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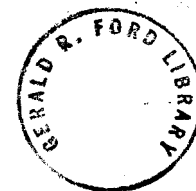
THE AMERICAN LAW INSTITUTE

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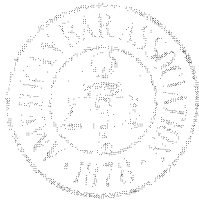
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 4025 Chestnut Street  
 Philadelphia, Pennsylvania, 19104



Ph  
 Ma

RICHARD B. ALLEN  
Editor

ROWLAND L. YOUNG  
Associate Editor



# AMERICAN BAR ASSOCIATION JOURNAL

1155 EAST 60th ST. • CHICAGO, ILLINOIS 60637 • TELEPHONE 312/947-4000

Direct Lines: Mr. Allen 312/947-3536  
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September 2, 1976

The President  
The White House  
c/o Mr. Philip W. Buchen  
Washington, D.C. 20500

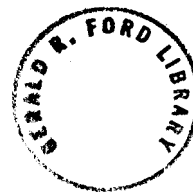
My dear President Ford:

For the purpose of confirmation, I  
am enclosing a copy of a telegram sent to  
you on September 1, 1976.

Sincerely yours,

RICHARD B. ALLEN  
Editor

RBA:lb  
encl



President Gerald R. Ford  
c/o Herbert E. Hoffman, Esq.  
American Bar Association  
1800 M Street, N.W.  
Washington, D.C. 20036

Like all Americans, lawyers are looking at the positions of the candidates in this year's presidential election. But lawyers have some professional interests the candidates might not have occasion to address in their campaigns to the general public. We would appreciate your speaking to the nation's lawyers through the American Bar Association Journal by stating your position on these questions.

1. In making nominations to the federal bench, other than the Supreme Court, do you favor continuation of the long-established role played by the American Bar Association Committee on the Federal Judiciary in evaluating the professional qualifications of prospective nominees?

2. In making nominations to the Supreme Court, will you ask the assistance of the American Bar Association in evaluating the professional qualifications of prospective nominees?

3. Do you favor the continued development of legal services for the indigent through a Legal Services Corporation that is well funded and independent of partisan political influence?

4. To make legal services more readily available to middle income groups, do you favor federal tax exclusion for the value of benefits received by participants in prepaid legal services plans?



5. Do you favor the creation of an independent, publicly funded National Institute of Justice to conduct, appraise, and co-ordinate research and programs in the administration of justice and the quality and effectiveness of justice?

6. Do you favor state experimentation with automobile accident reparations plans or do you favor federal legislation requiring a national no-fault insurance system or establishing national standards for state plans?

7. Do you favor the use of a special federal prosecutor under certain circumstances? If so, by whom or what means should the special prosecutor be appointed? Should the special prosecutor be appointed on a temporary or permanent basis?

8. Do you favor an increase in the share of L.E.A.A. and other federal funds allocated for courts, criminal justice, corrections, and juvenile justice?

9. Do you favor an increase in compensation for federal judges?

10. Do you favor the creation of additional federal judgeships substantially as proposed in legislation pending in Congress?

In order that your positions on these questions may be published in our October issue, we must have your answers by September 10 and the answers should be confined to 2,500 words.

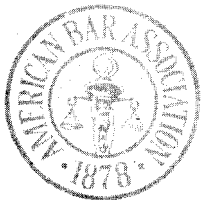


Will you please advise me promptly whether you will participate in this endeavor. It is not our intention to proceed unless both major party candidates are willing to participate. I greatly appreciate your consideration of this request.

Richard B. Allen, Editor  
AMERICAN BAR ASSOCIATION JOURNAL  
1155 East 60th Street  
Chicago, Illinois 60637

September 1, 1976





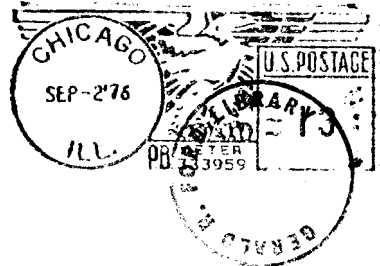
# AMERICAN BAR ASSOCIATION JOURNAL

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COMMON FAITH

COMMON LAW



The President  
The White House  
c/o Mr. Philip Buchen  
Washington, D.C. 20500



THE WHITE HOUSE  
WASHINGTON

September 2, 1976

MEMORANDUM FOR: FRED SLIGHT

FROM: PHILIP BUCHEN *P.W.B.*

Attached is a telegram received today from Richard B. Allen, Editor, American Bar Association Journal.

It calls for a prompt reply on whether the President will participate in the project and I assume you will so advise Mr. Allen. Also, note that the answers to be supplied must be in by September 10, and I am requesting Ken Lazarus of my staff to begin work immediately on preparing proposed answers in behalf of the President.

cc: Ken Lazarus





# Telegram

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3129473540 TDBN CHICAGO IL 431 09-01 0405P EST

PMS PRESIDENT GERALD R FORD

C/O HERBERT HOFFMAN, AMERICAN BAR ASSN 1800 "M" ST NORTHWEST  
WASHINGTON DC 20036

LIKE ALL AMERICANS, LAWYERS ARE LOOKING AT THE POSITIONS OF THE  
CANDIDATES IN THIS YEARS PRESIDENTIAL ELECTION. BUT LAWYERS HAVE  
SOME PROFESSIONAL INTEREST THE CANDIDATES MIGHT NOT HAVE OCCASION TO  
ADDRESS IN THEIR CAMPAIGNS TO THE GENERAL PUBLIC. WE WOULD  
APPRECIATE YOUR SPEAKING TO THE NATION'S LAWYERS THROUGH THE  
AMERICAN BAR ASSOCIATION JOURNAL BY STATING YOUR POSITION ON THESE  
QUESTIONS.

