



# New Jersey Family Lawyer

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## Chairman's Column

### The Family Law Section's Future

by Frank A. Louis



I am extremely pleased to commence my first column as Chairman of the Family Law Section with the announcement that Chief Justice Robert N. Wilentz has agreed to personally meet with representatives of the Family Law Section in the fall. The Chief Justice wrote, in responding to my invitation, that "such a meeting would be of mutual benefit to the Court and Bar." We concur. This meeting confirms what has become apparent over the last few years that the Section, by effectively advancing the interests of lawyers and the public, has matured to the point where we can proudly state that we are an integral part of the administration of justice in the Family Part. This meeting, when combined with my recent appointment, as Bar representative, to the Supreme Court Committee on Computerization (Family Automated Case Tracking Systems—FACTS) confirms that we have the beginnings of a genuine partnership between Bench and Bar. That is not to say that we do not envision an even more expansive role for the Bar, both on a state and local level, but nonetheless, at present, we are extremely pleased with the Section's evolving role and are confident that we shall handle our present and future roles both responsibly and effectively.

Our input on the Family Part Practice Committee could not be greater where, through the efforts of Judge Serpentelli, lawyers not only chair many significant committees, but materially contributed to the recommendations contained in the Committee's second report which should shortly be published. I intend to devote at least one future column to our role on the Family Part Practice Committee since I believe it to be the most significant involvement on the part of lawyers in the present system.

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## Senate Finance Committee Formulates Comprehensive Tax Reform Bill

by Richard J. Flaster

Although the House of Representatives passed a tax bill (H.R. 3838) on December 17, 1985, tax reform thereafter languished for months in the Senate Finance Committee until in a flurry of activity in early May a rather radical plan was approved. Although the general outlines of the "plan" were made available on May 5, it was only recently embodied in bill form and reported out for consideration by the full Senate. Although the Senate bill is quite different in many respects from the House bill, it has been fashioned as "an amendment in the nature of a substitute" of H.R. 3838 in order to satisfy the Constitutional precept that tax legislation must be introduced in the House of Representatives.<sup>1</sup> While the bill must yet navigate the full Senate and then be reconciled with the House bill in the Conference Committee, it appears to have such consensus support<sup>2</sup> that easy passage has been predicted. As a result, even its preliminary terms warrant careful consideration. A summary of the more material provisions, together with some editorial comment, follows herewith:

### 1. Tax Rates:

(a) *Individual:* Beginning on July 1, 1987, the present multi-bracket individual rate structure would be replaced by a two bracket structure (*viz.*, 15% and 27%) which would apply at different taxable income levels for different types of taxpayers:

Type of Return	15% For	27% For
	Taxable Income	Taxable Income
Single	Up to \$17,600	Above \$17,600
Head of Household	Up to \$23,500	Above \$23,500
Joint	Up to \$29,300	Above \$29,300

The benefit of the 15% bracket would be phased out for taxpayers with high income—*viz.*, for joint tax-

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1. Article I, Section 7 of the Constitution of the United States provides: "1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."  
2. The plan was unanimously approved by the Senate Finance Committee, and these votes alone represent 40% of the votes needed on the Senate floor to gain passage of the bill.

## Book Review

**SUPPORT PRACTICE HANDBOOK: Preparation, Negotiation and Trial.** By Neil Hurowitz. Kluwer Family Law Library. Kluwer Law Book Publishers, Inc., New York, New York, 1985, pp. 596.

*Reviewed by Alan M. Grosman*

The *Support Practice Handbook* by Neil Hurowitz is the best matrimonial trial manual ever written. It is truly a legal literary gem and fills a void in the Family Law field. The *Support Practice Handbook* will become a Family Law classic, just as *The Art of Cross-Examination* by Francis L. Wellman<sup>1</sup> has become a general trial bar classic.

No attorney should handle any type of Family Law matter without first mastering this incredibly thorough matrimonial trial handbook. It belongs in the personal law library of every trial lawyer.

Neil Hurowitz, of King of Prussia, Pennsylvania, is one of America's top trial lawyers. For years he has been one of the most sought-after lecturers on all aspects of matrimonial trial techniques and strategies, particularly in seminars of the American Trial Lawyers Association and in those of the Pennsylvania Trial Lawyers Association. Mr. Hurowitz has pioneered in the practical application of the insights of the behavioral sciences, especially psychology, to Family Law litigation. He is President of the American Academy of Matrimonial Lawyers, Pennsylvania Chapter. This work is a synthesis of his more than twenty-five years of trial experience.

