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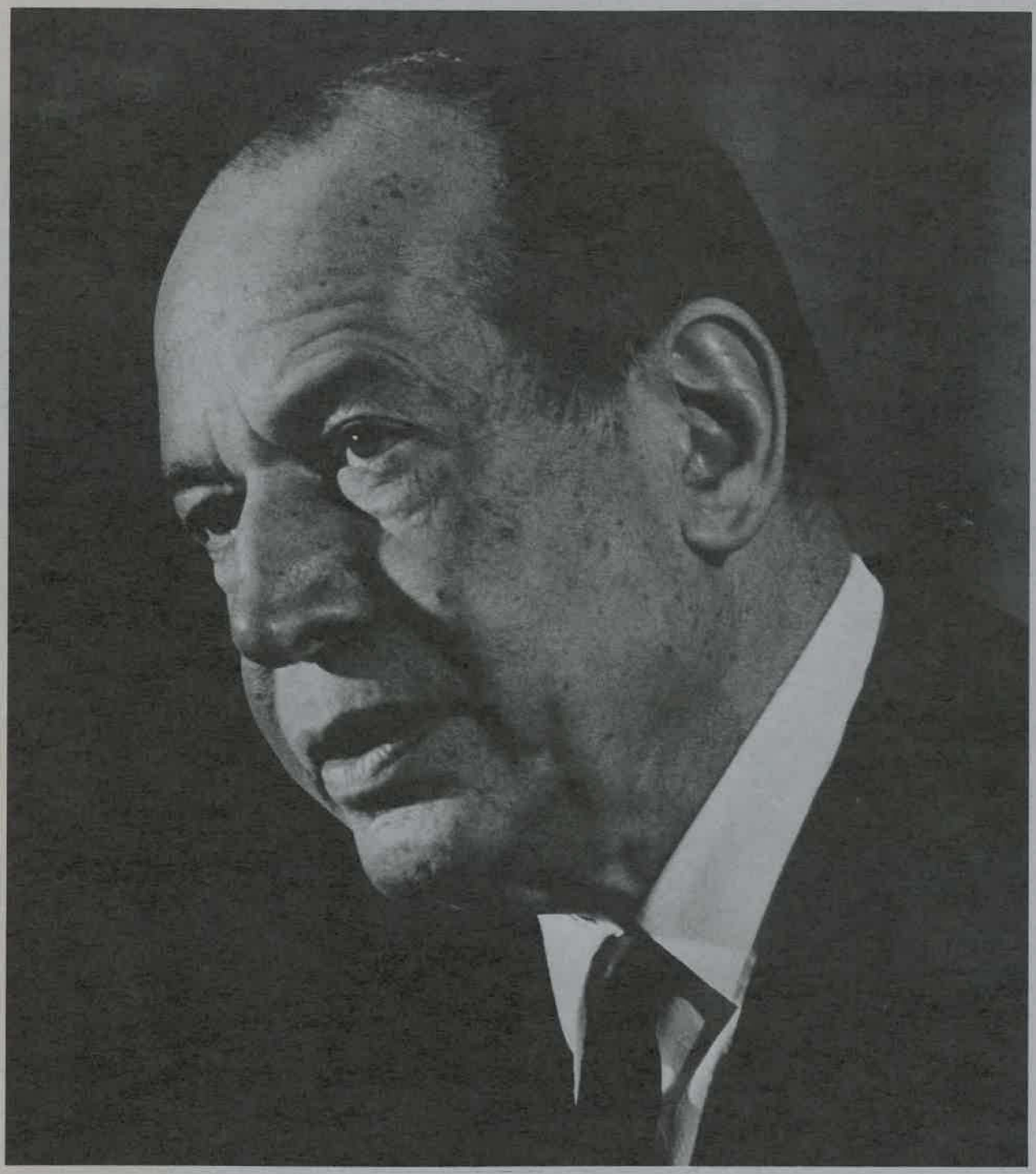

THE COMING ASSAULT ON INDIVIDUAL RIGHTS: PRIVACY AND DIGNITY

Editor's Note

Washington State Bar News

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North Pacific Bank Note Company

Index

A turn-away crowd at Seattle University demonstrated the interest which many people have in what Abe Fortas has to say. Only Aaron Dixon in recent memory drew such a crowd at S.U.

Tom Wicker of *The New York Times* has castigated the Bar for its silence in face of the Congressional assaults which "limit the Fourth Amendment, erode the Fifth and threaten the Eighth Amendments of the United States Constitution." But when the members of the Bar go forth to criticize legislation or proposed legislation, the speaker should have his facts at hand. It is submitted that Abe Fortas fell a little short of the mark in criticizing the wiretap provisions of the Omnibus Crime Control and Safe Streets Acts of 1968 (page 5).

Judicial Ethics – Part II examines the hard questions facing those who are at work at revision of these canons (page 7). The Seattle-King County Bar Association has developed a fair-campaign pledge to be signed by judicial candidates (page 10).

The legislature has adjourned. Opinion 70-1 but highlights the problems that will continue until the Bar Association incorporates in its Code of Professional Responsibility a section dealing with the lawyer-legislator (page 15).

Having received no avalance of negative response from members of the Bar, the Board of Governors has recommended to the State Supreme Court for adoption the Rule on Limited License to Practice (page 3).

The University of Washington School of Law, anticipating promulgation of the rule, posted a sign-up sheet for all law students interested in obtaining summer

Photo by Steve Marts

Abe Fortas

legal clerkship positions in local law firms. Ninety students almost immediately signed up.

Harry Fay, Editor of the Condon Commentaries, did not let his readers remain unaware of two members of the Bar who did not embrace the concept.

> "Statements in opposition to the proposed rule from two members of the bar were published in the January issue of the State Bar News, with one of the letters approving the idea while suggesting some refinements in the proposed rule.
>
> "The other, only, direct negative response to the proposal altogether came from a graduate of this law school, '68, Don Gulliford . . . Gulliford suggested the whole idea be dropped, and that a general practice course be added to the Bar Exam. Great Don! You really have the professional development of the future lawyers at heart!"

Great Don! You'd be a great homecoming chairman!

Letters

Rules of Discipline

Editor:

As a member of the Local Administrative Committee, I find it embarrassing to stand mute while the Bar is castigated for doing nothing about disciplining a lawyer who makes the headlines for embezzling from an estate.

The time lag between the action by the Local Administrative Committee and disposal of the matter by the Supreme Court is quite lengthy and during this interim an accused attorney frequently compounds his problems with the bar at the expense of other clients.

PAUL A. CLAUSEN

Spokane

Editor:

I see nothing to be gained by releasing status information on pending disciplinary action against attorneys for a number of reasons. The general public does and will not and probably is not capable of understanding the problems facing attorneys and the reasons they are disciplined. Unfortunately, we are still faced with the byword "shyster." I therefore have voted against the vesting of additional discretionary powers to the Board of Governors, as I see no reason to give the general public additional reasons to misunderstand us.

CARSON F. ELLER

Tacoma

Editor:

As demonstrated by the present status of the O'Connell case, any release of information by the Bar Association as to action being taken would automatically be construed as determination by the Bar of illegal actions taken, since the public has little or no concept of the difference between illegal and unethical matters and many times construes perfectly proper conduct to be one or the other.

DONALD G. HOLM

Renton

Editor:

More than twenty years ago, when I was a newspaper reporter covering the court house beat in Spokane, Mr. Thomas Malott, acting for a committee of the Spokane County Bar Association, asked me my opinion, as a newspaperman, of what the bar association could do to most improve its "public image." I told him that speeding up disciplinary proceedings, and especially those involving lawyers whose misconduct has become a matter of public record or notoriety, would be the biggest single constructive step the bar association could take. Laymen cannot understand how a lawyer whose peculations or actual embezzlements may have resulted in charges being filed against him can keep on practicing law for many months, or for a year or more, while nothing happens, as far as the public is concerned.

We can explain patiently, on a private man-to-man basis, that undoubtedly disciplinary proceedings are under way, or will be soon. The layman sees only one thing: a lawyer charged with serious misconduct continues to practice law for a substantial period of time.

I say that we as lawyers should be able to trust the Board of Governors with authority to take such acts as are necessary to protect the public, other lawyers, and the rights of the accused lawyer, when matters have already reached the point where the public is well aware of serious charges against a lawyer. In some cases, at least, the lawyer already publicly charged with serious misconduct which would justify his disbarment should be required to "show cause," in a prompt preliminary disciplinary proceedings.

I believe the opinion I expressed some twenty years ago, before becoming a member of the bar, is still as valid as when I first expressed it.

E. GLENN HARMON

Spokane

Results of February Bar News Poll

	Yes	No
1. Should the Board of Governors be vested with discretion to release information regarding the pendency of proceedings and the status thereof in cases where the acts complained of have already received publicity and where the guilt of the accused attorney may appear persuasive?	11	11
2. Should the Disciplinary Board be vested with the power to suspend the accused attorney's right to practice law simultaneously with the institution of disciplinary proceedings where it appears that continuation of practice during pendency of the proceedings is not in the best interests of the association or the public?	12	10

Proposed Rule on Limited Practice

Editor:

As a law student and potential legal intern under the proposed Rule on Limited License, I would like to respond to certain comments made in opposition to Rule 9 which appeared in the January *Bar News*. Mr. Don Gulliford concluded that since there are no required courses in the law school curriculum after the first year students would duck the "crucial" courses and thereby lack the essential skills necessary for a legal intern.

This argument is very surprising and experience has proven it false. Many criticize law schools today because they are oriented toward the practice of law and do not offer a sufficient number of courses dealing with our underlying socio-economic problems.

Secondly, while I believe that all law school courses are relevant, I am aware there are a few courses for students who wish to specialize in a particular area of the law. But the sheer number of credits required for graduation (135 credits) induces a student to receive a well-rounded legal education.

Lastly, common sense tells us that in order to pass a bar examination and practice law in any state, one must take courses which will adequately prepare him. The high average of success in our state's bar examination by University of Washington Law School graduates proves this point.

QUENTIN STEINBERG
UW Law School Student

Seattle

This month I am reverting to a report on the activities of the Board of Governors, concerning the meeting held at the Tyee Motor Inn in Olympia in January, just two days before the place burned down.

The Board meeting on Friday was preceded by an informal dinner the night before with the Justices of the Supreme Court, where punches (verbal, that is) were not pulled on either side.

On Bar business Friday, we had three personal appearances–Dean Lewis Orland on the Gonzaga Law School future; Ralph Potts, chairman of the History of the Washington State Bar Committee; and Roy Mitchell on School and the Law.

Disciplinary matters occupied only a short time, and this is reducing each month, although the list of complaints grows longer and each Board member agreed to contact the local LAC Chairman in his area to speed up investigation of old complaints. A meeting of all local LAC Chairmen was set for February 13, 1970, in Seattle.

The continued activity of State Bar Committees was apparent in reviewing minutes of the *Young Lawyers Committee*, which, among other matters, is working on Uniform Superior Court Rules; the *Legal Aid Committee*; the *Lawyer Referral Committee*; the *Public Relations Committee*; the *Family Law Committee*, which covered the interesting new California laws on "Dissolution of Marriage", based on "irreconcilable differences"; and the *Internship Committee*, again principally concerned with the proposed Rule 9 on Limited Practice Licenses.

This last matter has been back and forth between committees, the Board and the Judicial Council, and while perhaps no rule can be drawn to the satisfaction of all lawyers, the Board feels this should be recommended to the Supreme

Court for adoption in a limited, controlled fashion in order to try it out, and, partially, to meet the need for expanded legal services.

The Board discussed a recurring problem covering attorneys whose license to practice has been revoked for one reason or another, and who still may be practicing law. This is a criminal matter, of course, but also there should be some machinery to bring the matter to a head in the disciplinary area.

The Board is again working on an attempt to set up procedures on recommendations for appointment to judicial positions at all levels, in order to get the best possible candidates, and also to reflect the beliefs of the local attorneys who best know the candidates.

Various correspondence required attention, including a discussion of the lease on the quarters we occupy in the College Club Building.

Those of you who are presidents of your local Associations please remember and plan to attend the meeting of Bar Presidents to be held in Yakima on April 10, 1970. I hope to see you there.

Quotes Quoted

The following are some of the questions and former Justice Abe Fortas' responses which followed his address at Seattle University on January 27, 1970.

Q. Would you care to comment on the "No Knock" legislation?

A. I am afraid that I don't understand your reference.

Q. There is a bill now before Congress which would give the police the right to enter without . . .

A. Oh, oh I see, you said "No Knock". I thought you said "No Not". There might be an amendment of that sort one of these days too. I notice that I have the distinguished company of Senator Ervin of North Carolina. He has not always supported me nor have I always supported him but I think anyone who has studied the history of freedom and restraints on police would fear this very much. As a matter of fact, in most of our states, if a policeman breaks into your house without a warning, without knocking, without announcing his identity, you can, I don't recommend this, but you can shoot him. I think this is very dangerous and a very bad amendment.

