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WASHINGTON STATE BAR NEWS

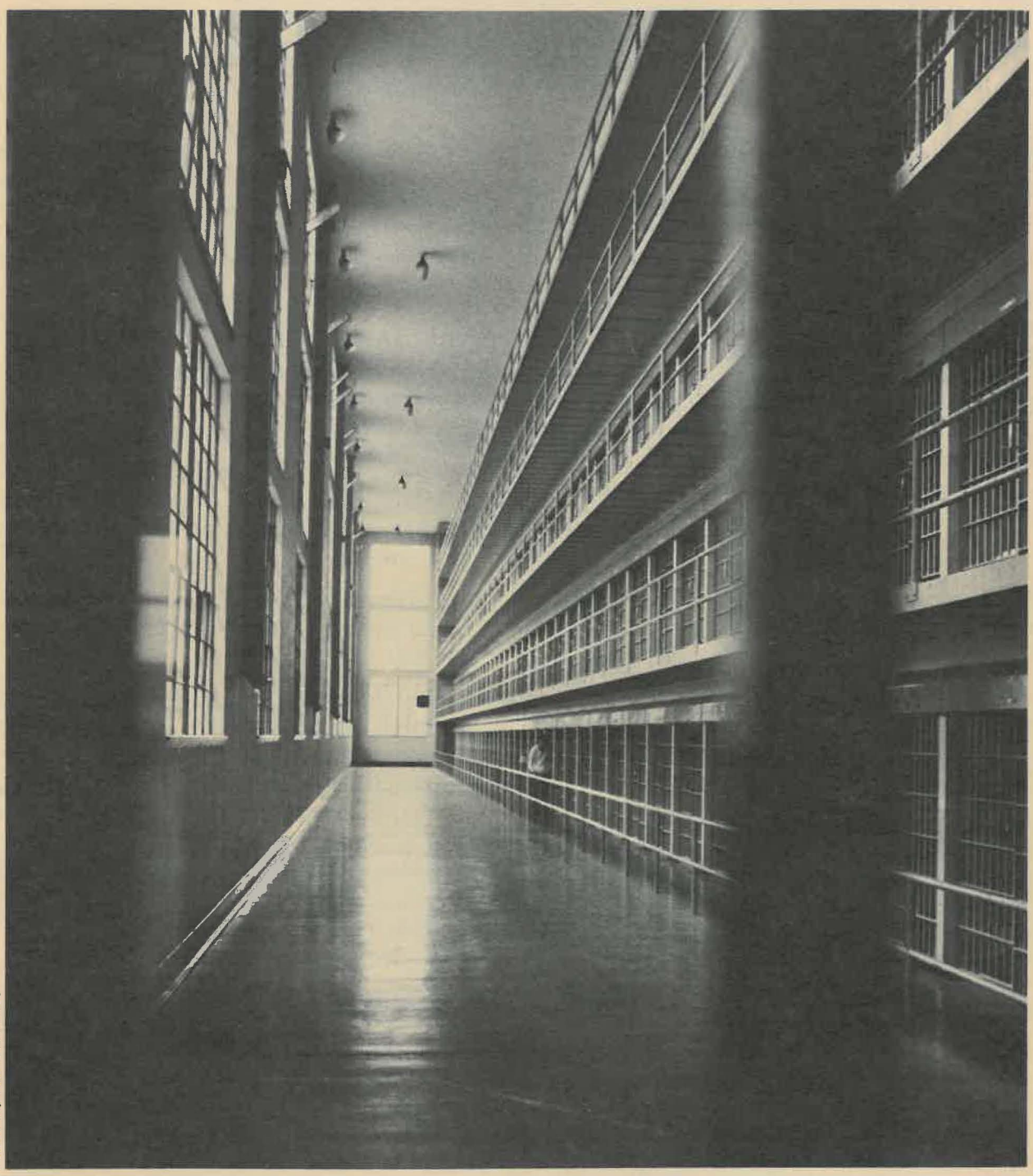

Photo by Bart Attebery

NO MAN IS AN ISLAND

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Editor's Note

Washington State Bar News

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EDMUND B. RAFTIS, *Editor*

Material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Association or of the Board of Governors. Direct all copy to Edmund B. Raftis, Editor, 1608 Exchange Bldg., Seattle 98104.

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North Pacific Bank Note Company

Index

The Board of Governors would like your opinion on the six-man jury and the unified court. (The McKinlay-Foster phenomenon question is a throw-in.) A **postage-paid postcard** is provided for your convenience. The vote thus far on the bar poll has been too small thereby preventing the drawing of meaningful conclusions. Take just a minute, fill out the card, tear it out and mail it. If your time permits, write a letter so the letters' column will have some copy.

We talk a lot about renovating our penal system but do we do anything about it. Chief Justice Warren Burger has succintly presented the case for **penal reform** (page 4). Voters in King County can do something about it by voting yes on the $40.2 million safety and health facilities bond issues on the May 19 Forward Thrust ballot.

The forty-first session second extraordinary session passed legislation giving the consumer an avenue of relief through private suit in the general **consumer protection** area. Every lawyer should be aware of the new available remedy. Chris Bayley, Deputy Attorney General, discusses this expanding field of law (page 7).

Impact cases is the term which has been selected by the **Lawyers Committee for Civil Rights Under Law** to describe how that group will seek to bring about law reform. Having completed more than a year's operation under a Ford Foundation grant which is being phased out, the Committee is now turning to members of the bar and other private sources for funds to continue operation (page 11).

Judge Morell E. Sharp makes some very persuasive arguments which counter-balance the article by Glenn R. Winters in the February issue on the proposal for a **unified trial court** (page 13).

Judge Thomas Russell, like Winters, is a proponent of the unified trial court. Walt Woodward reported both sides of the controversy and then withdrew, writing: "This writer, caught in crossfire between two men of the bench simply pleads 'nolo contendere'."

The State Supreme Court has delayed the effective date of **Rule 9**, limited license to practice law, from April 17 to July 6, 1970. Comments will be received until June 1.

There is still time for you to get your licks in before the ABA Code of Professional Responsibility is adopted in this state without change (page 16) . . . Rule change allowing six-man jury imminent (page 9) . . . King County Public Defender re-established (page 10) . . . Ethical opinion on interest on attorney's fees (page 10) . . . a new regular column gets under way this month, Law School News (page 24) . . . an amended local rule for King County (page 18).

FRED PALMER

State Bar President – 1957-1958
Chairman, Disciplinary Board 1969-

Fred Palmer–a man of distinction in his profession and his community, and widely known throughout the Washington Bar–has earned an enviable reputation in Yakima, his adopted home.

Born in Toppenish, where his father was engaged for many years in business, Fred moved to Yakima to begin the practice of law, following his graduation from the University of Washington's School of Law in 1935.

He has been generous in contributing his time and efforts to his church, his community, and to both the local and state bar associations. He was director of the 1969 Yakima Valley United Good Neighbors campaign, and has been president of both the Yakima County and State Bar Associations. An active and successful trial lawyer, he has been elected to membership in the American College of Trial Lawyers.

Fred Palmer and his wife, Peggy, have raised three fine children, and are now starting to count their grandchildren. His other principal interest is golf, but the time requirements for his other activities have deprived him of the opportunity for stardom on the links.

A good citizen, a good lawyer, a devoted husband and father, Fred Palmer is a person whose friends are happy to count as their friend!

Each month the agenda for the meetings of the Board of Governors seems to get longer and longer. This is partly because there are more and more minutes of committees; which, in turn, indicates, I believe, increasingly greater activity for the benefit of all lawyers in the State of Washington.

As we approach the annual meeting of the State Bar Association in September (and it is now only a few months away), the details begin to take shape. Let me urge you now to make your reservations in Vancouver, British Columbia, early. The Vancouver Hotel will be the convention hotel, and all general convention programs will be on Thursday, Friday and Saturday, September 10, 11, and 12, 1970.

The schedule of events is beginning to crystalize. As usual, many of the informative sessions will be under the sponsorship of Continuing Legal Education; there will be entertaining speakers; there will be concise and interesting meetings; and we should have a number of friendly visitors. Vancouver is a beautiful place, and no one attending has to worry about checking in at his own law office each day. Why not have a ball? Plan now to go to Vancouver, and tell your wife; the ladies seem to like to tag along.

Your Board of Governors, at its last meeting, among other business, reviewed the minutes of the Disciplinary Board, as well as reports and minutes of the following committees–Special LAC, Board of Bar Examiners, Code of Professional Responsibility, Public Relations, Court Reporters Fees, Continuing Legal Education, Lawyers Referral, Law Office Management, Insurance, Judicial Selection, Legal Ethics, Family Law, Communist Activities, and Legal Aid. This represents a staggering amount of work done by the members of these committees.

The Board approved an application form for implementing the new Rule 9 covering limited license to practice. An interesting question was also considered, centering around residence requirements for active members of the State Bar, and the transient lawyer, and the lawyer employed by a multi-state employer. At the conclusion of the meeting, the members fell into relaxation and admiration of three of Neil Hoff's month-old Saint Bernard pups. (I think they're for sale.)