1. IN MAKING NOMINATIONS TO THE FEDERAL BENCH, OTHER THAN THE  
SUPREME COURT, DO YOU FAVOR CONTINUATION OF THE LONG-ESTABLISHED  
ROLE PLAYED BY THE AMERICAN BAR ASSOCIATION COMMITTEE ON THE FEDERAL



WAC235/2

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JUDICIARY IN EVALUATING THE PROFESSIONAL QUALIFICATIONS OF PROSPECTIVE NOMINEES?

2. IN MAKING NOMINATIONS TO THE SUPREME COURT, WILL YOU ASK THE ASSISTANCE OF THE AMERICAN BAR ASSOCIATION IN EVALUATING THE PROFESSIONAL QUALIFICATIONS OF PROSPECTIVE NOMINEES?

3. DO YOU FAVOR THE CONTINUED DEVELOPMENT OF LEGAL SERVICES FOR THE INDIGENT THROUGH A LEGAL SERVICES CORPORATION THAT IS WELL FUNDED AND INDEPENDENT OF PARTISAN POLITICAL INFLUENCE?

4. TO MAKE LEGAL SERVICES MORE READILY AVAILABLE TO MIDDLE INCOME GROUPS DO YOU FAVOR FEDERAL TAX EXCLUSION FOR THE VALUE OF BENEFITS RECEIVED BY PARTICIPANTS IN PREPAID LEGAL SERVICES PLAN?

5. DO YOU FAVOR THE CREATION OF AN INDEPENDENT, PUBLICLY FUNDED NATIONAL INSTITUTE OF JUSTICE TO CONDUCT, APPRAISE, AND CO-ORDINATE RESEARCH AND PROGRAMS IN THE ADMINISTRATION OF JUSTICE AND T





# Telegram

MAC235/3

1976 SEP -1 PM 6:18

QUALITY AND EFFECTIVENESS OF JUSTICE?

6. DO YOU FAVOR STATE EXPERIMENTATION WITH AUTOMOBILE ACCIDENT REPAIRATIONS PLANS OR DO YOU FAVOR FEDERAL LEGISLATION REQUIRING A NATIONAL NO-FAULT INSURANCE SYSTEM OR ESTABLISHING NATIONAL STANDARDS FOR STATE PLANS ?

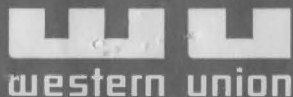
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9. DO YOU FAVOR AN INCREASE IN COMPENSATION FOR FEDERAL JUDGES?

10. DO YOU FAVOR THE CREATION OF ADDITIONAL FEDERAL JUDGESHIP?





# Telegram

MAC235/4

1976 SEP -1 PM 6:18

SUBSTANTIALLY AS PROPOSED IN LEGISLATION PENDING IN CONGRESS ?

IN ORDER THAT YOUR POSITIONS ON THESE QUESTIONS MAYBE PUBLISHED IN OUR OCTOBER ISSUE WE MUST HAVE YOUR ANSWERS BY SEPTEMBER 10 AND THE ANSWERS SHOULD BE CONFINED TO 2,500 WORDS.

WILL YOU PLEASE ADVISE ME PROMPTLY WHETHER YOU WILL PARTICIPATE IN THIS ENDEAVOR. IT IS NOT OUR INTENTION TO PROCEED UNLESS BOTH MAJOR PARTY CANDIDATES ARE WILLING TO PARTICIPATE. I GREATLY APPRECIATE YOUR CONSIDERATION OF THIS REQUEST.

RICHARD B ALLEN, EDITOR AMERICAN BAR ASSN JOURNAL 1155 EAST  
60 STREET CHICAGO ILLINOIS 60637  
NNNN



THE WHITE HOUSE

WASHINGTON

September 8, 1976

MEMORANDUM FOR: FRED SLIGHT  
FROM: KEN LAZARUS  
SUBJECT: Response to ABA Inquiry

Attached (at Tab A) is a copy of the incoming request from the American Bar Association for the President's position on ten issues of concern to the Association.

At Tab B is a draft response for the President's signature.

Herb Hoffman, who may be reached at 331-2200, is the Washington Representative for the ABA. He advised that Jimmy Carter also intends to respond to the inquiry and suggested the format which is provided.

The response is due by Friday, September 10th.

Attachments

cc: Philip Buchen ✓



THE WHITE HOUSE  
WASHINGTON

September 2, 1976

MEMORANDUM FOR: FRED SLIGHT

FROM: PHILIP BUCHEN *P.W.B.*

Attached is a telegram received today from Richard B. Allen, Editor, American Bar Association Journal.

It calls for a prompt reply on whether the President will participate in the project and I assume you will so advise Mr. Allen. Also, note that the answers to be supplied must be in by September 10, and I am requesting Ken Lazarus of my staff to begin work immediately on preparing proposed answers in behalf of the President.