The power of the police to break into a place without announcing themselves was really one of the causes of the American Revolution, particularly emanating from the Boston area where there were some pretty tough officials of the town.

The question is whether the people of this country are willing to surrender this historic freedom in return for giving the police a more effective power, which it would be, to attack the narcotics racket. It is a matter of balancing. In considering all of these problems, I am tremendously impressed by history. I value freedom so highly that I find myself appalled by people who seemingly are ready without much trouble to give up a freedom which has the testimony of history. I think that maybe history does teach us something and we should be very reluctant to give up any freedom which has a long and noble history such as has this requirement which we have just been discussing.

Q. What relation should Judge Carswell's statement more than 20 years ago about white supremacy have to his nomination to the Supreme Court?

A. I think that with apologies I will confine myself to saying that . . . it is relevant.

Q. What are your views on marijuana?

A. The marijuana story still has to be told. I have been fascinated by this controversy. I served on some committees many years ago of the American Bar Association and of the American Medical Association on the subject. It is really fantastic but it is true that the basic research still has not been completed. I don't know. I am very puzzled by it. I am by no means reconciled in my mind to one viewpoint or the other with respect to marijuana.

Except in this respect, I think that the penalties that have been imposed on the use of marijuana are obscene and ridiculous. I think young people's lives are being destroyed quite brutally and quite without any justification because of these brutal laws that are on the books with respect to marijuana . . .

The Federal Food and Drug Administration has been giving out some truly obscene and ridiculous propaganda against marijuana. It is just absolutely insane. There is no scientific basis whatsoever and I don't think it is persuading anybody of anything. On the other hand, I just hate to see young people using it. Now, I wish I didn't, the reason being purely a practical one that the use and possession of marijuana under the laws that are now on the books can result in a ruined life.

Q. Mr. Fortas I am surprised that you haven't had some questions or comments on the Chicago Conspiracy trial. I wonder if you would comment as to how legitimate you feel this trial is.

A. I don't know how legitimate the trial is. It's a conspiracy trial. I've been worried about conspiracy trials in a lot of contexts. A conspiracy trial is in a sort of a political arena. It is particularly difficult and dangerous for a democracy. I think maybe I ought to content myself with saying this that on a basis of press reports, I find what has occurred at the trial very disturbing but (I am trying to choose my words very carefully) I would not exempt from the consternation implied by that observation the conduct of the defendants and some lawyers.

PRIVACY AND DIGNITY

Remarks of Former Justice Abe Fortas

Tom Wicker of the New York Times entitled one of his recent columns "Silence At the Bar". He termed the Omnibus Anti-Crime Bill, which passed the Senate with only Senator Metcalf's dissenting vote, the greatest threat in many years to American liberty. He stated: "The legal establishment in America, which ought best to understand this menace, has a special responsibility for exposing the lasting consequence of momentary political hysteria."

This is what former Justice Abe Fortas set out to do in the first of the modern American Lecture Series at Seattle University on January27, 1970. Said the Seattle-Post Intelligencer: "Suave, urbane–his crusader's lance well-aimed–former United States Supreme Court Justice Abe Fortas came out of the East yesterday to warn this area 'our freedoms are in gravest danger.' "

I want to talk to you today about problems of the country and this fantastic and strange time in which we are living.

I think it's correct to say that we are in the middle of a revolution. I call it a revolution because of the type of change that's going on and the quantity of the change that is taking place. What is occurring in this country is unique I believe in the history of the world. I don't believe that there is a parallel in history for what is going on here.

In this country there are approximately 22 million blacks who are citizens of the country. They have been citizens of the nation since the 14th Amendment was adopted just following the Civil War. What is going on in this country is a vast revolutionary attempt to admit these people, about one-tenth of our population, to full-membership in our society. Nothing like that has ever been tried or accomplished by relatively peaceful means.

The blacks have been the spearhead of a revolutionary movement which has gone beyond them and has included the non-black poor. When we started this vast movement it was conservative I think to say that there were 35 million very poor people in this country; that's about one-sixth of the population. Most of those were blacks.

And then after those forward movements started, there came to be what I think might properly be called a revolution among the young people of this country, the people of college age, and even spreading to people of high school age. America will never be the same. America will never be the same.

At this stage of this vast social revolution, there are dangers and there are perils confronting us but there is also vast promise. America will never be the same but it may be a much greater nation. That depends I think upon what happens in the next few years, the next decade, perhaps it depends upon what your generation does about it . . .

Revolutions are dangerous things. Revolutions breed extremes and revolutions breed reaction.

The violence and the lawlessness have set back the movement. They will set it back further, a movement which is so necessary if we are in this country to achieve the promise of the social revolution. And I want to emphasize that the promise is the promise of America, because what is going on now is in fulfillment of the Constitution of the United States. It is in fulfillment of the ideals of the founding fathers. I want to emphasize that this is not an un-American revolution . . .

This is an intensely American revolution, designed to achieve for all of our people what was promised not to some of our people but to all of our people–namely, liberty, equality, and an opportunity to pursue happiness and goodness.

Now, violence in this country, I think, is counter-productive. I believe that we have already seen sad examples of this. Revolutions devour their first generation of leaders. They devour their first generation of leaders partly by their own resort to violence, partly by the intensity of the reaction that violence produces. That has happened here. But more than that, this country faces a period of the utmost danger because the American people are not very good at long-run change. We proceed by spurts and dashes with long periods in between. Liberals in this country are subject to fatigue easily and quickly. And at the same time there is in this country, and I guess there always has been, a very strong element of reaction.

You know, the blacks in this country can achieve equality; the students can achieve the kind of freedom for their own life-style, the new definition of freedom that they seek; the poor can achieve a status of dignity and respect and minimum subsistence. We can do all of that and still have a country in which none of us really wants to live.

We can raise the level of the blacks and the poor. We can provide a new respect for students as people and still have in this country a suppression of basic freedom which is in negation of its fundamental ideals.

I am afraid that that movement has started. It has gained tremendous momentum, not only and not principally in response to the violence of the blacks and students, but primarily because of the reaction of people to crime.

Now crime is a terrible problem in this country. It would be foolish and idle to say that the amount of crime we have in this country has no relation to the social revolution. Of course it does. The vast movement of blacks and poor people from the rural areas, particularly the rural areas in the South, to the crowded ghettos, to the crowded cities, has certainly intensified the problem of crime. Crime must be fought and it must be combatted. It must be combatted as crime. The symptoms must be combatted; the acts of crime must be combatted. The drug traffic must be combatted, while we are striking at those basic causes, the human spirit and the human condition of life, from which crime emerges.

But the frightening thing is that there is a tendency in this country to fight crime symbolically. To fight it in a cheap and tawdry way. To fight it by attacks upon freedom. To avoid the hard, tough job of appropriating the hundreds and hundreds of millions of dollars that are needed to recruit police, to light our city streets, to train our people; to avoid the long hard job of providing better police, of marshalling the resources of every neighborhood—those are hard, difficult, undramatic things to do. But those are the things to do to combat crime.

Perhaps, the law, the Supreme Court decisions, contains some really onerous and difficult restraints upon the police that we could afford to modify or get rid of without impairing our freedom; I don't know whether that's true or not.

But I do know that what is going on in this country creates a danger that we may find ourselves in a situation where, for perhaps minimal benefits in the war against crime, we have surrendered major and basic safeguards of our freedom.

Let me give you just an illustration. It was in the last administration that the Omnibus Crime Control and Safe Streets Act of 1968 was passed. That law authorizes not only the federal agents, but local prosecutors and local chiefs of police in towns, in hamlets, and in states, to tap wires of citizens, to plant bugs on citizens in a vast variety of circumstances.[1] An order of a magistrate or of a court must be obtained, unless the prosecutor or the chief of police believes that there is an emergency, in which event he can, for periods of time, tap your wire or plant a bug in your house.[2] Now one of the circumstances which is explicitly provided for is the use or possession of marijuana. I am sorry to say that there are a lot of people in this country who use marijuana.

The Attorney General of the United States has taken a position, as I understand it, that in addition to the specific provisions of this act there is inherent power in the President, presumably to be exercised through the Department of Justice, to tap wires or bug people's homes and offices in any case where the

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[1]*Ed. Note: State and Local prosecutors and law enforcement officers have such power only if the state has enacted an appropriate enabling statute. 18 USC §§ 2516(2), 2510(7). Currently, 17 states have enabling statutes.*

[2]*Ed. Note: Interception without a court order in an "emergency" situation, involving organized crime or national security, is authorized, provided an application for a court order approving the interception is made within 48 hours thereafter; again, a state enabling statute is required as to state and local law enforcement officers. 18 USC § 2518(7). Research indicates that no state to date has adopted the so-called "48 hour" procedure, with the possible exception of South Dakota.*

JUDICIAL ETHICS

No episode in history has done more damage to public confidence in the federal judiciary than the Fortas matter. On the known facts, no one found a law that Fortas had violated. And aside from a stricture against "impropriety," one can search the Canons of Judicial Ethics in vain to find a clear prohibition which fitted the matter. In this context discussion of some of the more important concepts of judicial ethics seems appropriate.

– Hon. George Edwards, Circuit Judge, United States Court of Appeals for the Sixth Circuit.

Who has the responsibility to regulate the conduct of judges? There is no clear-cut answer. Presently judges are subject to self-regulation, legislative regulation and the Canons of Judicial Ethics.

Disclosure

The Judicial Conference of the United States promulgates rules which control federal judges. It was on June 10, 1969, under Chief Justice Earl Warren that a rule was adopted which permitted judges to receive compensation for off-bench activities only if they received the approval of the leading judges in their circuit and if the service was "in the public interest".

On October 31, 1969 the rule was rescinded under Chief Justice Warren E. Burger in favor of a rule which provides for a "receiving officer", appointed by the Chief Justice, to accept reports from all judges who receive compensation over $100 for non-judicial services. These reports will be forwarded to a panel of three federal judges, also appointed by the Chief Justice, and will be kept confidential by them. If the panel finds any "question of conflict with standards of judicial conduct", they will report to the Judicial Conference.

The Seattle Times editorial printed on page 8 in the *Bar News* last month criticized the new rule for the secrecy in which the financial statements will be kept.

Action by the King County Superior Court judges drew the exact opposite reaction from *The Seattle Times* in its editorial of February 5, 1970. The editorial commended the judges for filing statements which included information not only on a judge's extra-judicial earnings in excess of $100 but his assets, liabilities, data on all accounts in financial institutions, a listing of all directorships held in corporations and descriptions of all real property owned, both inside and outside King County. Most judges filed them with the County Clerk. Judges Ward Roney and Story Birdseye filed them with the Records and Elections Department.

These statements went far beyond what is specified in a state law requiring annual financial reports from judges and state government officials.

Under the state law, judges must file annually.

Judge Lloyd Shorett, chairman of the judges' executive committee, said the filings were made to help retain public confidence in the judiciary.

Purpose of Disclosure[2]

What if the statement shows income from private practice on the side?

For obvious reasons, it is agreed that a judge should not practice law during his term of office. Indeed, so basic is the admonition that Article 4,

Section 19, of the Washington Constitution expressly so provides. To the same effect is Canon 31 of the Canons of Judicial Ethics in this State. (Hereafter "CJE".)

What if the statement shows income from serving as an executor, administrator, trustee or other fiduciary?

It is also agreed that it is *not* improper for a judge to serve as executor, administrator, or trustee, provided that doing so will not interfere or seem to interfere with the performance by the judge of his judicial duties, and, provided further, that the business interests of those who are represented by the judge, while serving as a personal representative or trustee, do not require him to invest "in enterprises that are apt to come before him judicially or to be involved in questions of law to be determined by him." CJE 27.

What if the statement shows that the judge is serving as an officer, director or employee of a corporation?

The resolution adopted by The Judicial Conference of The United States in 1963 recommends that a judge be barred from serving as an officer, director or employee of a corporation organized for profit.

Is this bar too broad? Should it relate only to corporations that are likely to appear as litigants before the judge? Should it apply when the service of the judge as an officer or director of the corporation long antedates the appointment of the judge to the bench and the corporation he serves is not likely to be a litigant before his court? Should a distinction be drawn between the propriety of a judge's serving as an officer or director of a corporation engaged in a business affected with a public interest and the propriety of his serving as an officer or director of a corporation *not* affected with a public interest?