Don't forget Vancouver.

John Dunbar

NO MAN IS AN ISLAND

Remarks of Chief Justice Warren E. Burger

Newsweek reported in its February 16, 1970, issue: "Chief Justice Warren Burger, who has publicly urged judges and lawyers to pay more attention to prison reform, has been quietly visiting prisons in the Washington area to gain firsthand knowledge of conditions behind the walls. The warden at one Maryland institution says the Chief Justice was shocked at what he saw there. Burger, who has been conferring with leaders of the American Bar Association and others who are developing proposals for overhauling the correctional system, plans to make a major speech on the subject soon." Key portions of that speech, delivered on February 21, are reprinted here.

What are the dominant characteristics of what we think of as our system of criminal justice today? First, it is a system in which there are many checks and reviews of the acts and decisions of any one person or tribunal. Second, it is a system which reduces to a minimum the risk that we will convict an innocent person. Third, it is a system which provides the utmost respect for the dignity of the human personality without regard to the gravity of the crime charged. There are exceptions to these generalities in some states and in some courts, but I think this is a fair appraisal of the plus side of our system of criminal justice.

What are some of the negative aspects of our system?

1. Our criminal trials are delayed longer after arrest than in almost any other system;

2. Our criminal trials extend over a greater number of days or weeks than in almost any other system;

3. Accused persons are afforded more appeals and re-trials than under any other system;

4. We afford the accused more procedural protections, such as the exclusion and suppression of evidence and the dismissal of cases for irregularities in the arrests or searches, than under any other system.

These are the negative factors. But by that I do not mean to say that any one of these is unreasonable or undesirable in and of itself. It is a hard fact, however, that in the present state of the law there are more and more cases in which a defendant is tried and re-tried and re-tried again so that the trials and appeals may extend anywhere from two to five and occasionally as much as 10 years.

Many people tend to think of the administration of justice in terms of the criminal trial alone because this is the part of the process which occurs in the local community, but, more than that, because it is charged with the human element; it is exciting, colorful, and dramatic. This is why the movies and TV have given so much time to criminal trials.

But the actual trial is not the whole of the administration of criminal justice. We ought to view it as a system—a total process that begins with an arrest, proceeds through a trial, and is followed by a judgment and a sentence to a term of confinement in a prison or other institution. The administration of criminal justice in any civilized country must embrace the idea of rehabilitation and training of the guilty person as well as the protection of society. In recent years, we have been trying to change our thinking in order to de-emphasize punishment and emphasize education and correction.

I have suggested that our system of trials to determine guilt is the most complicated, the most refined, and perhaps the most expensive in the world. We now supply a lawyer for any person who is without means and it is the lawyer's duty to exercise all of his skill to make use of the large numbers of protective devices available to every defendant.

But at best this is not working very well and at worst it tends to become a spectator sport. In some

of these multiple trial and multiple appeal cases the accused continued his warfare with society for 8, 9, 10 years and more. In one case more than 70 jurors and alternates were involved in 5 trials, a dozen trial judges heard an array of motions and presided over these trials; more than 30 different lawyers participated either as court-appointed counsel or prosecutors and in all more than 50 appellate judges reviewed the case on appeals. Once I tried to calculate the costs of all this for one criminal act and the ultimate conviction. The best estimates could not be very accurate, but they added up to *a quarter of a million dollars.* The tragic aspect was the waste and futility since every lawyer, every judge and every juror was fully convinced of the defendant's guilt from the beginning to the end.

No one should challenge any expense to afford a defendant the fullest due process and his full measure of days in court. But reasonable people must be excused if they question such a spectacle which extends 9 or 10 years, costs a literal fortune and produces so little which helps the accused or the public, the more so when after all this extended procedure we turn away and forget him.

What we must weigh in the balance is the rationality of a system which is all contest and conflict and virtually no treatment of what lies at the heart of the problem—a disorganized and inadequate human being who cannot cope with life. Our system is too much sail and too light an anchor . . . We find lawyers and judges becoming so engrossed with procedures and techniques that we tend to lose sight of the purposes of a system of justice.

I see two basic purposes—the first to protect society; the second to correct the wrongdoer. If this is correct, we should stop thinking of criminal justice as something which begins with an arrest and ends with a final judgment of guilt. We must see it as embracing the entire spectrum, including that crucial period which begins when the litigation is over and the sentence is being carried out. It is here that the success or failure of our society will make itself known.

If, as Jon Donne told us, "No man is an island" and every man's death takes something from each of us, how much more is this true of the tragic failure we witness when the judgment of society is pronounced on one man and we decree that he must be placed behind walls? The bell that tolls for one man's death is not a consequence of our collective judgment—except in those rare cases where society still enforces the death penalty. But when a sheriff or a marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, *this is our act. We* have tolled the bell for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him; he is not.

The second purpose of a system of justice I speak of is less clear, and it is one on which we are truly ambivalent. Even when we profess rehabilitation and correction as objectives, we probably know that to *all* of us *some* of the time and *some* of us *all* of the time punishment and retribution are factors. According to some theologians and psychiatrists this is not necessarily bad. It is only when anger and revenge *dominate* the process of discipline and correction that we are on a self-defeating course. A distinguished psychiatrist, the late Dr. Philip Roche, pointed out that the punishment of a criminal served an important therapeutic purpose. He said that when a community experiences a horrible crime or a sustained crime wave, there occurs a mass trauma which must have some outlet or it will build up into irrational expression or explosion. The conviction and imprisonment of a wrongdoer affords a collective release to the pent-up fears and anger of the community.

It is important to remember this so that we do not fall into the easy error of becoming so filled with righteous piety that we accept the cliche that all punishment is somehow an *evil* thing. Perhaps the real evil underlying our penal system is not its concepts, whether rehabilitation or vengeance or something else, *but the lack of any agreed concept*, the absence of plan and purpose, and worst of all—*the indifference that underlies the neglect.*

We seem to expect the prisoner to return to society corrected and reasonably ready to earn an honest way in life simply because we have locked him up . . .

Criminal offenders who are sent to prisons are at least as varied as the human beings who are law-abiding, churchgoing taxpayers. We know, moreover, that a large proportion of them are seriously maladjusted and those who are not when they go in are likely to be so when they go out.

To have any hope of correcting, reforming, rehabilitating or changing these people calls for a wide variety of programs including diagnosis, counselling, education and vocational training and often intensive psychiatric therapy. The infinite variety of needs cannot be met in single, large institutions, even though with 200,000 prisoners we must use some large institutions. There must be one kind of institution for the first offenders, another for the very young—and this is an enormous proportion—and still other institutions for yet other categories; and all of

them must be staffed by trained personnel.

The training programs in most state institutions are limited to a few skills, and there is almost no effort to correlate training programs with the demand for particular skills. It is no help to prisoners to learn to be pants pressers if pants pressers are a glut in the labor market or bricklayers or plumbers if they will not be admitted into a union.

If we want prisoners to change, public attitudes toward prisoners and ex-prisoners must change. We have some community effort along these lines in this country but with few exceptions it is thin and scattered and not well led or organized and few of the participants are well trained.

The contrast between our indifference and the programs in some countries of Europe–Holland and the Scandinavian countries in particular–is not a happy one for us. There they have long engaged in research on law-breakers and prisoners and on anti-social conduct generally; they use a wide range of institutional treatment and extensively employ work release and open prison techniques. Their use of psychological testing and psychiatric counselling and therapy is far in advance of ours.

Their community involvement in prisoner-aid organizations is far greater than ours. Some of the "after-care" societies, as they are called in those countries, have existed for several hundred years. They are made up of laymen working through churches and related organizations but supported in part by public funds. The volunteers are directed by trained professionals. A common practice is for the part-time volunteer, semi-professional "parole officer" to be assigned to the prisoner as soon as he is sentenced so that a relationship is established at an early stage and this becomes a basis for counselling and help when the prisoner returns to freedom. Here is an area we must explore so as to make use of the enlarging leisure time available to more and more educated Americans. We have the basic tradition of doing great work through volunteers–we must channel and harness this kind of manpower and give it direction.

It is a paradox to find the world's richest nation being outspent and outperformed, as we are, by these old but less affluent North European societies. Some credit for their lower crime rates must go to their correction systems.

The legal profession can be the most powerful force for good–the most powerful lobby if you will–that this country knows. Lawyers are perceptive, analytical, and they have the advocate's skills to persuade others.

Where do you begin? The same way you prepare a case. By getting all the facts, visiting the scene if necessary, and then organizing the evidence. In this area most of the facts are available at the prison and from prison authorities. A visit to most prisons will make you a zealot for prison reform . . .

. . . You will find that prison officials will welcome you but they will want you to share their sense of frustration and futility. You will find them the most severe critics of their own institutions and sometimes more frustrated than the prisoners themselves.

The range of these needs is staggering. They are expensive. They are complex and difficult. They rival if they do not exceed those of the many great cities. But we are suffering and must pay the high price of accumulated and deferred maintenance. And the cost is not in some distant future period: *it is here and now* and it is no farther away than the nearest dark street. Is it any wonder that we find a grim and distressing "recall" of 65% of the human output of these prisons "back to the factory"?