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**western union**

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**WU**  
western union

**Telegram**

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RICHARD B ALLEN, EDITOR AMERICAN BAR ASSN JOURNAL 1155 EAST  
60 STREET CHICAGO ILLINOIS 60637  
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THE WHITE HOUSE

WASHINGTON

DRAFT

Dear Mr. Allen:

In accordance with your request, set forth below are the questions raised by the American Bar Association and my responses to them.

1. In making nominations to the Federal bench, other than the Supreme Court, do you favor continuation of the long-established role played by the ABA Committee on the Federal Judiciary in evaluating the professional qualifications of prospective nominees?

Answer: In recognition of the value of the investigations and findings of the ABA Standing Committee on the Judiciary, I favor the continuation of a prominent role for the group. It should be noted, of course, that the appointment of United States Judges is a Presidential responsibility under our Constitution, subject only to the advice and consent of the Senate, and that therefore the results of an evaluation process by the ABA or any other body should not be controlling.

2. In making nominations to the Supreme Court, will you ask the assistance of the ABA in evaluating professional qualifications of prospective nominees?

Answer: Yes. More particularly, I intend to seek and obtain the same kind of cooperation and assistance which the Attorney General and I sought and obtained from the ABA Committee when Mr. Justice Stevens was nominated and confirmed in the Fall of 1975.

3. Do you favor the continued development of legal services for the indigent through a Legal Services Corporation that is well funded and independent of partisan political influence?

Answer: I favor the provision for legal services for those at or below the poverty level, independent of partisan political influences. The establishment of a Legal Services Corporation as an independent agency not subject to Executive branch management was clearly an improvement over the legal services provided through the old Office of Economic Opportunity. My Administration favors continued funding of the Legal Services Corporation, but with staged funding in order that its operations can be better assessed.

Accordingly, I recommended a funding level of \$80 million for fiscal 1977, to which the Congress added an extra \$45 million. I believe the lower level of funding is appropriate at this time.

4. To make legal services more readily available to middle income groups do you favor Federal tax exclusion for the value of benefits received by participants in prepaid legal services plans?

Answer: During Congressional consideration of H.R. 10612, the so-called "Tax Reform Act of 1976", my Administration opposed the inclusion of a provision which would allow for a period of five years an employer's deduction for premiums paid to fund employee legal services plans but, at the same time, exclude the value of such payments or legal benefits thereafter received, from the gross incomes of employees.

The exclusion of this fringe benefit from gross incomes would establish a trend of revenue loss from \$5 million for 1977 to \$33 million for 1981. The provision also conflicts with the general rule that personal expenses should not be allowed as deductions under the Internal Revenue Code.

This provision was recently adopted by the House-Senate conferees on H.R. 10612. It is now anticipated that the tax bill will be before me later this month, at which time I shall decide whether to sign or veto the measure.

5. Do you favor the creation of an independent, publicly funded National Institute of Justice to conduct, appraise, and coordinate research and programs in the administration of justice and the quality and effectiveness of justice?

Answer: The establishment of a new National Institute of Justice would duplicate other activities already supported by the Federal government.

The Law Enforcement Assistance Administration (LEAA) provides national leadership in this area, in addition to providing block grant funds to assist State and local criminal justice agencies. LEAA's National Institute of Law Enforcement and Criminal Justice, established by law in 1968, now pursues most of the objectives called for by the National Institute of Justice proposal. It encourages research and innovation and provides training and

information for local agencies. The Administration had asked Congress to expand the charter of the Institute to include civil justice, but this was rejected.

Another effective resource for states and localities is the National Center for State Courts, which is funded largely by LEAA but which operates independently. The Center has received approximately \$10 million in Federal funds for more than 50 projects to assist state and local court systems in meeting their responsibility to dispense justice.

Also important is the work of the National Advisory Commission on Criminal Justice Standards and Goals. The Commission has published a series of thorough and comprehensive volumes containing hundreds of recommendations for all elements of the criminal justice system, including courts, corrections, police, community crime prevention, and the criminal justice system as a whole. These standards and recommendations constitute a detailed blueprint for state and local governments to consider in the improvement of their own law enforcement and criminal justice systems. The role of the commission is a continuing one.

6. Do you favor experimentation with automobile accident reparations plans or do you favor Federal legislation requiring a national no-fault insurance system or establishing national standards for state plans?

Answer: I support the concept underlying no-fault automobile insurance for consideration on the state level. However, I oppose Federal legislation requiring a national no-fault insurance system or establishing national standards for state plans. Accordingly, my Administration has opposed enactment of S. 354, the "National No-Fault Motor Vehicle Insurance Act."

The no-fault concept offers a number of potential benefits but enactment of a preemptive Federal plan would be inconsistent with the traditional role of the states in regulating insurance. It also would preclude valuable experimentation with the concept from state to state.

The Governors' Conference recognizes the shortcomings of a preemptive Federal no-fault law and unanimously opposes the enactment of any such program. The Congress has also apparently seen some wisdom in this view since, on March 31, 1976, the Senate voted 49-45 to recommit S. 354 to the Senate Commerce Committee.

7. Do you favor the use of a Special Federal Prosecutor under special circumstances? If so, by whom or what means should the Special Prosecutor be appointed? Should the Special Prosecutor be appointed on a temporary or a permanent basis?

Answer: Under our form of government the use of a Special Federal Prosecutor presents difficult constitutional and practical problems. If there is compelling need for such an official, I would prefer a Presidential appointment subject to confirmation by the Senate.