CJE 25 provides that a judge should not "enter into any business relation which in the normal course of events reasonably to be expected might bring his personal interest into conflict with the impartial performance of his official duties."

What if the statement discloses that the judge has invested in a business enterprise?

CJE 26 provides: "A judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court; and after his accession to the bench, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss." This canon also specifically admonishes a judge not to speculate by investing on margin or by using information coming to him in his judicial capacity.

What is the meaning of the term "enterprises"? Is this term intended to designate only profit-motivated undertakings or is it intended to include the United States, the various states, municipal corporations, and governmental agencies? Obviously, if the broader meaning is intended and the provisions are literally construed, some governmental securities would be improper investments for some judges. For example, United States Bonds would seem to be an improper investment for Justices of the Supreme Court of the United States. Surely, such a result could not have been intended, but the very possibility, however remote, of such an interpretation of "enterprises" suggests the desirability of a precise definition of the term.

Not to be confused with the investment provisions under consideration is the requirement that a judge disqualify himself from hearing a case in which he has a financial interest. The investment provisions tell a judge of the investments that he should not make and of those that he should not retain. The disqualification requirement tells a judge when an investment that it is proper for him to retain requires him to disqualify himself from hearing a legal matter that it would otherwise be his duty to decide. Bear in mind that when a judge disqualifies himself from hearing a matter before him he throws an added workload on his colleagues and may cause a delay in the hearing of the legal matter. Therefore, a judge should not disqualify himself from hearing a matter in which he has a financial interest by reason of an investment which it is unethical for him to retain. Instead, he should dispose of the investment.

You will recall that the provisions on investments by judges if literally construed would apply to a judge owning only a few shares of stock in General Motors or AT&T, or any other large publicly held corporation, although the outcome of the litigation "apt or likely" to come before the judge or actually before him would have only minuscule effect on the financial interest of the judge in the corporation and thus, realistically, would pose no temptation to bias and partiality on his part. Are the investment provisions under consideration too inflexible? Should they be limited to litigation in which the outcome

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2 Based on John Ritchie's article "The Propriety of the Participation by a Judge in Non-Judicial Money-Making Activities," 51 *Chicago Bar Record* 70 (Nov. 1969).

WASHINGTON STATE BAR NEWS

HIGHLIGHTS OF THE 1970 SPECIAL LEGISLATIVE SESSION

The Bar Association is still wedded to the conservative stand of the ABA Code of Professional Responsibility on group legal services, rather than being free to adopt the more progressive California rule; one to three men law firms still are unable to qualify under the professional corporation act; the judicial article of the state constitution remains unaltered; and the judges cannot hold their annual conference in Vancouver, B.C. this fall. This reflects the part of the minus side of the 1970 Special Legislative Session.

The following bills did pass both chambers of the Legislature:

Credit Cards (SB141).

Creates crimes and penalties for illegal use of credit cards.

Civil Disturbances (HB162).

Adopts Mississippi anti-picketing statute approved by U.S. Supreme Court in *Cameron v. Johnson,* 390 U.S.611 (1968), and adds the words "buildings on the campuses of the state universities, colleges and community colleges and public schools."

Clerk's Fees (SB81).

Increases filing fees in civil actions from $15 to $25 and increases jury demand fee from $25 to $50.

Crimes and Criminal Procedures (SSB99).

Amends RCW 13.04.130 eliminating requirement that juvenile court consent to fingerprinting or photographing of juveniles. Authorizes fingerprinting and photographing of a juvenile suspected of what would be a felony if he were an adult.

Amends RCW 10.31.030 to provide that an officer making an arrest need not show a warrant at the time of arrest if he does not have the warrent in his possession but declares that it does exist and will be shown to the defendant as soon as possible on arrival at the place of intended confinement.

Allows the prosecutor, not less than eight days before trial, to demand of defendant the names of any alibi witnesses he intends to call. If the names are not furnished, the court may exclude such testimony.

It will be a misdemeanor to not report crimes of violence.

Divorce (SB15).

Amends RCW 26.08.030 to

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LEGAL ECONOMICS DESIGN PROJECT

Have you ever asked yourself–if Group Legal Services gets under way in this state, where will it start?

The Seattle Model City Program is spending $34,000 between July 1, 1969, and June 30, 1970, in studying how legal services can be provided to low and middle income residents (who do not qualify as indigents) at a price they can afford.

A survey of 500 families in the Model Cities Neighborhood is under way to measure the extent of the legal needs of the residents and to what extent these needs are not being met.

The budget request for the Legal Economics Design Project for July 1, 1970-June 30, 1971, is $160,000. It is projected that the staff would be operational in the eighth month of that fiscal year after management consultants will have assisted in establishing the office/and staff lawyers and paraprofessionals have been trained. By June 30, 1971, it is anticipated that there would be five lawyers and 1,000 families participating in the program with an operating budget of $252,000.

It would be a demonstration project of low-cost legal services, not totally different from Group Health Hospital. It would demonstrate whether there was risk to the public in such an arrangement. Innovations in group legal services and in advertising may well flow from the project.

The project will be civilly oriented with heavy emphasis on preventive law through trying to educate beneficiaries of their rights, e.g., consumer services. As group health does, a publication may be mailed regularly to the beneficiaries which undertakes this educational program.

Charles E. Ehlert and **Phil Mortenson** are the staff attorneys at Model Cities in Seattle who are coordinating the project. It is expected that a board will be selected in July 1970 to oversee the project.

Read more about the project on page 13.

Deadline for the next issue of the *Bar News* is March 6, 1970.

IN MEMORIAM

Frederick B. Cohen, 56, Bremerton, was shot to death in front of his home on January 19. A 1935 graduate of the University of Washington Law School, he was a former Kitsap County Prosecuting attorney.

Horace W. Hall, 78, Seattle, died November 29. A 1913 graduate of the Georgetown University Law Center, he practiced in the Alaska Building.

Edward B. Hanley, Jr., 65, Seattle, died February 3 of a heart attack. A 1930 graduate from Harvard Law School, he had practiced in Seattle for more than 30 years.

William Z. Kerr, 81, Santa Barbara, California, died December 26. A 1913 graduate of the University of Washington Law School, he was of counsel to McCord, Moen, Sayre, Hall & Rolfe.

Fred E. Lewis, 65, Spokane. He was a 1931 graduate of Gonzaga University Law School.

D. A. Maurier, 89, Palm Springs, California. He was a graduate of the University of Washington School of Law.

Virgil Scheiber, 61, a judge of the Clark County Superior Court died January 23. He was a 1936 graduate of the University of Oregon Law School.

Donal D. Sherfy, 45, Tacoma, died January 29. He was a 1954 graduate of the University of Washington.

Dwight N. Stevens, 80, Seattle, died January 12. A 1915 graduate of the University of Washington Law School, he had practiced until ill health forced his retirement about a year ago.

Young Lawyers Support of Campaign Expenditures Bill

The Young Lawyers Section of the Seattle-King County Bar Association supported in the special session H.B.64 requiring the reporting of campaign expenditures which has been labeled the "toughest" in the nation. The bill did not move out of committee.

The bill was drafted by **Roger M. Leed** of the Young Lawyers statutory reform committee and **William H. Rodgers, Jr.**, University of Washington law professor, who is co-chairman of the committee. It will be published later this year, with an explanatory commentary written by Prof. Rodgers, in the Vanderbilt Law Review as a model bill on the reporting of campaign contributions and expenditures.

The bill is based on the principle of full disclosure and is backed by an intricate system of checks and balances. Said Rodgers, "The purpose is simply to expose to the public who is spending how much in support of what political candidate. No one is discouraged from spending. Whether a candidate will surrender to special interests who make a contribution is a question that is left to the good judgment of the voters."

The bill contains stringent penalties, including provisions for criminal punishment, civil penalties of $25 per day for each failure to file, and possible loss of office. Most state, county and municipal positions will be affected by the bill.

David Hoff, chairman of the Young Lawyers Section, had stated early in the session, "If the legislation is not passed during the special session, it is quite likely that a spin-off group of Young Lawyers will spearhead the measure as an initiative measure in 1971."

FAIR CAMPAIGN PRACTICES PLEDGE FOR JUDGES

The Judicial Campaign Practices Committee of the Seattle-King County Bar Association submitted a report which has been approved by the Board of Trustees. The Committee was appointed after the last election for several superior court positions.

The report concludes that the acts complained of during judicial campaigns were not sufficiently numerous, aggravated, or intentionally deceptive to cause great concern but that, in view of the great importance of supporting to the fullest extent the integrity of the bench and bar in the minds of the public, all reasonable methods of preventing recurrences should be explored.

Thus each judicial candidate will be requested to sign and file with the Association a "Fair Campaign Practices Pledge" The form of the pledge was drafted by the Committee.

A refusal on the part of a candidate to execute the pledge would result in his being eliminated from participation in the poll.

The candidate will be furnished with a compilation of applicable opinions of the Legal Ethics Committee, Canons of Professional Ethics and Judicial Ethics. The candidate will also be furnished with hypothetical examples, to be developed by the Judiciary Committee, which are thought by that Committee to be objectionable.

George W. Clarke was chairman and **John F. Kruger** vice chairman of the Judicial Campaign Practices Committee. Members of the Committee were: **Basil L. Bradley, John D. Blankenship, Camden M. Hall, Thomas J. McKey, Barney A. Schneiderman, Harold F. Vhugen,** and **J. Vernon Williams.**

KING COUNTY PUBLIC DEFENDER ORDINANCE RESCINDED

On January 26, the King County Council rescinded the ordinance which created the office of the Public Defender. The prosecutor's office has been directed to revise the measure.

One revision will make the Public Defender's term of office the same as that of the prosecutor rather than that of the County Executive.

Another will provide for the superior court to be represented on the selection committee for the Public Defender, in addition to the president of the Seattle-King County Bar Association, the chairman of the Criminal Law Section of that Association and the president of the Urban League, or their designee.

The Administrator

It is anticipated that the administrator of the office of Public Defense will be appointed by the County Executive and approved by the County Council from a list of at least three nominees submitted by the selection committee.

The administrator would be directed to enter into an agreement with a non-profit corporation formed for the specific purpose of rendering legal services in behalf of indigents. It is contemplated that the Defenders Association (the Seattle Public Defender) will be that non-profit corporation.

The duties of the administrator will be: (1) To establish an assigned counsel list. Not less than 20% nor more than 40% of the eligible defendants arraigned in King County superior court, exclusive of juvenile proceedings, shall be represented by assigned counsel. The administrator will make case assignments to members on the assigned counsel list. (2) To determine who will be eligible to receive legal services from the Office of Public Defense. (3) To investigate complaints of the recipient of service against the lawyer(s) representing him. (4) To make periodic evaluations, at least annually. (5) To investigate the financial condition of parents of any juvenile in juvenile court to determine their ability to pay.

Eligibility

Legal services will be available not only to indigents. If a person has some resources available which can be used to secure representation but not sufficient resources to pay the entire cost of private legal services without substantial hardship to himself and his family, the administrator will determine how much the person shall pay for the legal services provided through the Office of Public Defense.

The ordinance originally passed provided that legal services *will* be available through the Office of Public Defense to all eligible persons where there *may be some factual likelihood of such person's loss of liberty* by an act of King County, including but not limited to violation of any law, juvenile matters, mental disorder and similar commitment proceedings, revocation and habeas corpus proceedings when such arise in King County.

Costs

It is difficult to obtain precise figures as to the likely costs of this program. The most reliable estimates are that the entire program will cost $400-$500,000 for the first year. The County has already budgeted $251,500 for the existing assigned-counsel system and that amount will presumably remain available.

The remaining $150-$250,000 could come, in part, from the Model Cities Program of the City of Seattle. The City's program with the Defenders Association has a first-year budget of $235,000, of which $25,000 is contributed by the City and $210,000 by Model Cities. Since many of the residents of the City of Seattle would be represented as a part of the King County program, these services would be allocated, the reasonable value of which might be $75,000.

Increase in Filing Fees

This leaves $75-$175,000 to be raised. The most frequently mentioned other source of revenue for the county program is the increased filing fees charged by the County Clerk as provided by Senate Bill 81, i.e., $15 to $25.

These fees appear to many to be outmoded and overdue for an increase. The last general overhaul was in 1961, at which time the filing fee was raised to $15. However, the net increase was approximately nil, because appearance and judgment fees were eliminated at the same time. By comparison, filing fees in Oregon are now $34 and in California $40.

The Board of Trustees of the Seattle-King County Bar Association endorsed the increased filing fees. In a letter addressed to county officials, **William H. Gates, Jr.**, president of the Seattle-King County Bar Association, said in part:

> "It would be entirely appropriate to increase the fees coming into the clerk's office so that those availing themselves of the services of that office and the judicial system would pay a somewhat larger proportion of these costs and thereby free general county funds for other purposes, including the public-defender program."