The book provides in-depth coverage of every aspect of a support matter beginning with the initial interview, continuing with discussion of the key elements in a support case, discovery, the use of expert witnesses, negotiating strategies and techniques, pre-trial applications, trial preparation, presenting the case, post-judgment applications, appellate practice, tax aspects and important considerations of professional ethics in Family Law.

Moreover, the *Child Support Practice Handbook* is replete with valuable checklists, forms, worksheets and helpful comments on all subjects covered. These are both practical and imaginative. The chapters on discovery, the use of expert witnesses and negotiating settlements are particularly valuable and detailed. The chapter on presenting the case takes one through every step from opening statement, to direct and cross-examination, redirect and rebuttal, the final argument and the trial memorandum. Though the emphasis is upon obtaining the best possible support award, an important chapter is devoted to defenses to the support action when representing the defendant-husband.

The matrimonial Bar is coming to grips with the fact that the feminization of poverty is one of the most significant moral and practical issues in contemporary

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1. 4th Ed., Collier Books, New York, New York, 1962. (1st Ed., 1903).

Family Law. The magnitude of the problem has resulted in the increasing federalization of Family Law, particularly through enactment of the Child Support Amendments Act of 1984 with its requirements that each state have an "expedited process" for child support enforcement in place by October 1 of last year and that each state develop child support guidelines by October 1 of next year. Obtaining adequate spousal and child support awards for mothers with young children is today's burning issue. Mr. Hurowitz' book provides expert guidance to the bar to make significant inroads in solving this problem and in enabling custodial parents with minor children to realize the economic benefits to which they are entitled. □

## The Family Law Section's Future

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To those who question whether our involvement should be as extensive as it is, I can only respond that lawyer involvement is not only appropriate, but necessary if the system is to function as designed. Lawyers are not simply individuals appearing in court earning a living. Rather, we are involved not in the business but the profession of law. Yet, with such involvement there is not only commitment and a responsibility to the system but an obligation to do whatever we can to improve it. We seek nothing more than the simple right to fulfill that responsibility. No more than that is necessary yet no less than that is acceptable.

CHILD SUPPORT GUIDELINES: As you are all probably aware, on May 9, 1986, the Supreme Court adopted R.5:6A requiring mandatory utilization of guidelines in child support cases. I have written to each County Bar Association advising that the Section will provide guidance not only as to the philosophy underlying the guidelines but their practical utilization as well. If you feel a need in your particular county for assistance, please contact either the Chairman of your local Family Law Section or your Bar President so that a seminar can be arranged. As you probably are aware, guidelines are generally required by Federal Law but the actual end result evolved with significant Bar input. I am confident that the recently enacted guidelines are far better than what originally had been proposed. Judge Steven Schaeffer, Presiding Judge of the Hudson County Family Court, was particularly sensitive to Bar concerns and we are appreciative of his efforts. Nevertheless, something as significant as these guidelines must continually be reviewed to see whether the initial suppositions upon which they were based are being borne out in practice. Your section has accepted this responsibility. A sub-committee chaired by Pamela Kaufelt (also Chair of the Women's Rights Section) will be conducting an ongoing review on implementation of the guidelines. If that investigation reveals further study is required, we intend to initiate discussions to have our views considered by the Court. Accordingly, comment is welcomed and should be directed directly to Ms. Kaufelt.

COMMITTEE ASSIGNMENTS: In past years, to a large degree, assignments to committees established by the Executive Committee have been limited to the

members of that committee. Your officers have decided this year to change that practice and every member of the Section is invited to participate in what is, in reality, the work of the Section. The committees provide the vibrancy to this Section and your participation is not only welcomed, but requested. There are approximately twenty-five committees and you will be receiving, in the near future, a listing of the committees with a specific invitation to join. I urge you, however, not to wait for that and to contact either me or any of the other officers advising of your interest.

