence between Florence R. Peskoe, clerk of the Supreme Court of New Jersey and a member of the NCACC executive committee, and Michael Rodak, Jr., clerk of the United States Supreme Court, has clarified the meaning and intent of the Supreme Court's rule regarding the necessity of including lower court records with petitions for writs of certiorari.

Rule 21 (1) provides in part: "A party intending to file a petition for certiorari may, prior to filing the case in [the Supreme Court] or at any time thereafter prior to action by [the Supreme Court], request the clerk of the court possessed of the record to certify it, or any part of it, and to provide for its transmission to [the Supreme Court], but the filing of the record in [the Supreme Court] is not a requisite for docketing the petition."

Mr. Rodak explains: "Rule 21, therefore, gives either party the option as to whether or not he feels that the record is necessary for the proper disposition of his case. The rule further provides that the clerk of the Supreme Court may request the record [although] the clerk would not ordinarily request the transmission of the record unless a Justice of the Court requests it or if the Court agrees to hear the case."

Before the current rules of the Supreme Court were adopted in June of 1970, a certified copy of the lower court record was necessary to file a case in the Supreme Court, though cases could be filed in forma pauperis without such records upon showing that the records were not made available free of cost to litigants.

In his explanation of the 1970 change, Mr. Rodak pointed out that Rule 21 was apparently amended because most of the Justices felt that the record was not needed to dispose of the vast majority of the cases filed. "I know for a fact," Mr. Rodak said, "that most of the records received were not requested for examination by the Court. Because of the large number of cases disposed of by the

Court during each term, I make every attempt to discourage counsel from requesting the record from the lower court. I know that many hours are spent preparing and transmitting the records to this office and many hours are spent by this office packing and returning these records.

"I advise counsel," Mr. Rodak continued, "that if the Court needs the record to dispose of the case it will direct this office to request it. However, while I discourage counsel from requesting the record, the decision is made by counsel, since Rule 21 clearly gives him that option."

Ms. Peskoe indicates that she has taken Mr. Rodak's advice and now encourages counsel to await a request from the Supreme Court before transmitting records from her court to the Supreme Court.

"Of course, if counsel insists on transmitting our record in advance of such a request, we comply with his request for its preparation," she said.

THE JOB MART

Clerkship openings, which may be of interest to members of the NCACC, may be announced in the NCACC Newsletter. Notice of such openings should be sent to the NCACC's secretariat, the National Center for State Courts, 1660 Lincoln Street, Suite 200, Denver, Colorado 80203, with such details as the nature of the position open, the jurisdiction of the court system involved, etc. Also please note to whom applications, resumés, and salary requirements should be addressed.

The editor of the Newsletter will check with the source of the information shortly before publication to make sure that the position being advertised has not yet been filled.

JANE BOWERS TO SERVE AS NCACC LIAISON AT NATIONAL CENTER

Jane Elkind Bowers has joined the staff of the National Center for State Courts, secretariat of the National Conference of Appellate Court Clerks, in the capacity of liaison with the NCACC and with the National Association of Trial Court Administrators, which the Center also served as secretariat.

In this new position, Ms. Bowers will be responsible for publication of the NCACC Newsletter, maintenance of up-to-date membership lists and dues records, coordination with NCACC committees, and planning for annual meetings. One of her first tasks will be to update the present membership list, prior to the forthcoming campaign being planned by the membership committee to recruit new members.

Ms. Bowers's experience prior to joining the Center staff includes public relations work for the Commonwealth of Puerto Rico's Economic Development Administration ("Operation Bootstrap"), publications and alumni relations work for Pratt Institute, and experience as public information officer of Cornell University Medical College. She has also been co-editor of a weekly newspaper in Western Colorado and has served as administrative assistant to the director of marketing of The Telluride Ski Area in Telluride, Colo.

A REMINDER FROM THE SECRETARY

NCACC by-laws (Article VII) require that all proposed amendments to the by-laws be sent to the secretary by April 1st, so that they may be included in the president's call for the annual meeting.

Please send all such proposed amendments to: Jean M. Kennett, Assistant Clerk, Supreme Judicial Court, 1404 Court House, Boston, Mass. 02108.

A MESSAGE FROM THE PRESIDENT

To: All NCACC Members

As I commented in my remarks at the first executive committee meeting after being installed as president, it is my goal to see that all 50 states become members of our organization during my term of office. Personal letters with a copy of the program of our last year's meeting in Louisville are going out to each state that does not yet belong, and I hope to be able to visit the clerks of states who have not yet joined and by the time of our meeting at Flagstaff, report 100 percent membership.

I hope that any of you who can make personal contacts with non-member states will do so.

We have made tremendous strides in the short time we have been organized and are well on our way to implementing our aim of upgrading and improving the offices of clerk.

By working together, I know we will develop new and improved procedures, find solutions to the many problems relating to our offices, and by practicing better public relations with all who come in contact with our offices, improve the image of clerks all across the country.

I am looking forward to seeing all of you again at our Second Annual Meeting. Those of you who came to Kentucky will always hold a special place in my heart. My best wishes to each of you.

Frances Jones Mills
President