This is a true pollution of society and it manifests itself in the highest crime rate in our 200 years of existence, with most crimes being committed by "graduates" from these penal institutions. . .

It is really in this second phase of justice that society's success or failure becomes known. Prosecutors could win *every* prosecution, *convict every* defendant, and *imprison every* guilty person, and society would still fail. We would fail because there must be *two* purposes, and the second purpose is not served by a perfect record on the first. Unless we succeed in both, we fail.

To put man behind walls to protect society and then not try to change him is to win a battle and lose a war. Let us turn to the business of winning the war.

I know of only one way: we must bring to bear on it the uniquely American combination of energy, brains, ingenuity, research and innovation which has made us the world's greatest industrial power. And all of this must be backed by those very special American assets–idealism and enthusiasm.

When the French writer, Jean Paul Sartre, wrote that free men are captives of their own freedom, I elect to read him as stating something of a modern version of the "obligations of nobility." We take on a burden when we put a man behind walls *and that burden is to give him a chance to change.*

If we deny him that, we deny his status as a human being, and to deny that is to diminish our own humanity and plant the seeds of future anguish for ourselves.

* * *

CONSUMER PROTECTION

By Christopher T. Bayley

Deputy Attorney General
Chief, Consumer Protection Division

Photo by Mary Randlett

The purpose of this article is to alert lawyers of Washington to exciting new prospects for their involvement in consumer protection. Caught up in the surging "Consumer Movement," which this year is reaching a new national high-water mark, the 1970 special session of our Legislature passed significant amendments to the Consumer Protection Act of 1961, RCW 19.86. Besides strengthening the powers of the Attorney General to stop consumer fraud, the Legislature acted to propel Washington State beyond the strictly governmental phase of consumer protection by creating a statutory private remedy. This private remedy is available whenever a person has been injured by an individual or business engaged in "unfair methods of competition" or "unfair or deceptive acts or practices in the conduct of any trade or commerce."[1]

In Congress, lawmakers are considering class action legislation which would give aggrieved consumers direct access to Federal Courts. This remedy could be an important vehicle of justice for those whose individual claims are not significant monetarily and who might have trouble otherwise interesting a lawyer in their case. In addition, the creation in Washington State of a private right of action for a violation of RCW 19.86.020 should lead to greater utilization of CR 23 in State Court class actions. The new law makes matters of proof considerably easier than in an action based on fraud, and should result in class actions being more economically feasible.

[1] The amendment to RCW 19.86.090 provides for a private suit by any person injured by violation of RCW 19.86.020. RCW 19.86.020 states that "Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

DEVELOPMENT OF THE LAW IN WASHINGTON

Washington was one of the first states to pass comprehensive consumer legislation. Adopted in 1961, the original Consumer Protection Act gave the Attorney General power to seek an injunction for its violation. The language of RCW 19.86.020, which was taken directly from the Federal Trade Commission Act, has been construed in over a thousand federal court decisions and through numerous rulings of the Federal Trade Commission and is also present in the Consumer Protection Acts of several other states. The Legislature specifically stated its intent that in construing the Consumer Protection Act State courts should be guided by prior interpretations of relevant Federal statutes. The existence of this considerable body of authority should be of great assistance to any lawyer who is contemplating bringing a private action under the new Washington law.

The Attorney General was designated as sole "enforcer" of the Act, and since its inception in 1961, his Consumer Protection Division has continually expanded until today it is one of the most active of its kind in the country. Even with the relatively high staff level and a large percentage of the Attorney General's budget, the Division has found it difficult to meet a rapidly increasing demand for its services. For example, the number of individual written complaints received and acted upon by the Seattle office has more than tripled in the last three years, with 7,223 processed in 1969.

Recognizing its own inability to deal effectively with complaints which raised a genuine dispute of fact between the parties, and realizing that the common law action for fraud is generally an inadequate means of asserting the rights of an individual consumer, the Consumer Protection Division teamed with the Young Lawyer's Section of the Seattle-King County Bar Association to propose new legislation to the 1970 Legislature (SB 275 and its companion HB 161). This bill, which included the private consumer remedy, had the strong support of Attorney General Slade Gorton and key legislators in both parties and subsequently passed both houses without a dissenting vote and only minor amendment.

The new consumer remedy contained in RCW 19.86.090 allows any person injured in his business or property by a violation of RCW 19.86.020 to bring a cause of action in Superior Court (a) to enjoin further violations, (b) to recover actual damages, or (c) to accomplish both objectives. In addition, and critical to the efficacy of the private remedy, the individual may recover court costs and reasonable attorney's fees. The court is also given the power to increase the award of damages to an amount not in excess of three times the actual damages. This increased damage award may not exceed $1,000.

As noted earlier, the existence of a large body of authority defining what constitutes "unfair methods of competition and unfair and deceptive acts or practices in the conduct of any trade or commerce" should provide considerable guidance to lawyers considering bringing cases on behalf of consumers. This statutory remedy, by doing away with the necessity of providing all the elements of fraud, should reduce the cost of litigation. The new legislation also amended the Consumer Protection Act of 1961 so that matters of proof in a certain class of cases will be very easy.

RCW 19.86.130 was amended so that a final judgment or decree rendered in any action brought by the Consumer Protection Division to enjoin an unfair method of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce shall be prima facie evidence against the defendant in any action brought by any party against such defendant under 19.86.090. Finally, the private right of action for damages is not restricted to individuals; "person" as used in section RCW 19.86.090 includes natural persons, corporations, trusts, unincorporated associations and partnerships.

I hope that members of the Bar will seize on the opportunity offered by this new Legislation so that the voice of a consumer whose legal rights have been violated may be loudly and clearly heard in the court room.

CLASS ACTION DEVELOPMENT

A major road-block to wide-spread utilization of the new private remedy provisions in Washington law might be the inability of many defrauded consumers to prove damage significant enough to make their case worthwhile—even with treble damages, costs, and attorney's fees. At least a partial solution to this problem may lie in the class action. The current Washington Rule on Class Actions, CR 23, paralleling Federal Rule 23, is largely untested. It does not take much imagination to envision a class of consumers meeting its gateway requirements, but the problem of rounding up a significant number of aggrieved consumers to constitute the class may present some difficulty.[2]

(continued on page 21)

[2] For discussion of "client solicitation" problems in connection with Rule 23 class actions see Newberg, "Orders in the Conduct of Class Actions: A Consideration of Subdivision (d)"; *Boston College Ind. & Coml. Law Rev.*, Vol. X No. 3, Spring 1969, 577 at 596.

WASHINGTON STATE BAR NEWS

Photo by John D. McLauchlan

Justice Clark addressed King County Judges and Lawyers

Photo by John D. McLauchlan

L. to R. David R. Hood, Justice Clark and John F. Sullivan

Former Supreme Court Justice Tom Clark spent five days in Seattle the first part of April. He appeared on a panel at the U. of W. Law School on clinical legal education, reviewed the on-going progress of the LAMP program initiated by him (attorneys and law students representing inmates at McNeil Island), and spoke to members of the bench and bar on disruptions in the courts.

Bar Poll on Rule Changes

The Judicial Council has recommended two proposed rule changes for adoption by the Supreme Court. The proposed change in CR 38(b) will allow the use of a six-man jury. The proposed change in CR 38(d) would correct the unfair practice of a party in a multiple-party suit demanding a jury and then waiving the jury immediately before trial, thereby defeating the other party's right to a jury

Your expression of opinion on the Bar Poll is requested. The rule changes read as follows:

CR 38
JURY TRIAL OF RIGHT

(b) *Demand for Jury.* At or prior to the time the case is called to be set for trial, any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefore in writing, by filing the demand with the clerk, and by paying the jury fee required by law. *If before the case is called to be set for trial no party serves or files a demand that the case be tried by a jury of twelve, it shall be tried by a jury of six members with the concurrence of five being required.*

* * * *

(d) *Waiver of Jury.* The failure of a party to serve a demand as required by this rule, to file it as required by this rule, and to pay the jury fee required by law in accordance with this rule, constitutes a waiver by him of trial by jury.

(1) *Withdrawal of Demand.* A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

KING COUNTY PUBLIC DEFENDER

On March 16, the King County Council passed a revised ordinance which creates a Public Defender system in King County. The council had rescinded the ordinance previously passed (*Bar News*, March 1970, p. 11).

The revised ordinance differs from the ordinance originally passed as follows:

- A fourth member has been added to the selection advisory committee, a representative from the Law and Justice Task Force of the Seattle Model Cities Program.
- The County Executive, in appointing the administrator of the Office of Public Defense, is not limited to nominees submitted by the selection advisory committee.
- There is a shift in emphasis as to who is entitled to the services of the office. Under the revised ordinance, legal services will be available to all eligible persons for whom counsel is constitutionally required. In addition, legal services will be available to all eligible persons when funds are available where there may be some factual likelihood of such person's loss of liberty. The prior ordinance had simply provided that legal services will be available to all eligible persons where there may be some factual likelihood of such person's loss of liberty.