(continued on page 15)

ABA Studys Disciplinary Procedures

An American Bar Association special committee has issued a preliminary report proposing creation of a national organization to develop and implement methods and procedures to increase the effectiveness of bar discipline.

In the introduction to "Problems and Recommendations in Disciplinary Enforcement," the committee said implementation of specific recommendations, scheduled for consideration of adoption by the ABA House of Delegates next August, should be "delegated to a permanent, professionally-staffed" National Conference on Disciplinary Enforcement. That organization also would "on request (1) assist state and local disciplinary authroities in evaluating the effectiveness of their enforcement practices and procedures and (2) recommend specific improvements tailored to the individual and varying needs for the particular jurisdiction."

The ABA Special Committee on Evaluation of Disciplinary Enforcement, headed by retired Supreme Court Justice Tom C. Clark, was formed in February, 1967. It conducted a series of eight regional hearings throughout the nation gathering information on the discipline procedures in every state, as well as the views of judges and bar leaders on strengthening discipline. This material was used as the foundation for the preliminary draft report.

The 253-page preliminary draft consisted of descriptions of 36 major problems in discipline identified by the committee, together with proposed solutions. Chairman Clark said the 36 problems discussed in the report "do not relate to any single state jurisdiction, but are a composite of the problems encountered across the country."

"Just as there is no state which is entirely free of problems, there is no state which is burdened by them all," Clark explained.

Justice Clark's committee said it had authorized the distribution to bar officials for "study and comment" only, and made clear that the preliminary draft "has not been acted on by the American Bar Association." Under ABA procedures committee reports represent the views of the drafting committee and do not become official policy of the association until approved by the House of Delegates.

"The committee's final report will include a discussion of the status and effectiveness of present enforcement procedures," the statement added.

The draft is being distributed to members of the House of Delegates, officers, executive directors and counsel of state and local bar associations, grievance committee chairmen, state Supreme Court justices, law professors, and others interested in bar discipline. The ABA committee has asked that they examine the draft and forward their comments and suggestions to the committee. With a March 31 deadline for comment, the committee plans to prepare a final report for submission to the Board of Governors and House of Delegates at the annual meeting of ABA in St. Louis Aug. 10-14.

Among the tentative recommendations are those calling for:

- Operation of a National Discipline Data Bank to record all disciplinary actions in every state. This would insure that when a lawyer is disciplined in one jurisdiction, the information would be available in all other jurisdictions where he might seek to practice. Creation of this agency already has been approved by the House of Delegates.
- Provision of more private or public funds for adequate investigation of complaints by professional staffs.
- Initiation of investigations without waiting for specific complaints and developing sources of information, such as newspaper services and insurance associations, to look into "known areas of systematic misconduct."
- Abolition of the requirement that complaints must be verified, so that legitimate complaints will not be discouraged.
- Granting statewide subpoena power to every authorized disciplinary agency as well as the attorney under investigation.
- Assure the balanced make up of grievance committees by providing broad representation of members of the bar, including minority groups.
- Court rules providing absolute immunity from law suits for those making complaints against a lawyer to a disciplinary agency.
- Immunity from criminal prosecution for witnesses and accused lawyers when requested by disciplinary agencies.
- Immediate suspension of a lawyer convicted of a "serious crime," which is defined as a felony, or any "specified lesser crime" reflecting upon a lawyer's fitness to serve his clients. These would include interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file an income tax return, deceit, corruption, coercion, misappropriation, and theft.

Bernard G. Segal, ABA president, said the Clark committee's preliminary report represents "the most thorough national study ever made of the disciplinary processes of the legal profession."

MODEL CITY'S LEGAL ECONOMICS DESIGN PROJECT

By **Charles Ehlert,** *Director*

The Legal Economics Design Project of the Seattle Model City Program is a study of the means and feasibility of providing low cost legal services for low and middle income residents of the Model Cities area. Although plans for a follow-up demonstration project to implement the study have not yet been completed, the project involves a serious problem of concern to the bar. The search for ways to reduce the cost of legal services for the public also touches upon several topical matters of interest to practicing lawyers—specialization, pre-paid legal insurance, group legal services and the use of para-professionals. This short description of the project is intended to acquaint members of the bar with the origin, purpose and prospects of the project.

Seattle is one of about 140 cities with HUD Model City grants, under the Demonstration Cities and Metropolitan Development Act of 1966.[1] The Model City Program is concerned with identifying root causes of inner-city deterioration and with developing coordinated and comprehensive plans for solving these problems. Locally, the program is a part of the City of Seattle. Citizen initiated projects, such as the Seattle Public Defender, are developed and written up by the Model City program staff, working closely with representatives of other interested agencies and groups, and with one of the six citizen task forces of Law and Justice, Health, Welfare, Education, Employment and Economic Development, and Housing and Physical Planning. Successful solutions developed in the demonstration "Model Neighborhood," may turn out to be useful to a broader community.

One problem identified by the Law and Justice Task Force is the lack of available low-cost legal services for the marginally poor and low-to-middle income residents of the Model Neighborhood. For the poorest people there is an O.E.O. funded Legal Service Center, albeit sadly underfinanced and overwhelmed with caseload. But people with incomes over the Legal Services income eligibility standard (2,500 gross annual income for a single person, with an additional $500 per dependent, up to a maximum of $5,000) often can't afford even the minimum bar fee for legal assistance, and they often do without. There appear to be many such people who answer one judge's description of "Mr. In-Between,"[2] as financially unable to qualify for free legal aid, yet unable to hire private attorneys for legal problems and needs. Depending on how "legal needs" are defined, this group may amount to three-fourths of the 43,600 residents of the Seattle Model Neighborhood (consisting of the Central Area, International District and Pioneer Square). Certainly, if "legal needs" are defined the same way for low and middle income people as they are for the rich and the business community, this group must include a large majority of the American population. Obviously, large scale non-participation in the legal system results not only in large scale forfeiture of individual rights and defenses, but also in large scale biases in the legal system itself, so that in its complex system of rights, duties and remedies it does not fairly recognize and protect the interests of the unrepresented low and middle income public.

Part of the Legal Economics Design Project consists of the measurement of the legal needs of residents of the Model Neighborhood. A sample of over five hundred households has been interviewed to see what kinds of problems residents have, how frequently problems occur, how often residents sue and get sued, how often they consult lawyers, and what their opinions are about prepayment of legal services and use of non-lawyer para-professionals. Data obtained from this survey, when processed and analyzed, may help to answer questions about the nature and extent of the public's needs for legal services, the extent to which people identify situations as "legal" problems, the extent to which residents do not obtain needed legal services for financial and other reasons, and the relationships between legal problems and socio-ethnic-economic characteristics.

With this and other available data about the needs of the public, the project staff will analyze and screen various possible techniques for reducing the costs of legal services, including subsidization, reduced legal fees, economies of scale and specialization, risk spreading and cost sharing, use of non-lawyer para-professionals, and education and self-help. These techniques will be examined from the point of view of consumer and professional acceptability, and also from the standpoint of the recent cases of *N.A.A.C.P. v. Button,*[3] *Brotherhood of Railroad Trainmen v. Virginia State Bar,*[4] and *United Mine Workers v. Illinois State Bar Association.*[5] The experience of the medical profession with similar problems and its responses to them will also be studied and examined for useful parallels.

Project staff are now working with a citizens committee in the development of a proposal for a

subsequent project to demonstrate the effectiveness of one or more of the cost-reducing techniques in providing quality low-cost legal services. In the development of the proposal close consultation will also be maintained with a project advisory committee, with representatives of the Washington State Bar Association, the Young Lawyers Section of the Seattle-King County Bar Association, the Loren Miller Law Club, the University of Washington School of Law, the American Civil Liberties Union, the Washington State Labor Council, Group Health Cooperative of Puget Sound and the Washington Association for Social Welfare. Of the nine committee members seven are lawyers and all bring together a variety of points of view and a considerable body of expertise.

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[1]42 U.S.C. §§ 3301 et seq. (1966)

[2]*Industrial Credit Co. v. Dienger*, 38 Wis.2d 328, 330-331, 156 N.W. 2d 479 (1968) (Hansen, J. dissenting).

[3]371 U.S. 415 (1963)

[4]377 U.S. 1 (1964)

[5]389 U.S. 217 (1967)

Legislation *(continued from page 9.)*

require six months rather than one year state residency before filing a divorce action.

Garnishments (SB266).

Provides for a continuing lien on wages by garnishment.

Juveniles (SB66).

Amends RCW 2.32.240 to provide costs of transcript and attorneys' fees on appeal for indigent juveniles.

Legal Age (SB27).

Reduces the legal age to 18 years for some purposes, e.g., marriage contract without parental consent, execute a will, contract for insurance.

Small Claims Court (HB103).

Increases jurisdiction from $50 to $200—by Judicial Council Request.

State Toxicologist (SB228).

Amends RCW 68.08.107 to provide that the state toxicological laboratory shall be under the direction of a state toxicologist. This closed a loophole in the "implied consent" law. Officers giving breathalizer tests are to be certified by a state toxicologist, but the law had no provision for the establishment of such an office.

Failures

The following bills failed of passage:

Annual Conference of Judges. (SB83).

State judicial conferences could be held outside the state. Thus the judges could have held their annual meeting next fall in Vancouver, B.C., instead of Bellingham.

Attorney General's Office (SB120).

Prohibits the attorney general and full-time assistant attorney generals from private law practice. Violation by the attorney general "shall be a high crime and grounds for impeachment" under the State Constitution. The attorney general may employ attorneys on less than a full-time basis to transact legal business for the state and such attorneys may still engage in private practice.

Code of Ethics (HB145).

RCW 2.48.230 currently provides that the Code of Ethics of the ABA shall be the standard of ethics for the members of the bar of this state. The bill adds this proviso—"unless the supreme court of Washington shall adopt rules of professional ethics for the members of the bar of this state in which event the rules adopted by the supreme court of the state of Washington shall be the standard of ethics for the members of the bar of this state."

Court of Appeals (HB33).

Contains a general fund appropriation of $1,007,656 to the court of appeals.

Judicial Council (HB97).

Adds two judges of the court of appeals to the Judicial Council.

Juries (SB82).

Amends RCW 4.44.380 to require the agreement of nine rather than ten jurors on a verdict in a civil case.

Professional Service Corporations (HB3).

A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as president, vice president, secretary and treasurer. The same provision is made for two shareholders except that the offices of president and secretary shall not be held by the same shareholder.

Revision of Judicial Article of State Constitution (HJR16).

Unified Court System. The judicial power of the state would be vested in a unified court system which would be divided into one supreme court, a court of appeals, a superior court, and such other courts as may be established from time to time by law.

Judicial Nominating Commission for selection of judges, **Missouri Plan** for retention of judges, and **Commission on Judicial Qualifications** for removal and involuntary retirement of judges.

HOUSE OF REPRESENTATIVES BOARD OF LEGISLATIVE ETHICS

OPINION 70-1

The House of Representatives Board of Legislative Ethics has been requested to provide some clarification on those items that must be reported by attorneys serving in the Legislature, in Part 5 and Part 6 of the Legislative Ethics Disclosure form and Part 4 of the statutory form.

These sections deal with the practice of an attorney before state agencies, boards or commissions, and the practice of their firm, partners and associates, together with the gross compensation received for that type of practice.

The Board realizes that virtually every phase of a private law practice may have some connection with a governmental agency. For example, a probate involves dealing not only with a Superior Court, but also with the Inheritance Tax Division of the State of Washington. We believe it is not the intent of the statutes or the code of ethics to require disclosure of this type of incidental contact with state agencies. Specifically, practicing before a court is not included in the rules and need not be disclosed. Likewise, dealing with the Department of Revenue, Department of Licenses, Department of Highways, or any other state agency, as an incidental or related phase of a case or service, need not be reported. For a further example, an attorney forming a corporation must file certain documents with the Secretary of State. This is not "practice before" a state agency, board or commission.

We believe, and it is the opinion of the board, that disclosure is required of a matter which is primarily the concern of the state agency, board or commission. Example of practices in this category are: Applications for permits from the Washington Utilities and Transportation Commission; industrial insurance appeals; professional or driver's license revocation hearings before the Department of Motor Vehicles; rate hearings before the Insurance Commission, and the like.

In further clarification of the amount of gross compensation to be reported, we believe that it is the intent of the rules that such amount of compensation be specified for each such agency listed.

Adopted January 26, 1970.