I am troubled by the ambiguities, constitutional and otherwise, that I perceive in the report of the ABA's Spann Committee and its proposal for appointment of temporary special prosecutors to handle cases as they arise. On balance, for I doubt that any arrangement will be entirely satisfactory, I would prefer appointment of a permanent prosecutor with jurisdiction over allegations of serious crimes against ranking officials of the Executive branch, Members of Congress, and Federal judges.

As you know, I recently expressed these views in addressing legislation which is currently under review in the Congress.

8. Do you favor an increase in the share of LEAA and other Federal funds allocated for courts, criminal justice, corrections, and juvenile justice?

Answer: Yes, as a matter of personal preference, I would favor an increase in the proportion of LEAA and other Federal funds for criminal justice, juvenile justice and similar purposes. However, the needs of police must not be overlooked. In the last several years approximately 40 percent of the Federal funds were for corrections, courts, juvenile delinquency and other criminal justice programs.

Crime continues to be a major concern of the American people and a social and economic problem of enormous importance. The cost of crime is estimated in the tens of billions of dollars each year and the corrosive effect of violent street crime, organized crime, white collar crime and other offenses committed by one citizen against another is beyond measure.

It must be noted, however, that law enforcement and the administration of criminal justice is essentially a matter for state and local governments



to address. No one wants a "national police force" or Federal domination of the processes of state and local criminal justice. Therefore, the decisions regarding the allocation of Federal funds for law enforcement and various local government activities should be made at the state and local levels, within the framework of an overall plan for the effective use of these Federal monies.

9. Do you favor an increase in compensation for Federal judges?

Answer: Yes. I have pressed for adequate pay for Federal judges throughout my Administration and will continue to do so.

10. Do you favor the creation of additional Federal judgeships?

Answer: I favor a relatively modest increase in the number of Federal judges, substantially as provided in the present Omnibus Bill passed by the Senate this year and now pending in the House of Representatives. But I strongly doubt that we can continue to add judges without limit to meet burgeoning case loads in the Federal courts. I think the wiser course for the future is to limit the jurisdiction and business of the courts where appropriate; indeed, I am now considering proposals to this end recently made to me by the Attorney General.

Sincerely,

Mr. Richard B. Allen  
Editor, ABA Journal  
1155 E. 60th Street  
Chicago, Illinois 60637



ABA

THE WHITE HOUSE  
WASHINGTON

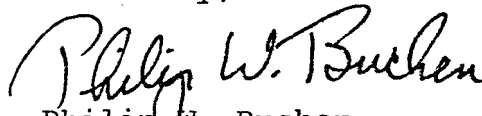
September 9, 1976

Dear Mr. Sledd:

This is to acknowledge on behalf of the President your thoughtfulness in apprising him of the resolution recently adopted by the House of Delegates of the American Bar Association relating to additional Federal judgeships.

As you may know, the President has actively supported adoption of legislation to create these much needed judgeships. There would now appear to be some slim possibility for enactment prior to the close of the current session.

Sincerely,



Philip W. Buchen  
Counsel to the President

Mr. Herbert D. Sledd  
Secretary  
American Bar Association  
300-308 W. Short Street  
Lexington, Kentucky 40507



THE WHITE HOUSE  
WASHINGTON

Ken:

Please draft  
appropriate reply  
for me to sign.

P.





# AMERICAN BAR ASSOCIATION

SECRETARY

Herbert D. Sledd

100-308 W. Short Street  
Lexington, KY 40507

1155 EAST 60TH ST., CHICAGO, ILLINOIS 60637 TELEPHONE (312) 947-4016

ASSISTANT SECRETARY

F. Wm. McCalpin

Room 1400  
611 Olive Street  
St. Louis, MO 63101

August 23, 1976

Gerald R. Ford  
President of the United States  
The White House  
Washington, D. C. 20500

RE: Additional Judgeships

Dear Mr. President:

At the meeting of the House of Delegates of the American Bar Association held August 9-11, 1976 the following resolution was adopted upon recommendation of the Standing Committee on Judicial Selection, Tenure and Compensation:

*RESOLVED, That the American Bar Association urges Congress to enact legislation during the 94th Congress, second session, to provide for much-needed additional judges of the Courts of Appeals and District Courts, with the legislation to become effective January 21, 1977, if necessary to insure passage.*

*RESOLVED, That this Association support legislation which would provide for adequate increases in compensation of the members of the federal judiciary so urgently needed by presently sitting federal judges and if individuals well qualified to be federal judges are to accept appointment.*

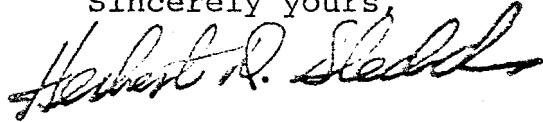
This resolution is being transmitted for your information and whatever action you may deem appropriate.



Gerald R. Ford  
August 23, 1976  
Page Two

Please do not hesitate to let us know if you need any further information, have any questions or whether we can be of any assistance.

Sincerely yours,



Herbert D. Sledd

HDS/mlk

cc: John A. Sutro



THE WHITE HOUSE

WASHINGTON

September 21, 1976

MEMORANDUM FOR:

KEN LAZARUS

FROM:

PHIL BUCHEN *P*

Please note the attached clipping which indicates that there are new provisions in the current tax bill dealing with the tax treatment of contributions to prepaid legal service plans. This subject was covered in the answers by the President to the questions of the ABA.