The next step–selection of the administrator.

Opinions of the Legal Ethics Committee of The Washington State Bar Association

OPINION 143 (May 1970)
Payment of Interest on Legal Fees

The legal Ethics Committee has been asked the broad general question:

Is it proper to charge interest on legal fees which remain due and unpaid?

The Committee adopts the philosophy of ABA Informal Decision No. C 741–3/31/64 as its reply to the question.

In the opinion of the Committee it is demeaning to the Profession to insist on the payment of interest on open account balances for legal fees. If, however, the client as a matter of convenience to him prefers to pay the fee over a period of time and there is no element of discount or coercion involved it is not improper for an attorney to obtain a promissory note from the client covering the fee which note also provides for the payment of a reasonable rate of interest. As a last resort, the client having failed to pay what is properly due, an attorney may be required to reduce his unpaid fee to judgment. In such instance, on an open account balance the statutory rate of interest would apply to the judgment and is properly collectable. In the case of suit on the promissory note the terms of the note as it relates to the payment of interest would apply. An attorney should be most circumspect in the manner and the circumstance under which the drastic action of suit for a fee is undertaken. Interest is a consequence of the judgment. It should never be used as a weapon to extract payment of a fee.

IN MEMORIAM

Homer T. Bone, 87, retired U.S. 9th Circuit court judge and former U.S. senator, died in Tacoma on March 11. He was a self-educated man, not attending formal school after arriving in Tacoma in 1899 when he was 16.

Marion Garland, 56, Bremerton, died in August of 1969. A graduate of the University of Washington, he was admitted to the Bar in 1939.

Victor A. Montgomery, 82, Seattle, died March 23. A graduate of the University of Washington School of Law, he was admitted to the Bar in 1913 and was a member of Nicolai, Montgomery & Sorrel.

Douglas D. Mote, 80, Des Moines, died March 28. A graduate of Washburn Law School in Topeka, he came to Seattle in 1925 and practiced until his retirement in 1963.

Henry A. Peterson, 80, Tacoma, died March 25. A 1914 graduate of the University of Michigan Law School, he was a member of Peterson and Haarmann.

J. P. Post, 72, Spokane, died March 23. A graduate of the University of Washington, he was admitted to the Bar in 1924.

Joseph L. Thomas, 60, Spokane, died of a heart attack March 12 in Pasco while on a business trip. A graduate of Gonzaga School of Law, he was admitted to the state bar in 1931 and was a member of McKevitt, Snyder & Thomas.

Remember to make contributions to the WASHINGTON STATE BAR FOUNDATION.

The Lawyers Committee for Civil Rights under Law

THE ORGANIZED BAR AND URBAN PROBLEMS

When Dr. Martin Luther King was jailed in Alabama in 1963, the Attorney General of the United States had to find him a lawyer. As it became apparent that counsel was effectively unavailable not only to Dr. King, but also to civil rights workers and black people in the South generally, President Kennedy became determined to act.

The Kennedy Administration asked Bernard G. Segal and Harrison Tweed to convene a conference of lawyers at the White House in the early summer of 1963 to discuss ways of providing legal services to people in the South for whom they were unavailable. From this conference of over 250 lawyers emerged what was then known as the "President's Committee"—now the Lawyers' Committee for Civil Rights Under Law.

Soon after its formation, the Lawyers' Committee opened an office in Jackson, Mississippi, and began to serve as the focal point for activities of lawyers from all over the country who came to donate their services. The Committee gave substantial support to the Delta Ministers Project of the National Council of Churches in the summer of 1964, and since then has developed into an aggressive law reform project ranging throughout Mississippi raising such issues as the legality of tax exempt status for a segregated private school established to avoid meaningful integration of public schools, segregation in a Federally funded hospital, discrimination in employment, right to counsel for juveniles and alleged misdemeanants and discriminatory jury selection. The Jackson project also obtained an $85,000 judgment against a sheriff for inflicting cruel and unusual punishment on a 14-year-old boy, and a judgment of over $1 million against the White Knights of the Ku Klux Klan. Over 170 volunteers have served in Mississippi since the inception of the project.

During this period, the national leaders of the Lawyers' Committee were Whitney North Seymour and Burke Marshall, from 1965 to 1967, and Arthur H. Dean and Louis F. Oberdorfer, from 1967 to 1969. The present co-chairmen are George N. Lindsay and John W. Douglas.

In June of 1968, the Lawyers' Committee undertook an Urban Areas Project. This undertaking represented an unprecedented effort to mobilize the legal profession to respond to the summons to action issued by the Kerner Commission. The project, funded by the Ford Foundation, was designed to make available the skills of lawyers in major cities across the country to individuals and community groups seeking to overcome the related problems of poverty and discrimination.

The project is now in operation in fourteen cities: Atlanta, Baltimore, Boston, Chicago, Cleveland, Washington, Indianapolis, Jackson, Kansas City, New York, Oakland, Philadelphia, San Francisco and Seattle. Each city has a steering committee composed of leaders of the Bar, and each city has an executive director. Some cities have by now attracted sufficient local funding to hire additional staff.

Each city develops its own program in the light of what it perceives to be its own particular problems. Thus, Boston has taken on nearly ninety matters, approximately one half of which are in the area of economic development. Oakland and New York have placed emphasis on education, Atlanta on police-community relations, Washington on housing, and so forth.

The Seattle Lawyers' Committee for Civil Rights Under Law was formed in December, 1968. The Committee was composed of twelve lawyers, both black and white, representing large law firms as well as sole practitioners. The first Chairman of the Committee was **Burroughs B. Anderson** of the firm of Perkins, Coie, Stone, Olsen & Williams. It is interesting to note that of the first twelve members of the Committee, two are now members of the judiciary and a third is now a city councilman.

With the beginning of the year the Committee has reorganized and expanded. **Al Ziontz** has been selected to serve with Burroughs Anderson as Co-Chairman of the Committee, and the now thirty-three member Committee has been sub-divided into sub-committees interested in the areas of labor, poverty law, economic development, housing, and education.

Committee members in addition to the Co-Chairmen are: **Robert O. Beresford, George H. Bovingdon, Philip L. Burton, Richard K. Bush, Gordon S. Clinton, Frank J. Eberharter, John Goldmark, Donald D. Haley, Willard Hatch, John Junker, Max Kaminoff, Kenneth A. MacDonald, George W. Martin, Robert G. Moch, Janice Niemi, Douglas Shaw Palmer, Cornelius J. Peck, George V. Powell, Edmund Raftis, Richard H. Riddell, Luvern V. Rieke, Dan Riviera, John N. Rupp, Alfred J.**

Schweppe, Kenneth P. Short, Edwin S. Stone, John N. Sylvester, Burton C. Waldo, Richard S. White, DeWitt Williams, Edmund J. Wood, Willard J. Wright, Andrew J. Young, and **James G. Leach,** Executive Director.

The Lawyers' Committee has worked on the premise that it is the responsibility of the Director to go into the community and to determine what problems exist to which lawyers need to devote their time. After such a determination has been made, it is the responsibility of the Committee to find volunteer legal manpower to work with the Director in the various problem areas.

As a result of the involvement of the Committee, well over 900 hours of time have been contributed by attorneys in Seattle to various community projects. If this time had been billed at the minimum bar rate of $25.00 per hour, this would have been a total legal bill of at least $22,500. The projects to which these volunteers hours have been contributed cover a very broad range of subjects. For example, they cover the very traditional area of legal services for small businesses.

In this area it is important to recognize the work of the Young Lawyers' Section of the Seattle-King County Bar Association. As a result of their cooperation with the Lawyers' Committee in a program in the area of **Black Capitalism,** the Young Lawyers' Section was awarded first prize at the American Bar Association Convention in Dallas for community service programs. More than a score of young businesses have been given the expert aid of lawyers skilled in the problems of small businesses. Such problems as getting loans through the Small Business Administration, working with architects in remodeling of buildings, dealing with sub-contractors, and securing the aid of volunteer accountants have now become a routine for lawyers working in cooperation with the Lawyers' Committee.

In addition, in the area of Black Capitalism, with the aid of volunteer attorneys a Small Business Investment Corporation and a Local Development Corporation have been established which will leverage funds contributed to minority business enterprise.

Racial discrimination within the **labor movement** has also come under the close scrutiny of the Lawyers' Committee during this first year. Early in the year an investigation was begun to determine just how widespread discrimination was in the construction trades union.

A volunteer attorney assisted in the organization of the Central Contractors Association, and the Lawyers' Committee has informally assisted in some of the Central Contractors Association litigation, and contributed funds for a portion of the court costs of the Association.

In addition to these areas of involvement, the Committee filed an amicus curiae brief in a federal case testing the validity of the **State's Maximum Welfare Grant**. The Committee has also provided volunteer legal counsel for the **Central Area School Council**. One of the Committee's major areas of concern is the **administration of justice in emergency situation,** so when there was an arrest of 45 persons at a civil rights demonstration, the Committee assisted in getting volunteer attorneys at a bail hearing and was instrumental in securing the release of all but two of the persons arrested without their having to post bail.

