

SOME GOOD CHANGES HAVE OCCURRED LATELY

Some very suspicious things have happened while I was away from this column for a couple of months. (I thought I'd give it a try to see if silence works as a drought breaker.) What's happened is that a few people have done things that please me.

Like the Administrative Office of the Courts, for once. The group has announced its intention to create statewide rules on some topics that until now have been the subject entirely of local rules. Other than dates and places of holding court, assignment of the judges, and stuff like that, I can see no sense in local rules at all. They just tend to Balkanize the practice of law even more than it already is and, with the coming of fast-track, that doesn't even stop at county lines; every courtroom has its own private rules now. Go to it, folks, and you'll have old At Large in your corner.

The second area in which light seems to be dawning is attorney discipline. It would not be correct to say I like the idea of the Supreme Court divorcing itself from routine review, but I sure think it makes sense. We all grumble about the effect of the glut of capital cases, but nobody says anything about the wisdom of making our highest court an appellate department of the State Bar.

The new Bar Court seems to be approaching its task in a professional, realistic fashion, rather than as a rubber stamp for anybody, and the Supremes can certainly find something to fill up the hole in their lives.

If, that is, they can get any of their members to stick around long enough to get a handle on what's taking place. The turnover on the court has been a real shocker. But maybe it's run its course.

And good news is sometimes found in the oddest places. The end of Governor Duke's term featured the apparently obligatory binge of last-minute judge-appointing.

I know, I know, that's not news. What is news is that the Los Angeles area got a really healthy dollop of outstanding quality when the dust cleared. How about Fred Lower, of the Loyola law faculty, and Orville Armstrong, a lawyer's lawyer, as new superior court judges? Of (if you'll forgive the chauvinism) Richard Aldrich, another lawyer's lawyer from a Los Angeles law practice onto the Ventura Superior Court?

By mentioning this handful, I do not imply any lesser judgment on ones unmentioned. It's just that I knew quite a bit about these three and wonder if there has ever been quite such a spate (all right, a small spate) of outstanding acquisitions to the trial bench in such a short period.

LITERARY RUMINATIONS

Two of my favorite authors have new books out. One is George V. Higgins, who writes the closest thing to an all-dialogue novel I ever expect to read and who usually has a lot to do with lawyers. (He's one himself, an ex-U.S. attorney. Howcum all those guys turn into hot authors, by the way?)

His latest, "Victories," is about realistic politics at the somewhat backwater edge of running for Congress in a rural district. It's one of those books for which I am always hunting: the kind that I have to force myself to go through slower.

My other favorite is an English professor named Paul Fussell, who has assembled an anthology of writing about "America's Modern Wars." That's not the one I want to recommend, however. Instead, I went back and caught one of his work from six or seven years ago entitled "Class in America." It's about just exactly what it says: how class works in a classless society. And Fussell, who is nothing if not tart, has a good romp.

LOSE A FEW

Despite what I say above, don't think that everything's rosy. At least not in the appellate world. During the past couple of months, the Judicial Council has taken a few whacks at its favorite whipping thing, the scandal of appellate delay.

It came up with some new rules regarding payment of reporters' fees. In doing so, the council was working at exactly the right problem. If appeals take too much time, the main reason – heck, very nearly the only reason – is delay in getting transcripts from the court reporters. The Judicial Council picked the right sub-problem; it's the solution that I don't like.

Basically, it puts the monkey on the back of the would-be appellant, or, more accurately, his, her or its attorney, to negotiate with the reporter for a waiver of transcribing fees (read: an advance payment in full), failing which the appellant can deposit with the clerk a self-calculated estimate according to a complicated formula.

A Daily Journal correspondent on appellate practice, Ronald Kaplan, wrote in these pages recently that this was a great leap forward ("Revised Court Rules Promote Faster Appeals," Feb. 22, 1991, Page 7). Forgive me if I am more than a little bit skeptical.

Making lawyers do the work of reporters, clerks (see Rule 5.1) and other functionaries of courts may make cynical sense, but it's a waste of talent. Besides which, I don't think it will work. At the other end of the process, the Judicial Council just cut in half the grace period for getting in under Rule 17(a) and 17(b), which was one of the unique, charming and sensible aspects of our appellate practice.

The difference between 30 days, in which most briefs ought to be capable of completion, and 15 days, which threatens a product done in a slapdash fashion, is infinitesimal compared to the overall time it takes to complete an appeal, but it can really play hob with the quality of the appellate process.

Maybe I just supplied the answer to my concern. I suppose there is reason for thinking nobody cares about the quality of the process. For the sake of those who do, I'd sure like to see that change abrogated.

BY THE NUMBERS

All of this is not to say that I don't have pet peeves. One of them is the use of State Bar numbers on pleadings. In the first place, does anybody know where the practice came from? Is it required, or simply some affectation that we have drifted into? (It's probably all the subject of local rules.)

I suppose the whole thing is designed to make life easier for computers. When a lawyer boots one in the courtroom, maybe all he or she is required to divulge is name, rank, and bar serial number. Good system, that. Can I help it if I'm just so old-fashioned that I think the law needs all of the trappings of a gentleman's profession that it can get, and the use of numbers this way is hardly a step in the right direction?

Maybe people who want to write to this column should address correspondence to 162000963, which is my serial number from Army days almost 50 years ago, and I still remember it. Doing so doesn't improve the experience any, however.