Please give me your comments.

Attachment

THE WALL STREET JOURNAL, 3  
Tuesday, Sept. 21, 1976

**GROUP LEGAL SERVICES get a major boost from the new tax bill.**

Consumer groups and unions expect group legal service plans to spread rapidly now that Congress has passed the tax-revision bill. The measure says employees don't have to pay taxes on employer contributions made to or services received from such plans. "We expect to see a great deal of growth in the near future," says an official of the National Consumer Center for Legal Service.

About 175,000 workers currently get legal services through about 75 contracts between employers and unions. One of the largest, covering 10,000 laborers union members in the Washington, D.C., area, is used by 15% to 20% of the members. Plans typically cost three to five cents an hour.

Tax experts estimate the tax exemption will cost the Treasury \$33 million a year by 1981, as plans become more popular.

*9/23*

*See attached.*

*Ken*

THE WHITE HOUSE  
WASHINGTON

September 8, 1976

MEMORANDUM FOR: FRED SLIGHT  
FROM: KEN LAZARUS  
SUBJECT: Response to ABA Inquiry

Attached (at Tab A) is a copy of the incoming request from the American Bar Association for the President's position on ten issues of concern to the Association.

At Tab B is a draft response for the President's signature.

Herb Hoffman, who may be reached at 331-2200, is the Washington Representative for the ABA. He advised that Jimmy Carter also intends to respond to the inquiry and suggested the format which is provided.

The response is due by Friday, September 10th.

**Attachments**

cc: Philip Buchen ✓



THE WHITE HOUSE

WASHINGTON

September 2, 1976

MEMORANDUM FOR: FRED SLIGHT

FROM: PHILIP BUCHEN *P.W.B.*

Attached is a telegram received today from Richard B. Allen, Editor, American Bar Association Journal.

It calls for a prompt reply on whether the President will participate in the project and I assume you will so advise Mr. Allen. Also, note that the answers to be supplied must be in by September 10, and I am requesting Ken Lazarus of my staff to begin work immediately on preparing proposed answers in behalf of the President.

cc: Ken Lazarus ✓

**WU**  
western union

**Telegram**

LLE178 WAC235 (1609) (2-042689E245) PD 09/01/76 <sup>1976 85B-1</sup> PH 6:17  
ICS IPMBNGZ CSP

3129473540 TDBN CHICAGO IL 431 09-01 0405P EST  
PNS PRESIDENT GERALD R FORD  
C/O HERBERT HOFFMAN, AMERICAN BAR ASSN 1800 "M" ST NORTHWEST  
WASHINGTON DC 20036

LIKE ALL AMERICANS, LAWYERS ARE LOOKING AT THE POSITIONS OF THE  
CANDIDATES IN THIS YEARS PRESIDENTIAL ELECTION. BUT LAWYERS HAVE  
SOME PROFESSIONAL INTEREST THE CANDIDATES MIGHT NOT HAVE OCCASION TO  
ADDRESS IN THEIR CAMPAIGNS TO THE GENERAL PUBLIC. WE WOULD  
APPRECIATE YOUR SPEAKING TO THE NATION'S LAWYERS THROUGH THE  
AMERICAN BAR ASSOCIATION JOURNAL BY STATING YOUR POSITION ON THESE  
QUESTIONS.

1. IN MAKING NOMINATIONS TO THE FEDERAL BENCH, OTHER THAN THE  
SUPREME COURT, DO YOU FAVOR CONTINUATION OF THE LONG-ESTABLISHED  
ROLE PLAYED BY THE AMERICAN BAR ASSOCIATION COMMITTEE ON THE FEDERAL





WAC23572

1976 SEP -1 PM 6:17

JUDICIARY IN EVALUATING THE PROFESSIONAL QUALIFICATIONS OF PROSPECTIVE NOMINEES?

2. IN MAKING NOMINATIONS TO THE SUPREME COURT, WILL YOU ASK THE ASSISTANCE OF THE AMERICAN BAR ASSOCIATION IN EVALUATING THE PROFESSIONAL QUALIFICATIONS OF PROSPECTIVE NOMINEES?

3. DO YOU FAVOR THE CONTINUED DEVELOPMENT OF LEGAL SERVICES FOR THE INDIGENT THROUGH A LEGAL SERVICES CORPORATION THAT IS WELL FUNDED AND INDEPENDENT OF PARTISAN POLITICAL INFLUENCE?

\* 4. TO MAKE LEGAL SERVICES MORE READILY AVAILABLE TO MIDDLE INCOME GROUPS DO YOU FAVOR FEDERAL TAX EXCLUSION FOR THE VALUE OF BENEFITS RECEIVED BY PARTICIPANTS IN PREPAID LEGAL SERVICES PLAN?

5. DO YOU FAVOR THE CREATION OF AN INDEPENDENT, PUBLICLY FUNDED NATIONAL INSTITUTE OF JUSTICE TO CONDUCT, APPRAISE, AND CO-ORDINATE RESEARCH AND PROGRAMS IN THE ADMINISTRATION OF JUSTICE AND THE



1975 SEP -1 PM 6:18

WAC235/3

QUALITY AND EFFECTIVENESS OF JUSTICE?

6. DO YOU FAVOR STATE EXPERIMENTATION WITH AUTOMOBILE ACCIDENT REPAIRATIONS PLANS OR DO YOU FAVOR FEDERAL LEGISLATION REQUIRING A NATIONAL NO-FAULT INSURANCE SYSTEM OR ESTABLISHING NATIONAL STANDARDS FOR STATE PLANS ?