There has been much discussion in Seattle and across the country about various methods of providing legal services for the kinds of cases outlined above. It has become apparent that the publicly funded legal service programs are not the entire answer, since they are subject to the twin controls of policy and finances. (Recent national political events underline the importance of this.) Moreover, many law graduates are asking hard questions about their freedom to devote at least part of their time and talent to public issues.

No firm in Seattle has yet gone as far as Piper & Marbury in Baltimore, however, which hired a young lawyer and put him in charge of several associates working full time in the ghetto. Nor has any firm chosen the model proposed by Hogan & Hartson in Washington, whereby the firm would find an outstanding urban lawyer and make him a full partner in the firm with responsibility for developing an urban affairs practice.

Seattle firms do not need *pro bono* work to keep them occupied. At the same time, however, their young men are demanding greater opportunities to do such work, and both senior and junior men are becoming more aware of the tremendous need for this kind of legal service and of the opportunities for legal creativity and innovation it presents. By providing an intake point—as well as a controlled screening mechanism—the Lawyers' Committee is facilitating greater involvement by the organized Bar in the problems which beset our community.

The Ford Foundation does not fund programs on a continuous basis, preferring instead to demonstrate what an organization can accomplish, and on the basis of demonstrated success, letting it become self supporting. Therefore, the local committee has pledged to raise $12,500 during 1970 to keep the organization alive. The response of lawyers will determine its future.

A Unified Trial Court?
Remarks of Judge Morell E. Sharp
King County Superior Court
Delivered to Court Liaison Conference
Called by Justice Robert T. Hunter
March 21, 1970

If my understanding is correct, several of the organizations here have reached a tentative decision that a constitutional amendment providing for a single unified trial court should be adopted. Furthermore, if I read the newspapers, and the material Mr. Bise has circulated, correctly, the campaign in support of the revision has already started. Although the Superior Court judges have not reached a final decision in this regard, **I think that I reflect the reaction of most of the Superior Court judges in saying** that while we are open-minded on the subject and recognize that any judicial system requires constant examination and re-examination, we nevertheless **are not only surprised by the momentum of the present campaign, but are somewhat appalled.**

We see from the press interviews, and the written material that is being circulated, that only one viewpoint is being presented. We see that arguments are being presented as facts, and perhaps, *most* unfortunately, that the appeal being made to the public is based upon the premise that justice is not being done by our courts and that the courts favor the rich over the poor.

Now, please don't misunderstand. We are not questioning anyone's motives or intentions nor do we suggest that improvements cannot be made. Instead, we are merely trying to suggest, before it's too late, that these proposed changes to our judicial system have not been properly studied and analyzed in sufficient depth. For example, in the King County Superior Court, where impact of such a revision would be *most* convulsive, neither our professional Court Administrator, nor our Presiding Judge, nor our judges' Executive Committee, has ever been consulted in this matter let alone asked to supply data or figures. Furthermore, on a statewide basis, we have *never* seen any data or statistics concerning the business of the courts of limited jurisdiction, although the legislature as long ago as 1957 mandated that the administrator for the courts should collect and compile statistics and other data and make reports of the business transacted by all the courts.

Ladies and gentlemen, our present judicial system should not be discarded without clear and convincing proof that it cannot meet the needs of our society. We suggest that the proposal before us, instead of being a panacea for societies' ills, might do irreparable harm to the cause of justice.

Now, I realize that in the very few hours that we have here we cannot *even begin* to explore the grave questions posed by the proposals. All we can hope to do is to suggest that "in depth" studies be instituted, particularly by the non-judicial groups represented here, and that we, and I am speaking of Supreme, Appellate, Superior and Magistrate judges, be asked to submit statistical evidence and data, as well as our ideas, for your independent analysis.

I should like to touch briefly on several points and arguments being presented in support of the single unified trial court plan.

Trial De Novo

Under our present system, one feeling aggrieved by a decision from a court of limited jurisdiction may appeal to his local Superior Court and receive a full-scale trial. The argument is being made that a misdemeanant receives two trials, while a murderer only one; and that a poor man with a $700 contract dispute may be subjected to two trials while a big corporation with a seven million dollar lawsuit is subjected to only one trial. It is said that this de novo work gluts the Superior Courts. These arguments shake the public confidence in the courts, and they make good headlines.

First, we should look at the theory of the de novo trial. It was felt that because of the nature of the cases heard in the courts of limited jurisdiction—that is, traffic cases, neighborhood disputes, breaches of the peace matters, violation of city ordinances, that the disputes should be presented to a local justice for the convenience and economy of the parties and the public, and for expeditious handling. Thus, a party can appear before a local justice of the peace or district judge at a convenient hour, tell his story and the policeman or opposing party can tell his story and a decision will be promptly made. However, if a party is dissatisfied with that decision, perhaps feeling that a matter of principle is involved, he has the *right* to have his case heard by a Superior Court. There, he can have a jury of 12 of his peers, the services of a Superior

Court judge, court reporter, bailiff and clerk and have a full-scale hearing. That's the theory.

Let me hasten to advise you that these cases are *not* a burden on the Superior Courts. **We have 26 judges in King County and our Court Administrator's figures show that it takes less than one judge's time to handle all of this business**, and, incidentally, in 85% of those cases, the parties agree to waive the jury. But let's assume that even this roughly 4% of Superior Court time is too much and that the speeder, the drunk in public, the disturber of the peace, should receive the *identical* judicial handling as the murderer, the armed robber and the burglar receive. Ladies and gentlemen, this means that the tens of thousands of limited court cases now being heard expeditiously and economically, with the safeguard of an appeal de novo to the Superior Court, must in the first instance receive a full-scale trial before a Superior Court judge with a jury of 12 if requested. In that event, let us, as taxpayers, be prepared to bear the horrendous cost of that system.

I might mention that it is conceded that even under a single unified system there would be magistrates or commissioners appointed by an appointing authority to handle this type of case. Well, in that event, the so-called unequal justice which is complained of would still exist. Thus, the cases would be heard by a magistrate or commissioner rather than a Superior Court judge and the litigant would not be provided a full-scale jury trial.

No, the simplest answer to this problem (if it really is a problem) is to unify the justice courts, the district courts, and the municipal courts (which incidentally all have identical jurisdiction) into courts of record and let the appeal, instead of a de novo appeal, be an appeal on the record. Of course, there are not sufficient court reporters to handle this business so electronic records might be considered and an appeal on the record taken either to the Court of Appeals or the Superior Court. This is the suggested solution I have heard most often, although even here I believe that the suggestion needs more study. For example, I am sure we will find that the cases that would be appealed would *almost never* contain questions of law but instead would contain purely factual questions calling for believability and credibility of the witnesses, usually defendant and police officer or two opposing individuals in the civil case. We would then be requiring the reviewing court to pass solely on credibility without seeing or hearing the witnesses but entirely from a printed or recorded record. **Frankly, I am not convinced that this would be an improvement over the present method, but it would answer the arguments now being presented.**

But before we leap we should obtain and analyze statistics on today's de novo trials. For example, we don't know, statewide, how many cases are appealed for de novo trials, how many of those are dropped before trial, how many that do go to trial are tried by a jury, what kind of cases they are, or what is the average time to try these cases de novo. Our King County Administrator has these statistics for King County but no one has ever asked to see them.

Two-level Trial Court is Archaic

This is the subject title of a recent Seattle Times article of Walt Woodward's appearing as an interview with District Judge Russell. With all due respect, Judge Russell, I challenge that statement. For example, the most recent issue of the American Judicature Society magazine (which is, of course, promoting various kinds of so-called judicial reform throughout the country) carried its usual box score of court reform amendments by state. Covering the year 1969 they listed six states adopting court reform measures involving realignment of trial courts. Five of the six states moved to consolidate their courts of limited and special jurisdiction into one court of limited jurisdiction, calling it, variously, district court, magistrate court, peoples court or what have you. The sixth state was Idaho, which, of course, because of its very limited population has an entirely different situation. For example, a total of 28 trial judges is suggested as the total number to handle all of Idaho's judicial business. Boise is the largest city, and three judges will handle all of its business. Even in Idaho, I might add, they have provided a formal magistrate division to hear limited jurisdiction matters.

No, the state of Washington's two-level trial court system is *not* archaic. Unlike the majority of the states, all of our courts of limited jurisdiction have the same jurisdiction and in Washington probate, adoptions, mental illness, guardianship, juvenile matters, equity matters–all of these cases are being heard by our Superior Courts rather than being scattered among circuit courts, county courts, special family courts, children's or orphan's courts, surrogate courts, chancery courts, probate courts, and the like, all with overlapping and conflicting jurisdiction which so many other states have been saddled with. Only one step is left for us, merely to consolidate our courts of limited jurisdiction into one unified court of limited jurisdiction, calling it, I suggest, the district court.

