

Lascher at Large
By Edward L. Lascher
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So, here we are in conference assembled. I am getting old (never mind the “must be”; it’s existential fact), which is probably why I’m hooked on going to the annual State Bar meetings. I use to hate ‘em, but now I actually look forward to seeing pals I haven’t run across for a year, telling and hearing lies, mostly in the form of courtroom-war stories, and all the rest. Maybe the reason is that, of all the things I do, and despite all the management’s posturing, a Bar Convention is the one event that has absolutely no importance whatsoever to anything or anybody. Try it like that. You’ll like it, too.

WHO HYPES WHOM?

Recently I received a news release from the Administrative Office of the Courts. It was tub-thumping a gala celebration of the official enrobing of one of the two new justices of the California Supreme Court, complete with a list of who would do the oathing, who the enrobing, and who the speaking – the latter quite abundantly taken care of, thank you, by one governor, one speaker, one assemblyman, one bar governor, three bar presidents and the chairman of an ethnic charitable fund. There would also, we were told, be dinner.

I found this doubly troubling. In the first place, there is a bit of concern about whether it is within the purview of the AOC to flak for any kind of politico-social shindigs, such as mutual appreciation assemblages for specific judges, however highly appreciable they may be. I can understand publicizing courts, making their work products known, disseminating the fact somebody’s been nominated, appointed, confirmed, et al. But doing PR for a particular testimonial event seems ultra vires. The justice in question replaces Judge Clark. The AOC didn’t put out a press release on his departure party; it would have seemed kinda funny if they had.

Maybe even more worrisome about this use of public funds, personnel and facilities for private purposes (a problem that seems to be going around like Medflies these days) is the fact there were two – count ‘em! – justices inducted into the Supreme Court the same day. Now, there’s nothing in the world I know of to keep elected pols, including the governor, the speaker or others from singling out one of two for special treatment, and ignoring the other. That does not mean, however, that it is okay for the administrative office of our judicial branch to get in on that act.

The fact there may be political reasons for touting one new member of the high court that don’t apply to the other is certainly appropriate to elective politics, but it’s anathema to judicial propriety. I have this funny impression that a lot of the people on the AOC letterhead – and, for that matter, people mentioned in the body of the hype sheet involved – do a lot of declaiming about how the courts should be insulated from politics. I guess the word “politics” is defined by the identity of the gored ox.

Let me add, this is no reflection on the justice involved. From all I’ve heard, he has the judgment and sensitivity to know better, and to be embarrassed by the bad taste of something in which he obviously played no role.

DEMOCRACY IN ACTION . . .

Bar politics are getting funnier and frenzied lately. Last winter, one guy ran for president of the LA Bar against the California Club – one threat to the well-being of the legal profession I failed to perceive before. The other guy (presumably the Cal Club standard bearer) is the president of a chain of movie houses, which obviously gives him a good toehold on the pulse of the profession, or something like that. The Establishment candidate won, not necessarily for the first time. All in all, it was a divertingly antic performance.

This summer, the State Bar Board elections were pretty interesting, too. One contest was truly unique: between two really topnotch guys instead of two lesser evils; between John Costanzo and Dixon Dern, it was a shame to see either lose. The other race wound up with Phyllis Hix not just the first woman governor from Southern California, but the first female lawyer from San Marino ever to succeed her husband as a member of the Board of Governors in an odd-numbered year. Too bad Harriet Katz leaves the board this year (you thought she had a lifetime appointment, didn't you?); she and Phyllis could have played off each other like Joan of Arc and Madam deFarge.

Actually, every seat on the board was contested this year except the San Francisco one. The City Bar Politburo just appoints somebody. One thing obvious to anybody who wanted to recognize the truth was that the membership of the Bar is getting pretty militantly conservative. I think those among our leadership still on the “complaint agency for lawyers” or “drag the profession into the 21st century” kick had really better start guessing which way the wind's blowing, because it's becoming a gale.

Meanwhile, there must be some hidden benefit in the California Trial Lawyers Association presidency that's slipped my attention. For reasons that escape me, I still keep a membership in that group, as a consequence of which I have been getting an average of 78 mailers per day telling me who to vote for CTLA president. Today I even got one about the vice presidential election. Enough trees have fallen in this election to warm the cockles of James Watts' heart. Brownie Greenie, the southland's most colorful lawyer, is locked in dubious battle for the office with Dr. Roberta Ritter, who wants to become the first woman south of the Tehachapis to become, etc. People have even been telephoning me, for pity's sake, to tell me who to vote for. That's more than even John Anderson did. I can't figure out what's in it for the candidates, and they won't tell me.

. . . OR IS IT?

In view of all this wind of change, it is refreshing to see the LA Bar Trustees deciding that, no, they damn well aren't going to let any newspapermen, mendicants, members, or other undesirables into their meetings. The explanation is that the membership gets a clearer picture of what goes on from an organizational newsletter. Riiiiight! Couple of the trustees were pretty frank in saying they just wouldn't feel able to speak out on controversial subjects if people were allowed to hear what they say. That, I must own, is a well taken point if I ever heard one.

One trouble with that attitude is that it's embarrassing to see a lawyers' organization, of all bodies, taking an official position that ye shall not know the truth because that might set ye free. It doesn't even make very good self-preservational sense. Such is exactly the type of Marie Antoinette mentality that brought on a lot of the wretched excesses of egalitarianism-cum-sanctimony-cum-fanaticism that has rocked our professional institutions in backlash against this business of telling the billpayers just to go tug on their forelocks and keep their prying noses out of their superiors' business. The reaction can be just as sad as the status quo, and far more inevitable.

RICH, RIPE PROSE

A colleague sent along a letter he'd received from a lawyer who must have a pretty classy operation, since he is a sole practitioner with three "of counsels". (That term used to have some shadowy and undefinable but still pretty definite meanings – like somebody who's retired, or practices only part-time, or has some funny kind of affiliation – but now it's used by any old thing. I think people believe it makes them seem important, impresses clients and all that. But I digress.) I give you this piece of exemplary legal draftsmanship exactly as writ, with only the names changed to protect the guilty.

"Gentlemen:

"This is to in form you that the Mary Smith is in ower office ready for your pick-up. I'm sending you the SUBSTITUTION OF ATTORNEY but i can't send the file by mail.

"Your courtesy and cooperation in this matter are greatly appreciated."

The foregoing was written by one of the of counsels "for" the proprietor. Would it surprise you to know that he misspelled the latter's name? Whether he spelled his own correctly is debatable.

INCARNATE DIETY

Had an interesting experience the other day. I tried to call the clerk of the federal district court. Every once in a while I get into some kind of a bind and, remembering who runs the judicial system, I go right to the top and talk to a clerk. Hell, some of my best friends are clerks. Not quite all, but some. (I'd never be able to practice if it weren't for the clerks of the Cal Supreme Court, who are uniformly decent and knowledgeable. There are plenty in other courts, but I'm not going to start naming them for fear I'll get all but one, and that'll be all she wrote. But I digress.)

You can call the clerk of the Ninth Circuit, the U.S. Supreme Court, even the clerk of the appellate department of the Superior Court – which, in case you haven't encountered it, has three times as many rules as any other court in the land. They're all nice, accessible folks. For that matter, you can even – brace yourself for this – call and talk to a Federal judge. (Really, folks, I've even done it myself and lived to tell the tale.)

But don't try the clerk of this district court. You've got to prove to his secretary that you have some subject worth bothering such a personage before electronic communication is authorized. I failed that test, cold. I guess it's all a matter of knowing one's place. And staying in it. When you're put there.