7. DO YOU FAVOR THE USE OF A SPECIAL FEDERAL PROSECUTOR UNDER CERTAIN CIRCUMSTANCES? IF SO, BY WHOM OR WHAT MEANS SHOULD THE SPECIAL PROSECUTOR BE APPOINTED? SHOULD THE SPECIAL PROSECUTOR BE APPOINTED ON A TEMPORARY OR PERMANENT BASES?

8. DO YOU FAVOR AN INCREASE IN THE SHARE OF L. E. A. A. AND OTHER FEDERAL FUNDS ALLOCATED FOR COURTS, CRIMINAL JUSTICE, CORRECTIONS, AND JUVENILE JUSTICE ?

9. DO YOU FAVOR AN INCREASE IN COMPENSATION FOR FEDERAL JUDGES ?

10. DO YOU FAVOR THE CREATION OF ADDITIONAL FEDERAL JUDGESHIPS



Telegram

WAC235/4

1976 SEP -1 PM 6:18

SUBSTANTIALLY AS PROPOSED IN LEGISLATION PENDING IN CONGRESS ?

IN ORDER THAT YOUR POSITIONS ON THESE QUESTIONS MAYBE PUBLISHED IN OUR OCTOBER ISSUE WE MUST HAVE YOUR ANSWERS BY SEPTEMBER 10 AND THE ANSWERS SHOULD BE CONFINED TO 2,500 WORDS.

WILL YOU PLEASE ADVISE ME PROMPTLY WHETHER YOU WILL PARTICIPATE IN THIS ENDEAVOR. IT IS NOT OUR INTENTION TO PROCEED UNLESS BOTH MAJOR PARTY CANDIDATES ARE WILLING TO PARTICIPATE. I GREATLY APPRECIATE YOUR CONSIDERATION OF THIS REQUEST.

RICHARD B ALLEN, EDITOR AMERICAN BAR ASSN JOURNAL 1155 EAST 60 STREET CHICAGO ILLINOIS 60637  
NNNN

SF-1201 (R5-69)



THE WHITE HOUSE

WASHINGTON

DRAFT

Dear Mr. Allen:

In accordance with your request, set forth below are the questions raised by the American Bar Association and my responses to them.

1. In making nominations to the Federal bench, other than the Supreme Court, do you favor continuation of the long-established role played by the ABA Committee on the Federal Judiciary in evaluating the professional qualifications of prospective nominees?

Answer: In recognition of the value of the investigations and findings of the ABA Standing Committee on the Judiciary, I favor the continuation of a prominent role for the group. It should be noted, of course, that the appointment of United States Judges is a Presidential responsibility under our Constitution, subject only to the advice and consent of the Senate, and that therefore the results of an evaluation process by the ABA or any other body should not be controlling.

2. In making nominations to the Supreme Court, will you ask the assistance of the ABA in evaluating professional qualifications of prospective nominees?

Answer: Yes. More particularly, I intend to seek and obtain the same kind of cooperation and assistance which the Attorney General and I sought and obtained from the ABA Committee when Mr. Justice Stevens was nominated and confirmed in the Fall of 1975.

3. Do you favor the continued development of legal services for the indigent through a Legal Services Corporation that is well funded and independent of partisan political influence?

Answer: I favor the provision for legal services for those at or below the poverty level, independent of partisan political influences. The establishment of a Legal Services Corporation as an independent agency not subject to Executive branch management was clearly an improvement over the legal services provided through the old Office of Economic Opportunity. My Administration favors continued funding of the Legal Services Corporation, but with staged funding in order that its operations can be better assessed.

Accordingly, I recommended a funding level of \$80 million for fiscal 1977, to which the Congress added an extra \$45 million. I believe the lower level of funding is appropriate at this time.

4. To make legal services more readily available to middle income groups do you favor Federal tax exclusion for the value of benefits received by participants in prepaid legal services plans?

**Answer:** During Congressional consideration of H.R. 10612, the so-called "Tax Reform Act of 1976", my Administration opposed the inclusion of a provision which would allow for a period of five years an employer's deduction for premiums paid to fund employee legal services plans but, at the same time, exclude the value of such payments or legal benefits thereafter received, from the gross incomes of employees.

The exclusion of this fringe benefit from gross incomes would establish a trend of revenue loss from \$5 million for 1977 to \$33 million for 1981. The provision also conflicts with the general rule that personal expenses should not be allowed as deductions under the Internal Revenue Code.

This provision was recently adopted by the House-Senate conferees on H.R. 10612. It is now anticipated that the tax bill will be before me later this month, at which time I shall decide whether to sign or veto the measure.

5. Do you favor the creation of an independent, publicly funded National Institute of Justice to conduct, appraise, and coordinate research and programs in the administration of justice and the quality and effectiveness of justice?

**Answer:** The establishment of a new National Institute of Justice would duplicate other activities already supported by the Federal government.

The Law Enforcement Assistance Administration (LEAA) provides national leadership in this area, in addition to providing block grant funds to assist State and local criminal justice agencies. LEAA's National Institute of Law Enforcement and Criminal Justice, established by law in 1968, now pursues most of the objectives called for by the National Institute of Justice proposal. It encourages research and innovation and provides training and

information for local agencies. The Administration had asked Congress to expand the charter of the Institute to include civil justice, but this was rejected.