Career Judges

Running through the campaign I

mentioned is the argument that we should have a career judiciary. This also sounds appealing. Thus, young lawyers would be appointed as magistrates or Superior Court judges working under other Superior Court judges, the Chief Justice, or under a Court Administrator, to handle so-called minor matters. There, the argument runs, the young judges would receive on-the-job training and if they met the requirements of their superiors would be promoted through the ranks. *Ladies and gentlemen, I definitely urge that the impact of such a career program be investigated in depth,* for I am *convinced* that if we do have a single unified trial court, we will eventually have a career judiciary. There are available studies in this regard. For example, the New York University School of Law recently completed a federally funded comparative law project in which they studied the judiciary of Europe (excluding England) where the career judiciary is prevalent. They find a distinct "civil service mentality" in the career judges.

Incidentally, many of us have noted quite recently in the newspapers that the career judiciary in both Italy and Germany were threatening to strike for better wages and they are quoted as being disgruntled by the slowness of promotion within the judiciary.

One of the very basic reasons for the high quality of our general jurisdiction trial judges in this state is that our judges are drawn primarily from experienced lawyers, and upon the recommendation of the practicing bar. For example, in King County in the last ten years, 14 of the 17 judges had at least 15 years' experience as practicing lawyers before assuming the bench. The average age of the judges assuming the Superior Court bench in the state in the last ten years was 45 years. However, our system does have room for and has benefited from judges attaining the Superior Court either through appointment or election from courts of limited jurisdiction. Justice McGovern of the Supreme Court, started, after some six years' experience in the practice of law, on the Seattle Municipal Court. The most recent appointment to the Court of Appeals came directly from the District Court. On the King County Superior Court, of the last ten judges to attain the bench, four of them had either Municipal Court, Superior Court Commissioner or District Court experience.

Equalization of Workload

At present the State Court Administrator's figures show that there is an unequal distribution of workload among the Superior Courts. Fortunately, there are several simple solutions to this. First, the legislature can, quite easily, redistrict the Superior Court districts. Furthermore, under our present statutes, the Chief Justice has the power to assign judges to other counties or districts "where need therefor exists to the end that the courts of this state shall function with maximum efficiency and that the work of the other courts shall be equally distributed." This applies to "Supreme Court, Superior Court and when and to the extent so ordered by the Supreme Court to inferior courts of this state, including justice court." Yes, there are cases of unequal distribution of workload in this state. Fortunately, the District Court Act does provide for redistricting and, as mentioned, the Chief Justice has the authority to equalize this load throughout the state system.

Specialization

The proposal is made, and again an appealing argument to the lay public is presented, that judges should specialize. Judge Truax' Memorandum of Arguments in support of the single level trial court suggests a family court division, a civil division, a criminal division, and an administrative division. His supporting argument is:

> "Judges could specialize in a particular field of law. Those with talents and ability in certain areas could work in the division of the court that best fitted their individual abilities and interest. They would not be required to become experts in all areas of the law as they are at present."

Now, I suppose that Judge Truax is suggesting specialization only for King County and that he would concede that elsewhere in the state judges will continue to serve as experts in all areas of the law—in other words as the traditional general jurisdiction judges.

So let us look at King County. Assuming we could get experienced and qualified lawyers to serve on the bench under such a system—which I suggest is a serious problem in itself, we would have four different dockets to control rather than one. The main problem of all multiple court jurisdictions, such as King County, throughout the country is docket control—to keep all the judges busy on the judicial workload. As cases must be assigned a trial date well in advance of trial, as more than half of the cases are settled on the courthouse steps, and as estimates of trial time are estimates at best, this is a constant never-ending problem familiar to all metropolitan jurisdictions. Nevertheless, we are now told that we should have four separate dockets.

Cook County, Illinois, is pointed to as a jurisdiction adopting such a program. Ladies and gentlemen, the most recent nationwide figures on court congestion show that Cook County, Illinois, which has had one trial court with special divisions for

six years, leads the rest of the nation in backlog. It takes five years from date of issue in Cook County to have a case heard. In King County, we have no backlog, as such. It takes one year for civil jury cases in King County; nine months for nonjury cases; 30-45 days for criminal cases and emergency matters can be heard within a few days. Probate, juvenile and mental illness cases are heard within hours of filing. Furthermore, in King County we do have a most successful kind of specialization program meeting the needs suggested but fitting the realities of the situation. We would be pleased to discuss this program with any of you who are interested.

There are other matters that should be covered but time does not permit. For example, the principle of local layman justices of the peace in sparsely populated and isolated counties does not shock me. Both England and Canada have an extensive system of lay magistrates and I have never heard that the quality of their justice is suffering. Nor does the election process for judges particularly disturb me. District Judge Tom Russell, only a year or two out of law school, challenged a well-known member of the bar and defeated him. Justice Finley, direct from a successful law practice, challenged an incumbent Supreme Court judge and defeated him. Justice Rosellini attained his position through the election process. Justice McGovern from the Municipal Court defeated a Superior Court judge for his former position in King County. There are numerous other examples.

But my deepest concern, and this is my last point, is that our court system isn't and shouldn't be considered a General Motors or a General Electric. Organization and administrative experimentations may be made in that kind of organization by the stroke of its president's pen and mistakes as easily rectified. But justice cannot be dispensed by a streamlined corporate enterprise. Before we move let's be sure of a need and sure of our facts. In dealing with our court system let us not reform merely to be reforming.

Most important of all, if this proposal is presented to the voters, by any group or groups here represented, let us have an end to these public charges that our court system is archaic and that it favors the rich over the poor—that the quality of criminal justice is unequal and unfair. The social revolution our country is experiencing is already too violent, too explosive, to shake the public's confidence in our court system.

Let us be professional in our approach.

COMMENTS INVITED ON ABA CODE OF PROFESSIONAL RESPONSIBILITY

All Washington lawyers have received a copy of the ABA Code of Professional Responsibility, effective January 1, 1970. The Committee on Canons of Professional Responsibility of the WSBA has under study recommendation for adoption of the Code to the Board of Governors, who, in turn, will make their recommendations to the State Supreme Court.

The most current report received from the ABA shows that ten jurisdictions have adopted the Code, only one of which (Wisconsin) has incorporated substantial modifications. Fifteen jurisdictions are at various stages of adoption of the Code, and another twenty-eight have the code under active study.

Inasmuch as the code covers the entire gamut of professional responsibility, it obviously includes areas which are the subject of current interest and debate. Examples are group practice, pre-trial publicity, permissible limits of attorney's conduct in representing clients, and acceptable wording of letterheads where associations cross city or state lines.

The committee has scheduled a hearing for June 5, 1970, at 1:30 P.M. at the State Bar Office, 505 Madison Street, Seattle, to give all members of the Bar an opportunity to be heard with reference to the adoption of the Code and any suggested modifications. Those wishing to participate may submit comments or recommendations either in writing in advance of May 29 or in person. It is requested that all those wishing to appear in person notify the Bar Office (206-622-6054) at least one week before the date of the hearing, so that proper arrangements may be made.

At the June 5 hearing, members of the committee will report on sections of the Code which have been specially assigned to them for study as follows:

CANON 1 – Harvey Erickson
CANON 2 – Professor Robert S. Hunt and William F. Ingram
CANON 3 – Del Cary Smith, Sr.
CANON 4 – Grant Armstrong
CANON 5 – Harwood Bannister
CANON 6 – Harvey Erickson
CANON 7 – Stanley J. Burkey and Valen Honeywell
CANON 8 – Allan L. Overland
CANON 9 – Willard J. Wright

GEORGE W. MARTIN
HOWARD P. PRUZAN
Co-Chairmen

BENTON-FRANKLIN REPORT
By **ED McKINLAY**

Elsewhere in these pages (page 26) may be noted the fact that the Benton-Franklin Bar Association successfully staged a series of free legal forums (Fora? Forae? Fori?), one taking place in each of the Tri-Cities, and having to do with Family Contract Liability, Wills and Probate, and Family Tort Liability from Cars, Kids and Homes. They were undertaken in co-sponsorship with the Tri-City Herald, involved over 15 lawyers in their presentation, and were well attended. To the memory of this reporter, this was the third such successful series in the last several years.

Comparable only to the flight of Charles Lindberg or the Apollo moon landings, was the flight of Pasco Police Judge **Fred Staples** in his own airplane to New Orleans and points south. According to the version we hear, he managed to navigate his own plane all the way there and back without mishap.

In the halcyon days of yesteryear it was entirely possible to attend a State Bar Committee meeting, or even a State Bar Convention without having underfoot the Olympia Oracle **Stanbery Foster**. Now, unhappily, it's not only impossible to avoid him at the State level, but he's actually had the effrontery to invade our own environs and offer his brand of balderdash for local consumption! Where will this all end? Everybody who met Stanbery over here had a good word for him . . . but they all whispered it. We would like to petition the citizens of Olympia: Keep Stanbery home. We love your beer but keep your baloney on the other side of the mountain.