**EXECUTIVE COMMITTEE:** Consistent with our firm determination to make the governance of the Section as open as possible, membership on the Executive Committee has been broadened from the standpoint of both geography and gender and is now, we believe, more balanced, representing the broad base of our Section. I am pleased to inform you of the present members of the Executive Committee:

Martin J. Abramson (Woodbury)  
Jane R. Altman (Skillman)  
David K. Ansell (Eatontown)  
Mark Biel (Atlantic City)  
Alan J. Cornblatt (Brick)  
Barry I. Croland (Paramus)  
Laurence J. Cutler (Morristown)  
Howard P. Danzig (Short Hills)  
Robert Diamond (Springfield)  
Kenneth S. Domzalski (Burlington)  
Robert J. Durst, II (Flemington)  
Richard J. Feinberg (Bayonne)  
John E. Finnerty, Jr. (Paramus)  
Thomas S. Forkin (Cherry Hill)  
Lee M. Hymerling (Haddonfield)  
Pamela C. Kaufelt (Somerville)  
Darrlyn Mann (Vineland)  
Irene U. Mecky (Clifton)  
Richard A. Norris (Somerville)  
John P. Paone, Jr. (Woodbridge)  
Peter C. Paras (Oakhurst)  
Richard A. Russell (Ocean City)  
William M. Schreiber (Red Bank)  
Richard H. Singer, Jr. (Morristown)  
Gary N. Skoloff (Newark)  
Mark H. Sobel (Woodbridge)  
Lynne Strober (W. Orange)  
Katharine J. Sweeney (Morristown)  
William J. Thompson (Haddonfield)  
John J. Trombadore (Somerville)  
Barbara Ulrichsen (Princeton)  
Patricia Slane Voorhees (Princeton)  
Jeffrey P. Weinstein (W. Orange)  
George G. Whitmore (Red Bank)  
David M. Wildstein (Woodbridge)  
Thomas P. Zampino (Nutley)  
Allen S. Zeller (Cherry Hill)

**TRUSTEE LIAISON:**

Sidney I. Sawyer (Hazlet)

The Section will shortly be reviewing potential By-law amendments to insure membership on the Executive Committee is opened to all and effective work on committees should, in the future, be the primary consideration for membership on the Committee.

I look forward to an active and hopefully productive year and urge your participation in every aspect of the

Section's work. Your support is not only needed but it is vital if the Section is to function effectively. On behalf of Alan Grosman, Myra Peterson and Jim Yudes, I thank you for your past support and we are hopeful that we will continue to earn it in the future. □

## Senate Finance Committee Formulates Comprehensive Tax Reform Bill

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payers with taxable income between \$75,000 and \$145,320, for heads of household with taxable income between \$55,000 and \$111,400 and for single taxpayers with taxable income between \$45,000 and \$87,240.

*Observation:* While the bill purports to reduce the top personal tax rate to 27%, the phase-out of the 15% tax bracket would increase the effective top marginal tax rate for many taxpayers to 32%. In addition, since the rate reduction is scheduled to be in force for only half of 1987, the effective top tax rate for 1987 will be considerably higher.

*Observation:* Once the new rates are fully implemented, the structure of two rate brackets with phase-out rules for high income taxpayers creates new opportunities for tax planning with alimony. For example, alimony that shifts income from a taxpayer whose income is within the "phase-out range" would perhaps be able to effectively shift income from a 32% marginal rate to a rate effectively below 15%.

(b) *Corporations:* The top corporate tax rate would be reduced from 46% to 33%. Under the bill, corporations would be subject to taxation on a three bracket rate structure:

<u>Taxable Income</u>	<u>Rate</u>
Up to \$50,000	15%
Between \$50,000 and \$75,000	25%
Over \$75,000	33%

Further, an additional 5% tax would be imposed on a corporation's taxable income in excess of \$100,000 (subject to a maximum of \$11,000) in order to achieve a phase-out of the lower graduated rates for corporations with taxable income between \$100,000 and \$320,000.

2. *Standard Deduction:* The present "zero bracket amount" would be replaced in terminology by a "standard deduction" and would be increased to \$5,000 for joint taxpayers and surviving spouses, \$4,400 for heads of household and \$3,000 for single taxpayers.

3. *Personal Exemptions:* The personal exemption would be increased to \$1,900 for 1987 and thereafter to \$2,000 for an additional, his spouse and each of his dependents. However, the personal exemption would no longer be allowed for anyone eligible to be

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