Another effective resource for states and localities is the National Center for State Courts, which is funded largely by LEAA but which operates independently. The Center has received approximately \$10 million in Federal funds for more than 50 projects to assist state and local court systems in meeting their responsibility to dispense justice.

Also important is the work of the National Advisory Commission on Criminal Justice Standards and Goals. The Commission has published a series of thorough and comprehensive volumes containing hundreds of recommendations for all elements of the criminal justice system, including courts, corrections, police, community crime prevention, and the criminal justice system as a whole. These standards and recommendations constitute a detailed blueprint for state and local governments to consider in the improvement of their own law enforcement and criminal justice systems. The role of the commission is a continuing one.

6. Do you favor experimentation with automobile accident reparations plans or do you favor Federal legislation requiring a national no-fault insurance system or establishing national standards for state plans?

Answer: I support the concept underlying no-fault automobile insurance for consideration on the state level. However, I oppose Federal legislation requiring a national no-fault insurance system or establishing national standards for state plans. Accordingly, my Administration has opposed enactment of S. 354, the "National No-Fault Motor Vehicle Insurance Act."

The no-fault concept offers a number of potential benefits but enactment of a preemptive Federal plan would be inconsistent with the traditional role of the states in regulating insurance. It also would preclude valuable experimentation with the concept from state to state.

The Governors' Conference recognizes the shortcomings of a preemptive Federal no-fault law and unanimously opposes the enactment of any such program. The Congress has also apparently seen some wisdom in this view since, on March 31, 1976, the Senate voted 49-45 to recommit S. 354 to the Senate Commerce Committee.

7. Do you favor the use of a Special Federal Prosecutor under special circumstances? If so, by whom or what means should the Special Prosecutor be appointed? Should the Special Prosecutor be appointed on a temporary or a permanent basis?

Answer: Under our form of government the use of a Special Federal Prosecutor presents difficult constitutional and practical problems. If there is compelling need for such an official, I would prefer a Presidential appointment subject to confirmation by the Senate.

I am troubled by the ambiguities, constitutional and otherwise, that I perceive in the report of the ABA's Spann Committee and its proposal for appointment of temporary special prosecutors to handle cases as they arise. On balance, for I doubt that any arrangement will be entirely satisfactory, I would prefer appointment of a permanent prosecutor with jurisdiction over allegations of serious crimes against ranking officials of the Executive branch, Members of Congress, and Federal judges.

As you know, I recently expressed these views in addressing legislation which is currently under review in the Congress.

8. Do you favor an increase in the share of LEAA and other Federal funds allocated for courts, criminal justice, corrections, and juvenile justice?

Answer: Yes, as a matter of personal preference, I would favor an increase in the proportion of LEAA and other Federal funds for criminal justice, juvenile justice and similar purposes. However, the needs of police must not be overlooked. In the last several years approximately 40 percent of the Federal funds were for corrections, courts, juvenile delinquency and other criminal justice programs.

Crime continues to be a major concern of the American people and a social and economic problem of enormous importance. The cost of crime is estimated in the tens of billions of dollars each year and the corrosive effect of violent street crime, organized crime, white collar crime and other offenses committed by one citizen against another is beyond measure.

It must be noted, however, that law enforcement and the administration of criminal justice is essentially a matter for state and local governments



to address. No one wants a "national police force" or Federal domination of the processes of state and local criminal justice. Therefore, the decisions regarding the allocation of Federal funds for law enforcement and various local government activities should be made at the state and local levels, within the framework of an overall plan for the effective use of these Federal monies.

9. Do you favor an increase in compensation for Federal judges?

Answer: Yes. I have pressed for adequate pay for Federal judges throughout my Administration and will continue to do so.

10. Do you favor the creation of additional Federal judgeships?

Answer: I favor a relatively modest increase in the number of Federal judges, substantially as provided in the present Omnibus Bill passed by the Senate this year and now pending in the House of Representatives. But I strongly doubt that we can continue to add judges without limit to meet burgeoning case loads in the Federal courts. I think the wiser course for the future is to limit the jurisdiction and business of the courts where appropriate; indeed, I am now considering proposals to this end recently made to me by the Attorney General.

Sincerely,

Mr. Richard B. Allen  
Editor, ABA Journal  
1155 E. 60th Street  
Chicago, Illinois 60637



THE WHITE HOUSE  
WASHINGTON

September 28, 1976

FOR: FRED SLIGHT

FROM: KEN LAZARUS

Attached is a draft response  
to the American Judicature  
Society. The Society requested  
a letter no later than  
October 1st.

cc: Phil Buchen ✓



THE WHITE HOUSE

WASHINGTON

DRAFT

Dear Judge Pringle:

This responds to your letter of August 23 on behalf of the Society in which you pose a question as follows:

If you should be elected to the Presidency, would you initiate a process leading to a system of merit selection for Federal Judges designed to insure appointment to the Bench of men and women of highest professional and personal qualifications without regard to political affiliations?

In responding to your inquiry, I would first note that the quality of Federal justice depends directly on the quality of Federal judges. There are currently 596 Article III judgeships in the various Federal court systems, including the Supreme Court, the Circuit Courts of Appeals, District Courts, the Court of Claims, the Court of Customs and Patent Appeals and the Customs Court.