GRAYS HARBOR REPORT
By **JOHN L. FARRA**

The Grays Harbor Prosecutor's Office has two new additions, **John L. Farra**, Gonzaga 1969, and **Curtis M. Janhunen**, University of Washington 1969. The two deputies handle the criminal work for the county. Another recent arrival on the Harbor is **David Foscue**, Duke University 1969; he is associated with the firm of Schumacher & Charette.

Another member of the prosecutor's staff, **Paul B. Fournier**, and his lovely wife Florence recently returned from a trip to Hawaii.

Attention All Bar Members: The Grays Harbor Bar Association Fishing Derby is set for August 21, 1970. All members of the bar who have fished in the derby before will receive forms informing you of the details of this years event. Any other members of the bar interested in this event should write to **Ted Zelasko**, Becker Building, Aberdeen, Washington.

The Grays Harbor Bar Association, headed by **Arlis Johnson**, has instituted a new legal aid program. This program was headed by a committee of three, **Curtis Janhunen, Ted Zelasko** and **John Schumacher**. The members of the bar serve two days a week from 1 to 5 p.m.

OLYMPIA REPORT
By **STANBERY FOSTER, SR.**

Olympia attorney **Don Miles**, recovered from his skiing injuries, has returned to full duty at his office.

Olympia attorney **Ernest L. (Bud) Meyer**, spent the last two weeks of March on the beach at Waikiki with his sons, John and Tom. He apparently found the proper gold formula: he came back –and it takes more than just a little dab to do it.

Gerald L. Whitcomb, University of Nebraska '69, is now associated with Shelton attorney **Glenn Correa**. Gerald and his wife, Jennifer, discovered the Puget Sound area to be just what the doctor ordered. They love it.

The March 1970 edition of this Fearless Journal dished up a wonderful replacement for our beloved Sagebrush Socrates in the form of one **Ernie Bentley**, who manned an unattended typewriter to spew out a non-Shepardized column for Whatcom County concerning **Ward Williams**, now a member of the Court of Appeals, which he labeled the "State Appellate Court." Said Bentley reported:

> "When he (Williams) was admitted to the State Bar Association in 1942, the Williams family became the first three-generation lawyer family in the state * *."

For the general information of said Bentley, **Daniel Richardson Bigelow** graduated from the Harvard Law School in 1849 and came to the then Washington Territory in 1851. He became a Probate Judge, Territorial Auditor and Prosecuting Attorney, although not at the same sitting. He assisted in the codification of Oregon Laws in 1852 and was a member of the Washington Constitutional Convention. His son, **George Bigelow**, born in Olympia, graduated from the University of Washington Law School in 1906 and practiced in Olympia continually until his death in 1961. George's son, **Daniel S. Bigelow**, also born in Olympia, graduated from the University of Washington Law School in 1935, which, according to my trusty abacus, is seven full years before 1942. Dan, an expert in inheritance tax matters, is with the Department of Revenoo. Additional three generation lawyer

families may be lurking in other areas of the state, but the Bigelows should not be accorded such cavalier treatment.

Special commendation is due Judge **Frank P. Weaver** for the name given his sailing sloop: "Res Ipsa." Right on the button.

Judge Weaver's son, **F. Parks Weaver**, one of the slaves in the office of Owens & Johnson, is considerate of the general health and welfare of the Bar. He called to warn all of us to avoid the game of Paddle Ball at the Olympia YMCA. Parks, a former competition swimmer of considerable note, progressed into Paddle Ball, a game so rugged you break legs at it. Plaster-casted Parks advises that his employers did not require him to report for work until nine o'clock the following morning. Nice people!

Just as we were hurrying to get this in the hands of the Hon. Mr. Raftis, word came that the family of Olympia attorney **Ralph G. Swanson** lost their home in a fire Sunday night, April 5th, which required all the Marine Corps training Ralph could remember to get his family to safety. Fortunately, all of them escaped unharmed but with 1st, 2nd and 3rd degree scares. It was that close.

Harding Roe, former deputy to Albert C. Bise, Administrator for the Courts under the Washington State Supreme Court in Olympia, is beginning new duties in Brazil. Roe has been named a teaching fellow under the Latin American program of Fletcher School of Law and Diplomacy, Tufts University, Medford, Massachusetts. He will serve on the law faculty of the Universidade de Sao Paulo and also do research on comparative systems of procedure. The Fletcher School's teaching fellowship program has scheduled Roe for a 24-month assignment in Brazil.

SEATTLE-KING REPORT
By **LLEWELYN PRITCHARD**

Mayor Wes Uhlman has appointed **Robert Duggan** to the City Human Rights Commission.

The Loren Miller Law Club, an organization of black attorneys, announced its support of the University of Washington's Black Student Union against "any (University) affiliation with Brigham Young University." **James E. McIver** is the club president.

King County Councilman **Ed Heavey** favors a curb on "prosecutor power." Heavey, who has played an active part in drafting the ordinance which brought forth the Public Defender System in King County, characterized the Prosecutor's Office as the place where the action is. He indicated that it must attract those who want to change society.

Henry E. Kastner, William Ferguson, Paul R. Cressman and **F. Lee Campbell** have been elected to fellowship in the American College of Trial Lawyers . . . **Robert P. Gould**, formerly Staff Attorney with Hadley Properties, Inc., has joined **James Hubbard** in the practice of law at 225 Queen Anne Avenue North, Seattle, Washington, under the firm name of Hubbard & Gould.

Davis, Wright, Todd, Riese & Jones have announced that **Ralph L. Hawkins, Jr.**, has become a member of the firm . . . **Raymond C. Brumbach** and **Robert H. Lamb** have announced the association of **Bruce G. Hand** with the law firm of Brumbach & Lamb.

John C. Stephenson has announced the opening of his offices at 1012 Northern Life Tower, Seattle, Washington . . . **M. Gerald Herman** and **J. Hartly Newsum** have announced their association as attorneys at 200 Redwood Building, 845 106th Avenue, N.E., Bellevue.

Long, Mikkelborg, Wells & Fryer have announced the opening of their new offices at 2801 Seattle-First National Bank Building, Seattle . . . **J. Markham Marshall** has become associated with the law firm of Clodfelter, Lindell & Carr.

Donald McMullen is recuperating at his home at 4727 N.E. 36th, Seattle, from recent cancer surgery. He hopes to return to his law practice in the near future.

John W. Ellis has been elected vice president of Utility Management of the Puget Sound Power & Light Co. Prior to assuming his new

AMENDMENT OF LOCAL RULE 94.04 OF SUPERIOR COURT OF KING COUNTY

"RULE 94.04
DIVORCE ACTIONS

(g) Contested Divorce.

(1) Affidavit Required. In every contested divorce action both parties shall prepare, serve and file a pretrial affidavit at least one week before the trial date.

(2) Form of Affidavit. The affidavit shall be in the form prescribed by the court; copies of the form are available in the Presiding Judge's Department.

(3) Enforcement. If a party fails to comply with this paragraph (g), the trial department hearing the case may order the party or his attorney to pay an appropriate attorney's fee to the other side for any additional work or delay caused by the failure to comply."

This rule was effective March 19, 1970.

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

position, he was a partner in Perkins, Coie, Stone, Olsen & Williams.

Michael S. Reischling, formerly associated with the law firm of Moschetto & Alfieri, has announced the opening of his own office for the general practice of law in association with Jay Nuxoll at Crossroads Shopping Center, 15606 N.E. 8th St., Bellevue, 98004 (SH 7-8533).

Jennings P. Felix has announced the dissolution of the law partnership of Robbins, Felix, Robbins & Kraft and the formation of a new firm under the name of Jennings P. Felix & Associates and that **Thomas J. Kraft, Ivan T. Fisk** and **Luzerne E. Hufford, Jr.** will be associated with the firm with offices at 3737 Seattle-First National Bank Building, Seattle 98104 (MAin 4-1290).

SPOKANE REPORT
By **THOMAS R. CHAPMAN**

Gordon Bovey has opened his own law office in the Paulsen Building, Room 1001. Phone: RI 7-4157.

The County Prosecutor's office is now fully staffed with ten deputies. **Jim Crum** (GU '67) joined the staff in March. Since graduation from law school, he was a member of the FBI staff in Washington, D.C.; San Antonio, Texas; Berkeley and San Francisco, where he specialized in the apprehension of federal fugitives.

Patrick H. Winston, Nelson B. Repsold, Robert J. McNichols, Leo J. Driscoll, Michael J. Cronin, Patrick A. Sullivan and **Robert P. Beschel**, partners in the former firm of Keith, Winston & Repsold, have announced that they will continue to be associated in the general practice of law as a partnership under the firm name of Winston, Repsold & McNichols. Office address: 502 Spokane & Eastern Building. Phone: RI 7-8001.

Ric Fancher is now Chief Assistant Corporation Counsel for the city. **Paul Schedler** is also now a full time Assistant Corporation Counsel.

The Spokane Young Lawyers presented a seminar on "Advising the Small Corporation" at the Gonzaga University Law School. Speaking were **Don Morrison, John Krall, Gary Randall, Joe Campbell,** and Dick Shand (a local banker who spoke on financing the corporation).