Ethics Law Shaky

The House of Representatives Board of Ethics has issued an opinion which could shoot large holes in the 1969 ethics law.

The opinion deals with that section of the law which requires lawyer-legislators to report the state agencies, boards and commissions before which they practiced and how much they received for that work.

Acting on inquiries from lawyer-legislators, who have to make their annual report January 31, the board attempted to clarify the statute language and say that probate work before courts, routine inheritance-tax filings with the state revenue director and similar matters would be exempt from the reporting requirement.

But the end result of this hastily drawn document was some loose language about "incidental contacts with state agencies."

Several attorneys in the Senate have looked at the opinion and agreed that the loose language could provide an opportunity for outright evasion of the intent of the legislation.

There also have been questions raised as to whether the House board has the authority to issue such an interpretation by itself or whether it must come from the joint House-Senate Boards.

Comment: The drafters of this document may have had only good intentions, but their result is questionable. It should be withdrawn and rewritten after the subject has been given more study.

The Seattle Times
January 28, 1970

Public Defender

(continued from page 11)

The ordinance was patterned after an advisory committee report made to the council. The members of the advisory committee were: **Robert G. Moch**, Chairman, Professor **John M. Junker, George K. Faler**, Judge **Edward E. Henry, George Fiori, John Miller**, Richard C. Worthington, **Allan Munro**, Judge **Carolyn Dimmick**, Fred Maxie, and John Chambers, Deputy County Executive ex officio member.

The ordinance was introduced by Councilman **Edward Heavey**.

James E. Kennedy, chief civil deputy prosecutor, takes the position that it is the judges' responsibility to provide indigents with legal counsel and questions whether they can yield this responsibility to the county council. Heavey states it is the government's obligation to appoint defense counsel, not necessarily that of the judges.

Privacy and Dignity
(continued from page 6)

national security is in danger.[3] And he has made it clear that that word means not only danger of external aggression or subversion but also of internal danger, such as riots or conspiracies to riot.[4] Presumably that would extend to on-campus activities involving violence as well as to street riots and disorders.

Now, ladies and gentlemen, with all my heart I say to you that freedom is not nearly as sturdy as we are inclined to believe in this country. Freedom is fragile.

The First Amendment of the United States Constitution guarantees freedom of speech, of press and of assembly. That Amendment, as history will show you, was a johnny-come-lately in the story of mankind's search for freedom. The first thing in Anglo-American history that man had to secure, before they even thought of freedom of speech or freedom of petition or freedom of assembly, was restraint upon the police and restraint upon the state . . .

The restraint upon the police and the state from prying into your mind, your heart and your life, from invading that area of privacy which marks the domain of a man created in the image of God, is totally meaningless, if the police can plant a little bug in your house or in your office and record your conversations, as they did you will remember on Martin Luther King, even before there was any statutory authority . . .

I shall not give you the other illustrations. You read your daily newspapers and you see what the Congress is considering now with respect to the so-called wars on organized crime, unorganized crime and disorganized crime. I say to you that each of those must be examined with the greatest care. If our freedom is at the hazard of a local prosecutor or local chief of police, some of whom are not really the scholars, although I am sure they are all gentlemen, then we are in real danger.

And then I say to you that the blacks in this country may accomplish the freedom and equality which they seek. The poor of this country may accomplish the freedom and the dignity which they seek. The college generation may achieve the status which they seek, the right to participate in college life, the right to participate in community decisions and the right to be regarded as people, as grown up people, which they seek.

All of those may be achieved, but they may be achieved in a country which is impoverished because its precious heritage of freedom has been invaded. Thank you.

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[3] *Ed. Note: The act specifically recognizes the President's Constitutional power to authorize interception in "national security" cases without a court order. 18 USC § 2511(3).*

[4] *Ed. Note: The act specifically states that nothing therein shall limit the "constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the government." Ibid.*

The Senate Anti-Crime Bill

- It requires courts, on request of the government, to force reluctant witnesses to testify in virtually any federal case, in return for immunity not against prosecution but only against evidential use of the compulsory testimony.
- It overturns a supreme court ruling that permits a defendant to see the transcript of an illegal wiretap from which evidence against him might have been derived.
- It establishes the rule that evidence obtained, even if illegally, more than five years after an alleged crime, is admissible in court.
- It permits grand juries to issue public reports recommending the removal of public officials for misconduct or misfeasance, even when the grand jury has been unable to find evidence sufficient for an indictment.

Attorney General Opinions

AGO 1969 No. 22. Discusses pension payable to certain widows of deceased **municipal firemen.**

AGO 1969 No. 23. The legislature may propose a second and different **amendment** to the same portion of the **constitution** as is the subject of the previously proposed amendment—to the end that both amendments would be voted upon by the people at the same general election.

AGO 1969 No. 24. While a port district is not a **public utility district,** it is authorized to construct, operate and maintain an irrigation water distribution system for the purpose of reclaiming lands for agricultural uses. Moneys in the state reclamation revolving fund may be expended to purchase bonds of a public utility district which are issued by the district for that purpose. Also moneys from that fund may be loaned to an irrigation district to be used to finance the development of final engineering plans for an irrigation project of said district.

KITSAP REPORT
By **HELEN GRAHAM GREEAR**

Tragedy struck a bloody blow at the Kitsap County Bar Association with the senseless murder by ambush by a yet unknown assailant of **Frederick B. Cohen.** He leaves his widow Katherine and four children, besides his mother and brothers. With him goes one of the most diligent, hard-working, skillful and learned lawyers of the Northwest. A Reward Fund established to encourage information leading to the arrest of the murderer now exceeds five thousand dollars, I am informed by James Munro, who organized this effort.

On January 7, 1970, a splendid banquet tendered by our Association marked the retirement of Judge **Frank W. Ryan** from the Superior Court Bench. Five Supreme Court Judges, three Judges from the Court of Appeals, and many Superior Court Judges from over the State were there, and a superb dinner, with beautiful flowers, beautiful women, wit, gaiety and the expert M.C.'g of Judge **Robert J. Bryan** (Judge Ryan's nephew) and Supreme Court Judge **Orris Hamilton**, made a gala and memorable occasion.

The remainder of the news known to this reporter is more mundane:

We have two changes in firm names: Greenwood, Shiers and Kruse becomes Shiers, Kruse and Roper, and Niemeier and Hamilton becomes Niemeier and Green.

The Prosecuting Attorney has another new deputy, **Bruce D. Brunton**, who is living with his wife Peggy Ann and child on beautiful Bainbridge Island. Bruce has an impressive dossier, including education at Washington State University, Oregon State University, Goethe Institute at Bad Aibling, Germany (German language) and University of Washington School of Law. He worked for the King County Prosecuting Attorney and was associated also with two outstanding firms.

LEWIS REPORT
By **BRIAN M. BAKER**

Recently departing from the Chehalis firm of Murray, Armstrong & Vander Stoep, **James Turner** has established an independent practice at the former office of **Ray Hayes, Jr.**, who is now located in Tacoma.

Ralph Olson was named as the "Distinguished Service Award" winner at the annual award dinner sponsored by the Chehalis Jaycees. The honor represents outstanding achievement in the field of community service.

February saw brief vacations for **Jerry Moore, Lee Campbell,** and **Laurel Tiller**. Appointed to the ABA Professional Grievances Committee was **Grant Armstrong.**

OLYMPIA REPORT
By **STANBERY FOSTER**

The game of musical chairs at the Thurston County Courthouse is over but the memory lingers on. It required major office surgery, however. When Thurston County Superior Court Judge **Frank E. Baker** was sworn in, we had the unusual circumstance of three judges and two court rooms, with no office facilities for the new judge. Judge **Hewitt Henry** moved over a bit to give Judge Baker office room but that did not solve the court room dilemma. It took a bit of doing but with everyone cooperating, this is what happened:

The County Commissioners moved to the Thurston County Courthouse Annex; Judge **Franklin K. Thorp** moved his District Court operations to the quarters vacated by the Commissioners;

Court Reporter Mark Canterbury moved into Judge Thorp's old office; Court Reporter Eugene Barker moved into the office formerly occupied by Judge Thorp's office staff;

Judge Thorp's former court room was converted into a non-jury Superior Court Room;

Judge Baker moved into Mark Canterbury's old office, which, before his occupance, had been Frank Baker's father's office (Ace Baker had been official reporter for Thurston County for more than fifty years prior to his retirement).

If you are confused, welcome to the club, but it all worked out very well. All you have to do now is to find them but it can be done. At least two people are happy with the arrangement: Judge Henry and Judge Baker.

Paul Ashley has a columnist in his Seattle Pee Eye who calls himself Emmett Watson. Some of his stuff is not bad but he doesn't know too much about Olympia. Upon occasion, he is carried away with his own weight. For example, he recently suggested that if the Washington Legislature adopted the new Texas law permitting teen-age common-law marriages, Attorney General **Slade Gorton** would forget pinballs. Watch it, Watson.

Which brings up another, but related subject. The other day reference was made to cardinal knowledge. So you suppose those St. Louis people know something that is hidden from the rest of the country?

PIERCE REPORT
By **DAVID E. SCHWEINLER**

ANNOUNCEMENTS

The Tacoma-Pierce County Bar Association mourns the loss of one of its members, **Donal D. Sherfy**, who passed away in Tacoma

January 29, 1970.

Monte E. Hester, formerly an associate in the firm of Binns, Petrich and Mason, has now become a partner and the firm name will be changed to Binns, Petrich, Mason and Hester. The firm, formerly in the Washington Building, Tacoma, has moved its offices to 813 K Street in Tacoma.

Hugo Metzler, Jr. and **Thomas R. Sauriol** have formed a partnership which will be known as Metzler and Sauriol. Their offices are at 5302 Pacific Avenue.

Leonard A. Sawyer and **James B. Gorham** announce the formation of a new partnership for the general practice of law under the firm name of Sawyer & Gorham. Their offices are at 2723 East Main, Linden Village, Puyallup, Washington.

PROGRAMS

The Tacoma-Pierce County Bar Association's annual meeting, January 15, included committee reports by **Dale Carlisle**, Lawyers Committee on Mass Arrests, **Warren Peterson**, Court House Expansion, **Henry Haas**, Continuing Legal Education, **Bob Reynolds**, Pierce County Legal Assistance Foundation, **Frank Girolami**, Representation of Indigents charged with crime, a financial report and a report by **George Gagliardi** on the nominating committee for the new officers and trustees for the coming year.

At the January 29 meeting, the association was honored to have as its speaker **Karl Herrmann**, whose topic was "The Insurance Commissioner's Office, What Can It Do for the Attorney and His Client."

SEATTLE-KING REPORT
By **LLEWELYN G. PRITCHARD**

Robert J. Kroum, Walter E. Webster, Jr., Richard E. McCann, Gary F. Bass and **Stephen A. Mack** have announced their association for the practice of law under the firm name Webster, Kroum, McCann, Bass & Mack with new offices at 1920 Pacific Building, 720 Third Avenue, Seattle 98104 (MU 2-8720).

Bruce Hanson has become associated with the firm of Boyd, Decker & Hanson, in Bellevue . . . **Bruce Shorts** has become associated as counsel in the general practice of law with Lane, Powell, Moss & Miller . . . **Albert D. Rosellini** and **Philip E. Rosellini**, formerly a chief deputy prosecuting attorney for Spokane County, have formed the partnership of Rosellini & Rosellini for the practice of law. Their offices are in Suite 1426, Washington Building, Seattle.

Robert W. Fetty has been appointed Municipal Court Judge for the City of Medina. The court was recently created by the Medina City Council. Fetty will continue private practice, with offices at the Grosvenor House, in Seattle . . . **Graham H. Fernald** and **Theodore J. Collins** have become members of the firm of Perkins, Coie, Stone, Olsen & Williams. **Michael J. Navin, John W. Hempelmann, Geoffrey C. Shepard** and **Dennis L. Bekemeyer** have become associates of the firm . . . **Lowell K. Halverson** has announced the opening of his own office for the general practice of law at 734 Central Building, Seattle . . . **Frederick B. Rutledge** and **Eric Froberg** have announced a partnership for the practice of law under the name of Froberg & Rutledge, 5701 20th Avenue N.W., Seattle . . . **Stanley C. Soderland** has been appointed Presiding Judge of the King County Superior Court, beginning February, 1970. Judge Soderland was elected for a one year term by his fellow jurists and will serve as the Chief Executive of the 26-member Court . . . Aukeen District Justice Court Judge, **Murray A. McLeod**, delivered a lecture at the American Bar Association's Annual Traffic Court Seminar at the University of Southern California Law Center . . . **John R. Miller**, Vice President of the Washington Environmental Council, was selected to represent the Council in Olympia during the special session of the legislature.

