

By Andrew Gullford

When I became a judge a few years ago, I found no books giving insights and tips about how to be a judge. That void has now been filled by Judge James P. Gray with his practi-

Book Review

cal and insightful book, "Wearing the Robe: the Art and Responsibilities of Judging in Today's Courts." It's a perfect gift, especially for a

new judge.

The book benefits from Gray's wide-ranging experience in the law, touching both federal and state courts. He served 25 years as a trial judge in Orange County, retiring recently. Before becoming a judge, he was a criminal defense attorney with Navy JAG, a federal prosecutor in the U.S. attorney's office in Los Angeles, and a civil practitioner in Century City and Newport Beach. Gray is the son of the late and highly regarded Judge William P. Gray from the Central District, where I now sit.

This book is a professional treat,

exploring a judge's day-to-day realities while giving tips aimed at increasing a judge's effectiveness. Included are insights about every calendar on the docket, such as civil, criminal, probate, mental health, family, juvenile and adoptions, as well as subdivisions of those calendars, such as traffic, domestic violence, small claims and drug courts.

Gray examines all aspects of handling a case, including law and motion practice, jury voir dire, evidentiary objections, opening statements, closing arguments and jury instructions. He discusses how to avoid using powers of "contempt of court" without losing courtroom control, how to settle civil and criminal disputes, how to sentence in criminal matters, how to deal effectively with the media and how to live and even thrive within the many ethical restrictions imposed on judges.

A new judge wondering about running "six pack" jury selection will find answers here. Beyond such practical matters are profound comments on subjects such as the goals of criminal sentencing. And the first time I, as a new judge, was asked to perform a wedding, it would have been helpful to have Gray's wedding script that's included in an appendix.

The thorough sweep of this book and its insights should appeal to all trial court judges, regardless of their experience. And since a good lawyer should know how judges think, this book is a valuable resource for lawyers. The book also gives specific advice to lawyers seeking judicial appointment. Gray, the son of a former State Bar President, properly emphasizes that aspiring judges should be involved with bar activities and pro bono work.

But "Wearing the Robe" is more than just a "how to" book for those in the judicial system. Gray expands philosophically throughout the book. He cites with approval the lofty idea that our Constitution with its balancing of powers is humanity's greatest achievement over

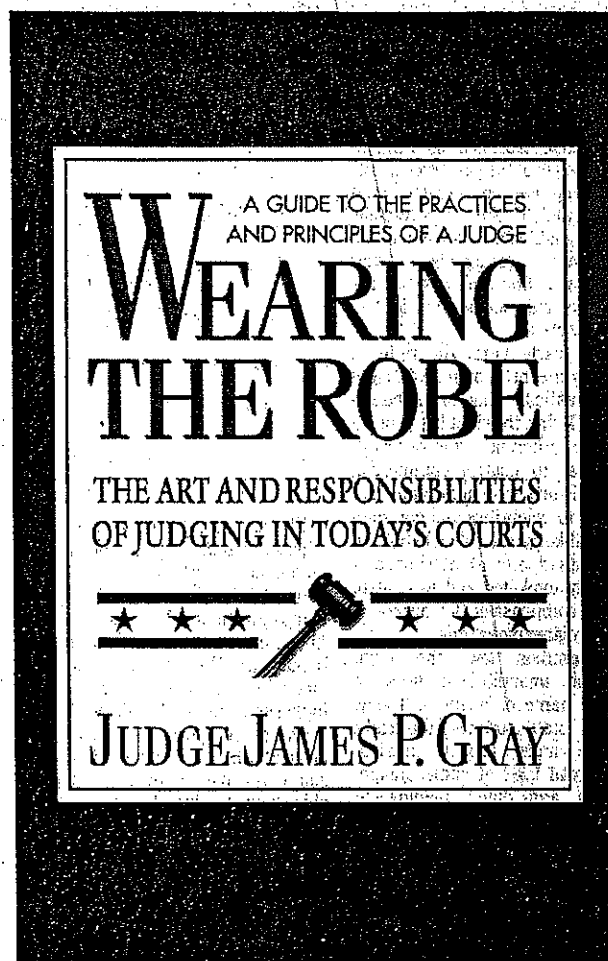
the last thousand years, and that the judicial branch plays the key role under our Constitution of drawing the lines in the balancing of power. Sadly, the importance of the judicial branch and its judges contrasts with the public's misunderstanding of judges and their job. The light Gray shines on what judges do and the core values judges honor will be helpful and informative for the public, especially high school and college students.

Gray is a folksy, down-to-earth writer. His eclectic wisdom, evident throughout the book, enhances the book's effectiveness. He quotes a wide variety of sources like Johnny Wooden, Mark Twain, Aeschylus, Charles Dickens and Thomas Jefferson. He also effectively uses humor and examines how humor should and shouldn't be used by judges. He believes that at times, justice is served by relaxing courtroom tensions with humor. But he warns that at other times, humor can be disrespectful to the judicial process and the parties involved.

Where Gray sees faults in the judicial system, he proposes solutions. The book includes alternative methods for handling car collision cases, decreasing litigation expense, increasing access to justice, reducing the number of meritless cases, and establishing restorative justice. His ideas and his book are thought-provoking.

For example, those who love our judicial system and its core values will read with great interest Gray's proposal for loser-pay rules. He notes the English rule where the loser pays attorney fees to the prevailing party in litigation. He calls this the English Plan, and in fact it might be called the "World Rule" since it is the prevailing rule around the world.

Used properly, loser-pay rules can encourage attorneys to handle important matters that benefit society, such as cases protecting civil liberties of the poor. They can also discourage frivolous lawsuits, fol-



lowing the economic principle that the cost of a bad decision should be imposed on the decision maker. But as Gray correctly warns, loser pay rules can have a chilling effect on those with meritorious claims, thus reducing access to justice.

His solution is to give judges the discretion to award attorney fees with fees not being awarded in ways that would diminish access to justice.

Gray is obviously influenced by economic principles in his ideas like his loser pay proposal. Aspects of a typical "law and economics"

course are found throughout, and he specifically gives this advice: "Be aware of the laws of economics in your rulings."

Gray is also undoubtedly influenced by his father, who taught his son well. Likewise, we all can be taught by "Wearing the Robe." Gray's high-minded book can instruct and inspire judges and lawyers, and inform all Americans about the core values of our judicial system.

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