During my term of office as President, I have attempted to utilize my powers to ensure the selection and appointment of judges of high quality to the Federal bench. In this regard, I might note that in terms of political affiliation, my appointments have been distinctly less partisan than those of any other President in recent history. Moreover, approximately one-half of my appointments to the Federal bench have been rated as "well qualified" or "extremely well qualified" by the American Bar Association. All but two of my appointments have been endorsed by the Association.

Although the quality of the Federal bench is generally high and perceived to be high, few would deny that there is room for improvement on both the trial and appellate levels. We must therefore bend our efforts to assure the greatest excellence in judicial appointments.

No process of judicial selection can completely ensure the appointment of highly qualified judges. However, despite the fact that there are no magic formulas in the area of judicial selection, it is certainly appropriate to question whether the method of selection that currently exists moves in the direction of achieving optimum results.



As a matter of law, Federal judges are appointed by the President, "by and with the advice and consent of the Senate." However, in point of fact, there has developed over the years a system of judicial selection which has come to be known as "Senatorial courtesy." This phrase refers to a veiled selection process which is heavily political and grounded in outdated notions of Senatorial patronage. I question whether this system is consistent with the interests of the American public and the needs of the Federal judicial system. A greater degree of independence, participation and public visibility would, I believe, enhance the process.

My administration is currently considering a number of options to provide the basis for a fundamental re-assessment of the judicial appointment process. Three considerations are central to this analysis: (1) the standards to be utilized in the selection of candidates for judicial appointment; (2) the proper roles of the various individuals and institutions concerned with the selection of judicial candidates; and (3) procedures and structures to attract and retain highly qualified judicial personnel.

In closing, may I say that I share the Society's concern for excellence on the Federal bench and that I appreciate this opportunity to communicate with your membership on this most important subject.

Sincerely,

Gerald R. Ford

Honorable Edward E. Pringle  
Chairman  
American Judicature Society  
200 W. Monroe Street, Suite 1606  
Chicago, Illinois 60606



American Judicature Society



to promote the effective administration of justice

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Chester M. I  
Secretary  
R. R. Bost  
Treasurer  
John C. Mc  
Executive Director  
Frederick D. L

August 23, 1976

My Dear Mr. President:

The American Judicature Society, founded in 1913, is a nationwide organization of 35,000 citizens, lawyers, and judges whose purpose is to promote the effective administration of justice. One of its major objectives is to improve the quality of judges and to remove the processes through which judges are selected from partisan party politics. The Society shares a growing public concern over methods of appointing federal judges.

At its annual meeting in Philadelphia on July 3, 1976, the Society's Board of Directors, composed of 149 outstanding lawyers, judges and laymen, adopted a resolution directing that an inquiry on this subject be submitted to each of the two major party candidates for President of the United States. Although mindful of the screening role in the judicial nominating process performed by the American Bar Association, and without in any way being critical of it, the Society seeks the personal assurance of your answer to this question which I respectfully submit:

If you should be elected to the Presidency, would you initiate a process leading to a system of merit selection for Federal Judges designed to insure appointment to the Bench of men and women of highest professional and personal qualifications without regard to political affiliations?

It is the intention of the Society that your response will be circulated among its members on or before October 1st and concurrently released to the National Press. There is enclosed material prepared by the Society relating to the merit selection process in the state courts.

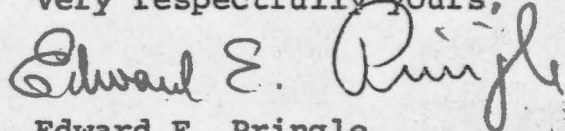


The President

August 23, 1976

A distinguished committee of the Society has embarked on a study as it relates to the Federal Judiciary and its findings and recommendations will, upon completion, be made available to you. I look forward to receiving your views on this matter of such great importance to the maintenance of a competent and impartial judiciary.

Very respectfully yours,



Edward E. Pringle  
Chairman of the Board 1975-76

The President  
The White House  
Washington, D. C. 20500

jw  
enc.



AMERICAN BAR ASSOCIATION

ABA

OFFICE OF THE PRESIDENT  
JUSTIN A. STANLEY  
AMERICAN BAR CENTER  
CHICAGO, ILLINOIS 60637  
TELEPHONE: 312 / 947-4042

file

October 19, 1976

The President  
The White House  
1600 Pennsylvania Avenue  
Washington, D. C. 20500

Dear Mr. President:

On behalf of the more than 210,000 members of the American Bar Association, I thank you for taking the time to respond in the manner that you did to the questions we posed concerning current problems relating to the administration of justice.

For your information I am enclosing a copy of the October issue of the Journal in which your views, along with those of Governor Carter, were published. This exchange will reach all of our members, and will permit them to make a more fully informed decision as they go to the polls next month.

Cordially,

Justin A. Stanley

JAS/mlk

Enclosure

bcc: Philip W. Buchen, Esquire

10/22 no enclosure rec'd.



ABA

Wednesday 11/17/76

Meeting  
11/19/76  
2:30 p.m.

3:50 We have scheduled the appointment for Harry Lambeth who is doing an article for the American Bar Association Journal -- for 2:30 p.m. on Friday 11/19.



9:55 a.m.  
Wednesday,  
November 17, 1976

*Journal*  
Mr. Harry Lambeth (Law firm of Barton & Lambeth) would like to visit with you at some point to talk about lawyer Presidents. He is doing an article for the American Bar Association and believes that you could be of help since you and the President were partners.

Says he has met the President though he doubts the President would remember him.

638-0555