The following Seattle lawyers have been appointed to Standing Committees of the American Bar Association: **H. Weston Foss** was reappointed State Chairman of the Membership Committee; **Robert S. Mucklestone** will serve as a member of the Economics of Law Practice Committee under a prior appointment; **Sam L. Levinson** was appointed to the Admiralty & Maritime Law Committee; **Robert O. Beresford**, to the Resolutions Committee; and **George V. Powell** to the State Legislation Committee representing Washington. For special committees, **George E. Mathieu** was reappointed a member of the Committee On Federal Limitations On Attorneys' Fees, and **Richard S. White** was appointed to the Committee On Housing And Urban Development Law.

Thomas J. McKey, Edward G. Lowry, III, and **John P. Sullivan** have become partners and **David M. Salentine, Thomas C. O'Hare, Robert D. Kaplan** and **Dale B. Ramerman** have become associates in the Bogle firm . . . **Robert E. Prince** has become a partner and **O. J. Humphrey, III** has become an associate in Stern, Gayton, Neubauer & Brucker . . . **Yancey Reser** has left the Bogle firm and has become a member of Gose, Gose and Reser in Walla Walla.

A. Duane Lund, Sam B. Franklin and **John B. Merritt** have announced the formation of a partnership which will practice at 1822 Plaza 600 Bldg.

Stephen R. Schaefer, Jack A. Richey, Dale R. Martin and **Larry L. Barokas** have formed a partnership under the name Barokas, Martin, Richey and Schaefer with offices at 1608 Smith Tower Building (MU 2-7666).

SPOKANE REPORT
By **THOMAS R. CHAPMAN**

Trustees of Gonzaga University have authorized creation of a full-time day program in the university's law school.

The new program is scheduled to be in operation at the beginning of the fall term this year. It will allow students to complete law school in three years, contrasting with the four-year night school that has operated since 1912.

Trustees said the program will result in a larger total registration in the law school and has been under study for nearly two years.

William D. Symmes has been awarded the Spokane Jaycees Annual Distinguished Service Award, given for outstanding individual contribution to the community . . . **Scott B. Lukins, Lynn M. Seelye** and **Gary C. Randall** have formed the first professional service corporation for the practice of law in Spokane. The corporation will be known as Lukins, Seelye and Randall, P.S. Address: 725 Lincoln Building, Spokane. Phone: TE 8-4474 . . . **Clarence A. Orndorff** and **James E. Winton** have announced their association for practice. Address: 601 Lincoln Building. Phone: MA 4-4313.

Dick Quirk (UW '69), formerly Appellate Court Judge Robert F. Utter's law clerk, is now associated with Paine, Lowe, Coffin, Herman & O'Kelly . . . **Fred Emry** has been made a partner in the firm of Hamblen, Gilbert & Brooke . . . **Claude Bailey** is Spokane County's new Chief Criminal Deputy. He takes the post recently vacated by Phil Rosellini, who left to enter private practice in Seattle.

The Medical Society and Bar Association Presidents have made their selections for members of the newly created Medical-Legal Panel for the purpose of reviewing possible medical malpractice suits. The following physicians have been named: Bruce A. Baker, Co-Chairman; Leonard A. Dwinnell, Vice Co-Chairman; Charles R. Cavanagh, John Hill, Arthur B. Craig and Ian C. Napier. Members of the Bar who will serve are: **John Snoddy**, Co-Chairman; **Herb Hamblen**, Vice Co-Chairman; **Ken Gemmill, Kermit Rudolf, Bob Brown** and **Bob McNichols.**

WHATCOM REPORT
By **ERNIE BENTLEY**

As announced in last month's *Bar News*, District Court Judge **Ward Williams** has been elevated to the State Appellate Court . . . Judge Williams occupies the position vacated by appointment of Judge **Charles Stafford** to the State Supreme Court.

When he was admitted to the State Bar Association in 1942, the Williams family became the first three-generation lawyer family in the state. His grandfather, Solon T. Williams, was a lawyer in Seattle beginning in the 1880s; and his father, Solon D. Williams, was a lawyer in Olympia and the Supreme Court reporter.

The Board of Whatcom County Commissioners has appointed **Leslie A. Lee** to the post of Whatcom District Court judge, to succeed Judge Williams, who was named earlier this month as a member of the State Court of Appeals.

Lee, Bellingham city attorney, will assume his new post as soon as a successor can be designated for the city position.

John MacDougall has recently become associated with the firm of Abbott, Lant & Fleeson. John is a graduate of the University of Montana Law School. John and his wife Beth are enjoying the improved climate that is characteristic of our little garden spot.

The Whatcom County Bar Association selected a new slate of officers at its December meeting. Senator **Frank Atwood** is presiding over the Association from Olympia (for 21 days). Vice-President **John T. Slater** and Secretary-Treasurer **John MacDougall** were unanimous selections to help Frank run the ship.

YAKIMA REPORT
By **RANDY MARQUIS**

The Six Man Jury System has begun to snowball. Judge **Lloyd L. Wiehl** recently received confirmation from the office of the Washington State Attorney General that all rank and file condemnation cases would be tried by a six-person jury. The savings in time and expense can be appreciated in view of the current docket which reflects one condemnation case every week in the current jury term in Yakima County. For a comprehensive discussion of the six-member vs. the 12-member jury see Judge Wiehl's treatise, "The Six Man Jury," 4 *Gonzaga Law Review* (Fall 1968).

Please take notice of the formation of the firm of Kirschenmann, Goode, Arnton, Devine and Fortier, Inc., P.S. The new firm is located at 303 E. "D" Street, Yakima. Members of the corporation are: **Arthur W. Kirschenmann, Paul M. Goode, Anthony Arntson, Frank Devine,** and **Allen B. Fortier. Edward V. Lockhart, Jr.** is of counsel.

Briefly Noted

The bill extending the OEO Act of 1964, signed by the President, increases the funding for the Legal Services program from $40 million to $58 million for fiscal 1970 and to $90 million for fiscal 1971.

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The Justice Department's Law Enforcement Assistance Administration has announced grants totalling $236 million of which Washington will receive $3,323,000 under the 1968 Safe Streets Act.

In the past year, the state had $300,000 for planning and about $380,000 for action programs.

Washington State, ranking 21st in size of allocation, will be given $352,000 for planning and $2,971,000 for action. California leads the states with a total of $18,853,000. Alaska is the state receiving the least, $621,000, while neighboring Oregon will be given $2,039,000.

The action grants were allocated on the basis of population, and were designed to upgrade the criminal justice system of all levels, including police, correction and the courts.

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The State Law and Justice Committee has allocated funds to Snohomish County to finance a study and demonstration project on family court, which brings together in one court all problems facing a family which under the present system might be pending in juvenile court (the wayward child), municipal court (the drinking father) and superior court (the divorce action), all at the same time. Snohomish County Prosecutor **Robert Schillberg** deserves a great deal of the credit for putting the project together.

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Drunks picked up by Seattle police will be treated instead of jailed under a contract signed by Mayor **Wes Uhlman** with the Seattle Treatment Center. The City Council has appropriated $172,000 to provide detoxification services for indigent alcoholics under the program.

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ABA Committee appointment: **Harold A. Pebbles**, Olympia was named to the State Legislation Committee.

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The Seattle Public Schools have been selected for an ABA pilot project for working law into the curriculum in grades four through twelve. Lawyers in the Youth and the Law program of the Young Lawyers section of the Seattle-King County Bar Association will be available to assist educators in an advisory capacity. The program will get under way this spring.

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The Young Lawyers Section of the Seattle-King County Bar Association has formed an Environmental Law Committee.

The Trustees of the Young Lawyers Section cited as factors which convinced them that such a committee should be formed the increasing interest of young lawyers in environmental problems and the demand for new legal approaches to and remedies for these problems created by growing public concern about them.

During the next year the committee also will be drafting legislation for the 1971 Legislature and preparing seminars on environmental law.

The committee is presently seeking members for its activities. Interested attorneys should contact Doug Raff, 4310 Seattle-First National Bank Building, Tel. MA 4-8970.

State Attorney General **Slade Gorton** was in Washington, D.C., in early February attending the annual session of the National Association of Attorneys General and attempting to convince his counterparts that they should band together to file suit against automakers to force them to speed up their air pollution control programs. **Jim Dwyer** and **Fred Tausend** accompanied Gorton to the session.

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As of the first week in January, the State Court of Appeals had heard 155 cases and issued opinions on 132 of them. So far, the State Supreme Court has received 14 petitions for review, denied six of them and had the others under consideration. None had been granted so far. There had been only three petitions involving criminal cases. All were denied.

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2,200 applications have been sent to students competing for 150 positions available in the fall class at the **University of Washington Law School**. This is 700 more than were mailed during the same period last year. A spokesman said he had "no real explanation" for the big shift of students to the study of law. He said he felt, however, that students were beginning to see law as a "lever" with which to move their world.

William R. Andersen, associate dean, pointed out that because so many students apply to more than one law school, the University will have to admit some 300 to get the 150 for the fall class. The law school will increase its entering class to about 190 in the fall of 1972, provided the new law school is completed on schedule.

might substantially impair the value of the judge's investment? In considering the answer to this question, bear in mind that Section 455 of the United States Code requires a justice or judge of the United States to disqualify himself only in a "case in which he has a substantial interest."

Continuing our inquiry concerning the scope of the investment provisions of the Canons of Judicial Ethics, let us suppose that a judge transfers to a corporate trustee securities that these canons state that the judge should not retain. Let us further assume that the terms of the trust direct the trustee in its sole discretion to retain or sell the securities and in the event of sale to invest and reinvest the proceeds; to pay the trust income to the judge annually, and on his death to transfer the trust corpus to the descendants of the judge, per stirpes. Let us assume also that the judge retains the power to revoke the trust. Was the judge guilty of unethical conduct in creating the trust? Would it be unethical for the judge to transfer funds to the trustee for investment, bearing in mind that the trustee under its investment authority might invest the funds in an enterprise in which it would be improper for the judge to invest? The investment canons under consideration do not explicitly answer these questions.

Complementing these canons is the requirement in some jurisdictions that the judge periodically file reports disclosing his investments.

Thus, in Washington, judges must file annually with the secretary of state: (1) the name of any enterprise subject to the jurisdiction of a regulatory agency in which he has a direct financial interest of a value in excess of $1,000; (2) every office or directorship held by him or his spouse in any enterprise which is subject to the jurisdiction of a regulatory agency; (3) the name of any person or business association from which he receives compensation in excess of $1,500 during the preceding year. RCW 42.21.060.

These reports are open to public inspection. RCW 42.21.070.

Non-Judicial Activities in the Public Sector[3]

The Canons of Judicial Ethics of the American Bar Association *seem* clear as to the judge's public role but the clarity is more apparent than real. In the interstices of the canons lie the ambiguities that plague us all.

Inconsistent Obligations

American Bar Association Canon 24 (Inconsistent Obligations) will illuminate the point. "A judge should not accept inconsistent duties; nor incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions." As a succinct statement of a standard or goal this paragraph is impeccable. As a clear chart to wisdom it is a morass. Any first year law student could query it into a meaningless jumble of words. What are inconsistent duties? Give ten specific examples. What does in any way mean? What is the appearance of interference as opposed to the substance of interference? Whose devotion to the administration of official functions is involved? Is this a subjective or an objective test? How expeditious must the administration be? What is proper as opposed to improper administration? If law is largely a matter of words, the linguistically sophisticated lawyer can continue this game indefinitely.

Of course, *we* all know what the canon means and the wise judge will follow our interpretation and his own conscience in such a way that justice will be served. *But*—and there's the rub—suppose judge X doesn't share our commitment to an avoidance of inconsistent obligations and has a conscience too loose for the public taste? Is it inconsistent with his official function for a justice of the Supreme Court of the United States to become a public prosecutor before an international tribunal charged with the punishment of war criminals? For a Chief Justice of the United States to head a commission charged with finding the facts surrounding the assassination of an American president? For a justice or judge to go on the lecture circuit and make speeches, at a substantial fee, on the major political and social issues of the day? For a judge to devote a large portion of his time to the resolving of difficult minority problems before they reach the stage of actual litigation?

Judges should not be removed from the mainstream of life. I do not believe in the continental system in which the young law graduate opts for a judicial role at the outset of his career. That system smacks too much of taking the veil and does tend to put the young lawyer in a judicial ivory tower. There is little danger of that happening in the American system. Our problem is the reverse. Our judges come out of an active private or public practice and the difficulty is in getting them to sever the old ties. The lawyer who is elevated to the bench

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3 Portions of John E. Cribbet's article "The Public Activities of a Judge," 51 *Chicago Bar Record* 78 (Nov. 1969).

in the midst of a vigorous career is not likely to become a political eunuch whatever the canons may provide. However, *his direct public experience should come before, not after, he enters his new role.* The judge who remains a political activist endangers not only his own impartiality but, more importantly, the integrity of the entire system.

Aside from direct political activities, the judge obviously has tough choices to make. The greater his prestige and reputation, the tougher these choices will be since the opportunities for a role off the bench will be multiplied. Obviously, he should be allowed, if not actually encouraged, to participate in the activities of the organized bench and bar and of legal education. He represents one leg of a great triumvirate–practitioner, judge, and teacher–and the profession can ill afford to unbalance the stool. He is needed in the process by which a changing law adapts itself to an exploding society. The law, both substantive and procedural, requires the input that the wise judge can provide and that not solely from his position on the bench itself. Incidental lecturing and service on key committees should remain a part of his judicial role but it should never become an end in itself or so time consuming that it distracts from his principal function. Thus, I am disturbed by judges who require the services of a booking agent for their public lectures and charge a fee commensurate with that demanded by public figures who view this as a principal source of their income. The acceptance of expenses and a modest honorarium is quite another matter. These activities probably have to be left to the conscience of the individual judge and to the report on sources of outside income which are already required in so many states. The Honorable Charles D. Breitel of New York summed it up: "The overall goal is the judge who is neutral but not neutralist, impartial but not unconcerned, dispassionate but not uncommitted, disinterested but not indifferent." Here, as elsewhere, the Greeks had a word for it; we are seeking "the golden mean."

Business Promotions and Solicitations for Charity

By the very nature of his position the judge is much sought after as a promoter of all sorts of causes, mostly good ones in the eyes of the public. Here the issues are particularly acute since the judge shares with the rest of mankind a desire to further the best interests of organizations and groups which share his social concerns. Without thinking a member of my staff recently asked some of our alumni, who happened to be judges, to serve as class agents in our annual fund drive for student scholarships, loans, etc. Nothing could have been closer to the hearts of these judges than the opportunity to help provide a legal education to the coming generation of lawyers but all wisely refrained from accepting the invitation. Now that our awareness of the ethical issue has been sharpened we shall not err in that direction again. Obviously, no judge should be a party to soliciting funds from his fellow lawyers, or others, quite apart from the merits of the cause. Canon 24 is explicit.

While it is patent that no judge should direct a solicitation drive, does the canon forbid service on the board of directors of a not-for-profit corporation? It does not do so explicitly but suppose the fund drive stationery prominently displays the board members' names for the manifest purpose of securing larger contributions? The range of possibilities is infinite and even this canon is less clear than it first appears.

Social Relations

One point must be touched on in closing–the social relations of a judge. Canon 31 states succinctly: "A judge should be particularly careful to avoid any action that tends reasonably to arouse suspicion that his social or business relations or friendships influence his judicial conduct." Here we are touching an extremely sensitive nerve. Judges should not be hermits and they must have ready contacts with a wide variety of people if they are to fashion a jurisprudence that works. Nonetheless, in some ways, the life of a judge must be a lonely one. He is less free than the lawyer or layman in his social relations. He must avoid the appearance of impropriety, as well as impropriety itself, and this means some hard choices will have to be made in his social relationships.

Speaking at a Conference on Judicial Ethics at the University of Chicago in 1964, the Honorable John S. Hastings concluded his remarks by saying, "We have never been happy in our attempts to legislate morality. I suggest, therefore, in applying Canons of Judicial Ethics in seeking to achieve a rational course of ethical conduct, the answer is to be found only within the conscience of the judge." Ideally, Judge Hastings was correct and for most judges we can safely leave the matter to private conscience. I believe, however, his statement was too strong–the answer must sometimes lie in the conscience of an aroused bar and public. We are living in one of those times and we must make clear to the state and nation that our judges meet the highest standards of judicial conduct and that those few who fail to measure up will have to pay the price.

SUPREME COURT PRACTICE

By **WILLIAM M. LOWRY**
Supreme Court Clerk

The mutation of the Court of Appeals has introduced some novel procedure. None seems more perplexing to the Bar than how to get from the Court of Appeals to the Supreme Court.

The primary source of the required procedure is set forth in Court of Appeals Rules on Appeal, CAROA 50. Why CAROA rather than Supreme Court Rules on Appeal, ROA? Because the theory is that the cause continues under the jurisdiction of the Court of Appeals until the petition for review is granted.

Certain steps in the petition for review process depend upon action before the opinion of the Court of Appeals becomes final. When an opinion of the intermediate appellate court becomes final is governed by Court of Appeals Administrative Rules, CAR 15. Under CAROA 50 a petitioner has thirty days in which to file a petition for rehearing, but only ten days after a denial of the petition for rehearing in which to file a petition for review. Why the short gestation period for the petition for review? Because it is expected that the issues presented by the petition for review will essentially be the same as those set forth in the petition for rehearing. Indeed it may well be that an argument not presented in the petition for rehearing will not be considered by the Supreme Court. This in fact may be the intent of CAROA 50(b)(3)(iii).

CAROA 50(b)(3) undertakes to organize the petition for review into parts. Query, where is argument presented? It may not be crystal clear, but the intention of CAROA 50(b)(3)(iii) is that each issue on which it is urged the Court of Appeals erred will be listed with supporting argument under the subdivision "Question." The petition for rehearing is not attached to the petition for review since it is presumed to be repetitious.

Under RCW 2.32.070 a petitioner seeking a review by the Supreme Court must pay a $3 filing fee before the petition can be filed.

On the same day a petition for review is filed in the Supreme Court, a copy of the petition is distributed to each of the nine members of the Court. A conference date and a reporting justice are indicated. Assignments for reporting are rotated. The assignment justice has authority to call for an answer at any time before the conference. A petition, or in the event an answer has been requested, the petition and answer, will not be set for a conference scheduled for less than one week in advance of the date upon which the petition or answer are filed. Petition for review conference dates are set forth in the session docket.

Preparation for the conference is the same as for a case set on the regular appeal calendar except oral argument is not heard. At the conference the justice with the assignment reports. The Court may deny or grant the petition, or call for an answer. If the petition is granted, the cause is set for argument in the same manner as a case originally filed in the Supreme Court. Briefs other than those filed in the Court of Appeals will not be considered unless the Court requests additional briefs.

NEWS FROM THE COURTS OF LIMITED JURISDICTION

By **THOMAS B. RUSSELL,** *Judge*
Northeast District Justice Court

Trial judges across the state were saddened to learn of the unexpected passing of the wife of Judge **A. Clemons Grady** of the Jefferson County District Court. While Clem is well known across the state through his work with the Bench-Bar-Press Committee and the Good Roads Association, his wife, Irene, was equally well known in Port Townsend for her work with civic beautification and with hospitals. She was the 1968 Citizen of the Year of Port Townsend and in 1969 had received the Governor's Personal Service Beautification Award.

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Okanogan County is the latest jurisdiction to elect to take advantage of the 1961 District Justice Court Act and did so in October, 1969. Effective on January 1, 1970, Judge **Eugene McLean** became a full time District Court Judge. The other judge of the county is now **Bill V. Cottrell** and several of the incumbent justices of the peace were retained to serve as court commissioners. Grant County is also actively studying the benefits of operation under the District Court system.

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The Washington State Magistrates Association has taken several more steps to implement study of a new judicial article. At the request of the Association, Senator **Peter Francis** of Seattle sponsored a resolution that passed the Senate directing the Legislative Council's Standing Committee on the Judiciary to complete a study and propose an article and supplementary legislation to the 1971 Legislature.

SUPERIOR COURT NEWS

By **FRANK D. HOWARD,** *Judge*
King County Superior Court

Judge **Virgil Scheiber** of Clark County died on January 23 at a Portland hospital following kidney surgery. Judge Scheiber had been on a leave of absence from Clark County since the end of November due to illness. He was appointed to the court by Governor Rosellini on July 1, 1963.

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Judge **Story Birdseye** completed one year as the King County Presiding Judge on January 30. He was replaced by Judge **Stanley Soderland.** During the past year 3207 cases were heard and concluded, as compared with 2442 the preceding year. Civil jury cases are tried 12-1/2 months after noting and nonjury cases within 9-1/2 months.

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The judges of the King County Superior Court have filed financial statements with the county clerk. These statements are open to public inspection. Judge **Lloyd Shorett** of King County made the following statement in disclosing the filing:

"The King County Superior Court judges are filing complete financial statements with the country clerk.

"This is not required by state law or county ordinance but is done voluntarily by the judges to retain public confidence in the courts.

"The statements show assets, liabilities and income of judges and wives.

"We hope other judges and public officials may follow this precedent."

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Some Superior Courts are considering a proposed rule change to help attorneys in domestic relations cases avoid unnecessary court appearances. The proposed rule would provide that after proper notice support would be set in accordance with the following table, unless a showing of special circumstances, which would require deviation from the table, was made by either party:

Net Monthly Income	Number of Dependents				
	1	2	3	4	5 or more
$200.00 to	$ 50.00	$ 70.00	$ 80.00	$ 90.00	$100.00
250.00 to	60.00	80.00	90.00	100.00	120.00
300.00 to	65.00	90.00	105.00	120.00	130.00
350.00 to	75.00	110.00	125.00	140.00	155.00
400.00 to	85.00	120.00	150.00	170.00	190.00
450.00 to	100.00	130.00	170.00	190.00	210.00
500.00 to	120.00	145.00	185.00	210.00	250.00
600.00 to	135.00	185.00	210.00	250.00	300.00
700.00 to	150.00	210.00	250.00	300.00	350.00
800.00 to	165.00	250.00	300.00	350.00	400.00
900.00 to	180.00	300.00	350.00	400.00	450.00
1000.00	200.00	350.00	400.00	450.00	500.00

(Net income is defined as income after normal deductions, Income Tax, F.I.C.A., Hospitalization, Life Insurance, Union Dues, Retirement Plan Payments.)

A CHANGE IN ATTITUDE

One of the remarkable and encouraging developments in the field of Law Office Economics and Management during the decade 1960-1970 was a widespread change in attitude of practitioners reflecting an increased willingness to exchange information on practice and management techniques and to discuss openly common problems.

Traditionally, lawyers have been reluctant to disclose their "trade secrets" or modes of practice, particularly on a local level with their competitors.

Consequently, when an attorney developed a better way of doing things, only he knew about it and only his clients benefited from his increased efficiency.

As a consequence of meetings such as those sponsored by the American Bar Association on law office economics, the climate for the frank interchange of information has been fostered. Hopefully, within our own state, continued progress can be made through seminars, informal discussions and programs conducted by the state and local bar associations.

It is perhaps easier to exchange ideas and opinions on tangibles, such as equipment ("Which typewriter do you find best?"), systems ("We do our filing like this . . ."), or law office design ("We locate our secretaries just outside the door to the attorney's office."), than it is to discuss and exchange information on intangibles. But let's bring one or two of these out for discussion.

First, what has been *your* program for the hiring, training, advancement and compensation of associates? How do you recruit, interview and select an associate? Once he is on the job, what kind of in-service training program do you have? How do you bring the young lawyer along so that he matures in his practice? What promises do you feel able to make to the associate as to his advancement? Do you compensate him on salary alone? Or salary plus bonus? Or salary plus a percentage of his own business? What predictions can you make with reasonable assurance as to his earnings at the end of three years, six years, ten years? How do you provide incentive to him to develop his skills, to attract clients, to devote adequate time to his practice? When will he become a partner, and how long will it take?

Secondly, let's talk about law partnerships and the relationship of partners inter se. Do you have a written partnership agreement and what does it contain? How do you handle time off, sickness, disability, death, retirement, under your setup? How do you in your partnership handle difficult but inevitable problems of differences between partners such as age, life objectives, legal ability, hours devoted to the practice, efficiency, ability to attract clients, varying profitability of work? More bluntly, what system do you follow in your own firm in determining the compensation of partners? Is it fair? Does it adjust to changing conditions? Does it avoid unpleasant confrontations or negotiations between partners? Does it head off the withdrawal of a dissatisfied partner and avoid the costly and sometimes bitter breakup of the firm?

To me the justification for the candid exchange of ideas on subjects traditionally considered taboo by lawyers is that by so doing the standards of practice generally will be raised, the practitioners themselves will benefit, and most importantly, we as attorneys will be enabled to provide more and better service to those in need of legal assistance.

Some lawyers *are* frankly discussing subjects such as these to their mutual benefit. Are you willing to talk?

R.S.V.P.

Richard C. Reed

Prepared by the Committee on Law Office Economics and Management, Richard C. Reed, Seattle, Chairman, Harry E. Hennessey, Spokane, Editor.

This column is a clearing house for better ways to run the law office. Contributions are solicited from all members of the Bar and should be sent to the editor at Post Office Box 324, Spokane, Washington 99210.

Lawyer/Public

A lawyer invited to speak to a lay group on the general subject of wills, probate, inheritance, etc., made this point as an opening, attention-getting gimmick:

"Every person in this audience already has a will. If anyone has not made his own will, the State of Washington has made one for him." And he explained, of course, what happens in cases of intestacy.

In the same way every practicing lawyer, without exception, already has "public relations," a "public image"–a general reputation. As with a will, he may have made it himself the way he wanted it. Or it may have been made for him, like it or not.

What goes into the shaping of a community's feeling about a lawyer? Two things, the experts say:

1. What the lawyer himself says and does, not only in courtroom or other public appearances but in every relationship, every conversation, every communication with every individual client. With each client–did the lawyer expedite or procrastinate? Did he keep the client informed about the progress of the services he was paying for? Did he have an early and clear understanding with the client about the fee, what it might be, what might help determine it, how it may be paid?

2. What all other lawyers and judges say and do. The public regard for every lawyer and all lawyers is increased in some degree by every worthy and pleasant relationship with any lawyer. And it is diminished in some degree by every unworthy word or deed by any individual lawyer.

Lawyers are one of those several vital threads of the law that hold the fabric of society together. Weakening that key thread would weaken and distort the entire fabric. So one with law are lawyers that any public disrespect for lawyers or even a single lawyer inevitably brings equal public disrespect for law. And the possible evil consequences to society of widespread disregard for law, already visible here and there, are enormous.

Thus ethical, conscientious and energetic efforts at better public relations by lawyers can achieve desirable by-products: Making it psychologically easier and more attractive for more members of the public to seek the legal services so many of them need or could profit from and encouraging in society a knowledge of and respect for lawyers, the courts and the law.

The conclusion is inescapable: For lawyers, the bar and the courts and for society itself, good "public relations" is a vital necessity eclipsing in importance the cliche and sometimes vulgar press agentry employed to sell toothpaste or shaving cream.

– Public Relations Committee

Twenty Years Ago

Women

Editor Rupp was in sore trouble. He had not only offended one woman but two plus a husband. The News stated that **Leona W. Williams** was the first woman to practice law in the State having been admitted in 1907 as Leona W. Brown. Mrs. **Bertha M. Snell** was pleased to tell him that she reached the State one day before its actual admission to the Union. She was admitted to practice January 13, 1899. She also said Mrs. **Fannie B. Wright**, Union, wife of Judge D. F. Wright, was admitted to practice with her husband in Davenport in the year 1900. She stated further that a number of other women had been admitted between 1899 and 1907. However, her letter ended with the consolation "what difference did it all make . . . a lawyer is a lawyer, and sex does not–or should not–enter into the matter . . ." How nice!

Mr. **L. N. Rosenbaum**, a New York financier, would not let it rest there. He said his wife, the former **Bella W. Weretnikove**, was admitted in 1901. At the same time Miss **Carroll** (who later became Judge Beal's wife), Miss **Adele Parker** and Miss **Mitchell** were admitted. Editor Rupp humbly closed the subject at this point.

Births

George N. Apostol left Omak to practice in Seattle . . . **E. Richard Whitmore, Jr.** joined **R. S. Campbell, Jr.** at Grand Coulee . . . **Frank Shires** became associated with **Ray Greenwood** in Port Orchard.

In Seattle the following took place: **Bruce Maines** took over the General Insurance Company . . . **Pinckney Rohrbach** left Pillsbury, Madison & Sutro (it does not appear why) and joined Kahin, Carmody & Pearson . . . A new firm name appeared on the lists as Peyser, Bailey & Cartano . . . **David C. Hunter** became part of Savage, Dodd & Garvin . . **Robert L. Simpson** became part of Kumm, Hatch & Cook. Did it then become Kumm, Hatch & Cook Simpson?

March First

"CANU CYMRAEG AR DDYDD SWYL DEWI SANT."

The Queen says it: "Singing on Saint David's Day."

– David J. Williams

WILL INFORMATION SOUGHT

Anyone who has any information regarding the last Will of Herbert R. Wilson, who died in Seattle during the latter part of 1968, please contact Edmund J. Jones, 1123 E. John St., Seattle 98102. EA 5-6400.

Anyone having knowledge of a last Will of Lenard Hicks, drawn later than August 24, 1951 (believed to be about 1963), please contact Davis & Roetcisoender, 3004 N.E. 125th Street, Seattle 98125. EM 3-7500.

Anyone having knowledge of a last Will of Emma C. Halik, who died in Tacoma on January 17, 1970, please contact Alfred J. Kucklick, 923 South K Street, Tacoma 98405. FU 3-5861.

Wanted and Unwanted

For Sale: Wash. Reports, complete set. Details available O. Schaeffer, 207 Colby Bldg., Everett. AL 9-8432.

For Sale: CJS; Am. Jur. Proof of Facts; RCWA (Book Publishing) – all complete, up-to-date sets. C.C. Chambers, Jr., 1117 2nd Ave. Bldg., Seattle 98101. MU 2-5624.

For Sale: USCA, complete set in excellent condition. Ronald W. Meier, 1619 Northern Life Tower, Seattle 98101. MA 4-1200.

For Sale: Wash. Reports, all vols. 1st ed. and all vols. 2nd ed. through Vol. 65; U.S. Board of Tax Appeals Reports, Vols. 1-47; and Tax Court of the U.S. Reports, Vols. 1-40. Contact Louis Barbieri, Goodale & Barbieri, Lincoln Bldg., Spokane 99201. MA 4-5177.

For Sale: Wash. Dig. Ann., 26 Vols., complete and up-to-date; condition like new; $250. Marcus S. Raichle, P.O. Box 387, Aberdeen 98520.

SEATTLE PUBLIC DEFENDER
Chief Trial Attorney

The Seattle Public Defender desires to employ an attorney experienced in criminal cases to be the Chief Trial Attorney. He would take responsibility for the supervision of the staff attorneys and would be concerned with directing the appellate and law reform efforts of the office.

The presently anticipated staff is eight attorneys by October 1970 but this figure would increase substantially in the event that a contract is negotiated with King County for taking felony and juvenile cases.

The salary would be appropriate to the experience and ability of the person chosen.

SEATTLE PUBLIC DEFENDER
Staff Attorney

Four positions for staff attorney will come open at regular intervals between February and October, 1970. The practice is limited to advising persons held in the City Jail and representing indigent persons charged in the Seattle Municipal Courts. Clients are handled with the same individual attention they would receive from a private law office and the lawyer handles the client from the first interview through the appeal process. Investigators are available to work under the direction of the attorney. Starting salary–$865 without experience.

State Bar Convention
September 10, 11 and 12, 1970
Hotel Vancouver

Deadline for the next issue of the *Bar News* is March 6, 1970.

LAWYER PLACEMENT SERVICE
By **DAVID L. BROOM**

The Young Lawyer's Committee of the Washington State Bar Association operates a Lawyer Placement Service at the State Bar Office, 505 Madison Avenue, Seattle, Washington, 98104, and at the Spokane County Law Library, Paulsen Building, Spokane. The service is available to members of the Association and recent law graduates seeking legal opportunities and employers seeking legal personnel. The service is offered without cost to either the applicant or prospective employers. The following are summaries of a few of the many applications on file:

1. Third-year Idaho law student wants to locate in Puget Sound area with small firm.

2. Sole practitioner has new office space available in new suburban shopping center. Wants attorney to share overhead and office space.

3. Seven man firm in large city seeking associate under age 30 interested in business and corporate practice.

4. Firm engaged primarily in insurance defense work seeking young associate preferably with no more than two years' experience.

5. Upper-third graduate, Stanford Law School, former FBI agent, seeking general corporate practice in Seattle.

6. LLB-CPA, upper-third graduate of UW Law School, six years CPA, wants to return to law practice in Seattle area.

Further information regarding the above can be obtained at either location.

Calendar

March	7	Professional Corporations, State CLE . . . Seattle
	13-14	Public Sector Labor Relations, PLI Program . . . Olympic Hotel, Seattle
	14	Professional Corporations, State CLE . . . Olympia
April	4	Professional Corporations, State CLE . . . Yakima
	11	Civil Rights Law, State CLE . . . . . Seattle
May	9	Professional Corporations, State CLE . . . Spokane
June	12	Tax Reform Act, PLI Program . . . . . Olympic Hotel, Seattle
July August	20 – 1	Harvard Program of Instruction for Lawyers . . . Cambridge, Mass.
Sept.	10-12	State Bar Annual Meeting . . . . . Hotel Vancouver, Vancouver, B.C.
Oct.	2	Kaiulani Hotel, Waikiki

HAWAII TAX INSTITUTE

The 7th Annual Hawaii Tax Institute sponsored by Chaminade College of Honolulu will be held at the Princess Kaiulani Hotel in Waikiki, starting September 27 and running through October 2. Registrants can also avail themselves of an optional weekend extension at the Kona Hilton Hotel on the Island of Hawaii. A distinguished faculty of nationally known tax authorities has been selected for this years Institute. For additional information, contact:

Director, Hawaii Tax Institute
Chaminade College of Honolulu
3140 Waialae Avenue
Honolulu, Hawaii 96816

JAPANESE CHARTER FLIGHT CANCELLED

The Travel Committee was required by reason of limited registration of our members to cancel our charter flight to Japan departing May 30 and returning from Tokyo April 12, 1970. It was required to meet a minimum complement of 70 and, despite considerable time and effort, only 30 seats remained sold.

VACATION AT HARVARD

The Harvard Law School faculty plans to offer its sixth program of instruction for lawyers in Cambridge from July 20 through August 1, 1970. The sessions provide an opportunity for study by practicing lawyers under some of the best teachers at Harvard Law School, in concentrated courses such as estate and business planning, securities and labor law, as well as more "cultural" subjects, such as constitutional and international law.

Additional information may be obtained by contacting Assistant Dean Stephen M. Bernardi, Harvard Law School, Cambridge, Massachusetts 02138.

TAX REFORM ACT

Seattle is one of six cities in which the Practising Law Institute will present its seminar on "Tax Reform Act." The program will be presented on June 12 from 9:30 A.M.-5:30 P.M. at the Olympic Hotel. The registration fee is $60 and the registrant is entitled to a complimentary copy of the course handbook.

Professional Service Corporations

Members of the panel which will present this spring's Continuing Legal Education statewide program on "Professional Service Corporations" have been announced by **Paul R. Cressman** of Seattle, Chairman.

They are **Charles L. Thomas** of Tacoma, **Donald C. Dahlgren** of Seattle, **James J. Workland** of Spokane and **Richard A. Winkenwerder** of Seattle.

The full-day institute is being presented in response to a big demand by lawyers for practical information about the new professional service corporations. A single-session seminar on the subject at last September's State Bar Convention attracted a crowd of more than 200 and probably an equal number had to be turned away because of lack of seating space.

The Olympia program will be in Craig's Red Bull Restaurant in the South Sound Shopping Center just off Interstate 5 at the northeast edge of the city; the new site was selected because the Tyee Inn, where most recent CLE programs have been scheduled in Olympia, was largely destroyed by fire in January.

Meetings Held by State Bar Association During January:

8	Disciplinary Hearing
9	Family Law
9	Special Discipline
9	Travel Committee
10	Young Lawyers
13	Disciplinary Hearing
16	Revision of the Judicial Article
22	Board of Governors with the Supreme Court
23	Board of Governors
23	Disciplinary Board
23	Communist Activities
23	Insurance
23	Civil Rights
30	Unauthorized Practice of Law

State of Washington

LIST OF ACTIVE CORPORATIONS

1969

A new listing of Active Corporations in Washington. This new book prepared by Book Publishing Company in cooperation with the office of the Washington State Secretary of State replaces the 1968 Edition distributed by the Secretary of State.

Copies are available now and can be purchased by contacting the Book Publishing Company or by filling in the attached order blank and mailing it to Book Publishing Company.

The price $7.84 includes State Sales Tax.

The book contains an alphabetical listing of all active corporations in Washington showing:

1. Registration Office.
2. If delinquent and owing annual license fee for one, two or three years.

PLEASE SEND _____ COPIES OF, "LIST OF ACTIVE CORPORATIONS," AT $7.84 PER COPY includes State Sales Tax.

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2518 WESTERN AVENUE
SEATTLE, WASHINGTON 98121

(paid advertisement)

WASHINGTON STATE BAR ASSOCIATION
505 Madison Street
Seattle, Washington 98104