Col. **Clarence A. Orndorff** and **James E. Winton**, both former state legislators, have announced their association in the general practice of law. Winton recently retired from the Washington Water Power Co. after 42 years' service as an attorney and licensed electrical engineer.

An active and popular Bainbridge Islander, **David L. Servies** has moved to Spokane to become vice president and trust officer in the Spokane and Eastern Branch of the Seattle-First National Bank.

WHATCOM REPORT
By **ERNIE BENTLEY**

Our Bar Association welcomes as a new member, Miss **Jane Mason**. She has entered into partnership with **Craig Davis** to form the law firm of Davis & Mason. Jane has attended the University of Michigan; University of Laval, Quebec; Hastings University; she obtained her LLB at the University of Washington in 1960. She was with the Washington State Attorney General's office for five years. During those years she performed legal services on behalf of the State Liquor Control Board; Parks and Recreation; the Historical Society; the Department of Institutions, and the State Board of Prison Terms and Paroles.

YAKIMA REPORT
By **RANDY MARQUIS**

President **Alan McDonald** reports that the April meeting of the county and city Bar presidents of the State of Washington was well attended and well received. The meeting was presided over by State Bar President **John Huneke.** Among the highlights of the program was the luncheon program featuring John W. Mahan, Chairman of the Subversive Activities Control Board, Washington, D.C. The meeting was held at the Carriage House in Yakima.

Lawyers in the News: **William H. Mays** of Gavin, Robinson, Kendrick, Redman & Mays has been elected president of the Yakima Lions Club . . . **Ted Roy** of Hovis, Cockrill & Roy, Yakima chairman of the Cancer Crusade, recently gave the kickoff speech at the opening of the annual crusade in Yakima County.

Wesley M. Wilson, formerly trial attorney of the Seattle Regional Office of the National Labor Relations Board, announces that he has opened offices at 303 East "D" (the Legal Center), Yakima. Wesley will specialize in labor relations law and will continue in his legal writing. He is the author of LABOR LAW HANDBOOK published by Bobbs-Merrill in 1963 and continues to produce the pocket parts thereof. He received his M.A. in business administration at the University of Chicago and graduated from the University of Washington Law School in June 1960.

Briefly Noted

According to Mayor Wes Uhlman, the Seattle-King County Bar Association's proposal to the Seattle City Council to create a Municipal Criminal Code Revision Commission at city expense is dead-ended for lack of funds.

A Vancouver attorney, **Edward P. Reed**, 44, is the new Clark County Superior Court judge. He replaces the late Virgil V. Scheiber and will serve until the general elections in November. Clark County Prosecutor **R. DeWitt Jones** has announced that he will be a candidate for the position in November.

State Supreme Court Judge **Frank P. Weaver** will retire from the high court May 21, the 19th anniversary of his appointment. Judge Weaver, 66, was appointed in 1951 by the late Gov. Arthur B. Langlie to fill a vacancy caused by the resignation of the late Judge John Robinson.

Thurston County Superior Court Judge **Charles T. Wright** has announced his candidacy for the State Supreme Court vacancy. Wright, who is president of the State Superior Court Judges Association, has served the Thurston-Mason County Judicial District as Superior Court judge for the past 21 years. The Walla Walla County Bar Association has endorsed Superior Court Judge **A. N. Bradford** for the vacancy on the Supreme Court. A committee including **H. H. Hahner, James B. Mitchell** and **Arthur Eggers** will seek endorsements from other counties.

The *Seattle P.I.* reported that Judges **Morell Sharp** and **Robert Utter** were under consideration. The *Seattle Times* reported that the name of **James Dolliver** was on the list submitted to the Board of Governors but that the Board did not include it on the list sent to the Governor. Dolliver is administrative assistant to the Governor.

Law Day speaker for Seattle-King County Bar Association luncheon—Ralph Nader.

The California Supreme Court approved New Rule 20 and 21 relating to group legal services, effective January 21, 1970. Under the rule a member of the State Bar furnishing group legal services is required to advise the State Bar thereof within 60 days after entering into the same. Annually on January 31, follow-up reports on forms provided by the State Bar must be filed with it.

Rule 9 on Legal Interns (77 W.D.2d 718) differs in some aspects from the proposed rule printed in the December *Bar News.* The principal difference between the two rules is that whereas the proposed rule provided that no supervising attorney could have supervision over more than three legal interns at any one time, the rule as adopted provides that a supervising attorney can supervise only one legal intern at any one time. Also the rule as adopted provides that the 12-month legal internship may be renewed only once but in no event is any person to be permitted to practice as a legal intern for more than one year after graduation from law school.

Anthony Goodwin Chase, who ran for Congress against Floyd Hicks in 1968 on the Republican ticket, will not be a candidate this year. He has accepted the job as general counsel for the Small Business Administration. He is leaving his present job as special assistant to Maurice Stans, the secretary of commerce.

The M'Naghten Rule, the 125-year-old "right or wrong" standard for determining criminal insanity, will no longer be used, according to a 7-6 vote of the Ninth U.S. Court of Appeals.

Only effective in one other circuit in the nation, the M'Naghten test has been replaced with a more liberal rule which says that a person is not responsible for criminal conduct when it is a "result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct, or to conform his conduct to the requirements of law."

To interest minority students in opportunities in the legal profession, a special institute will be held at the University of Washington from mid-June to mid-July.

The summer institute is being sponsored by the Northwest Regional Council on Legal Education Opportunity, an organization funded by the Division of Legal Services of the Office of Economic Opportunity.

Applicants accepted for the institute will be provided with tuition, books and room and board. Those who successfully complete the institute and are admitted to a law school will receive tuition scholarships and a cash stipend estimated at $1000 for their first year of law studies. It is expected that a similar level of support will be maintained during the second and third years.

Further information may be obtained from Prof. Geoffrey Crooks, director, Northwest Regional CLEO Institute, University of Washington School of Law, Seattle.

Consumer Protection
(continued from page 8)

At the Federal level several alternatives for a "consumer class action" statute are now before the Congress. It seems likely that a bill will pass this session giving a consumer class direct access to federal court. The Nixon Administration Bill (S. 3201, H.R. 14931) specifies eleven categories of acts which are defined as unfair and deceptive practices. There is a controversial "triggering" provision in this bill, requiring that the government bring a successful action for one of the enumerated unfair business practices before the consumer class can sue on its own behalf.

The bill which seems to be making the greatest headway at this time is one sponsored by Senator Tydings and Congressman Eckhardt (S. 3092, H.R. 14585), embodying an approach to federal class action differing considerably from that of the Administration. The Tydings-Eckhardt bill refers to existing state common law, the state statutes, and the entire body of the Federal Trade Commission cases and rulings to define what are the unfair or deceptive practices which could be the subject of a consumer class action. This feature would appear to be advantageous for Washington consumers since we already have a broad Consumer Protection Act, in addition to other laws like the false advertising statute and the unconscionability clause of the Uniform Commercial Code, RCW 62A.2-302. Also, the Tydings-Eckhardt Bill does not require that a government suit precede private litigation. This also appears to be an advantage because governmental action is often very time consuming and quite selective.

At the present time, only one state (Massachusetts) provides specifically for a consumer class action. Several states do have a statutory private remedy for injury caused by an unfair business practice which could serve as the basis for a class action under the rules of civil procedure of the individual states. The 1970 versions of the two major "model" Consumer Protection Acts for states (those proposed by the Federal Trade Commission and the Council of State Governments) contain consumer class action sections. Many states that have adopted comprehensive consumer protection laws have followed earlier versions of these models, and it is likely that those states adopting a comprehensive act in the next few years will make provisions for consumer class actions.

RECENT CONSUMER LITIGATION EFFORTS IN WASHINGTON

To show sources from which private consumer suits–individual or class actions–might develop, let us examine several recent cases handled by the Consumer Protection Division.

Carpet Company (late 1969) . . . . . After receipt of over one hundred consumer complaints, the office filed suit against a King County based company which engaged in heavy advertising of carpet at "discount" prices. The practices against which an injunction was sought included installation of carpet inferior to that shown to the customer at time of purchase, failure to refund deposits after non-delivery of carpet, faulty installation and misrepresentation through classified advertising that carpet was to be purchased from an individual "carpet layer" at a significant reduction. We also asked for restitution to complaining consumers and other equitable relief. After several legal maneuvers, including suit against a successor corporation which embraced the same sales practices, all defendants agreed to a court order enjoining further activity of the sort complained of and acceded to an arrangement whereby all claims filed before a certain time would be adjusted. Our office arranged for participation of the American Arbitration Association to resolve disputed claims, the monetary value of which ranged from 47 cents to $866.52. The defendant absconded before disputed cases were heard, leaving no ascertainable assets, and numerous outstanding unsatisfied judgments. In a private action, the remedy of prejudgment attachment could have been used, with a possibly more favorable result.

Door-to-door book sales case (early 1970) . . . . . This matter arose in Spokane. The deceptive practices alleged included representations to the "customer" that his family had been "selected" for a "special offer" when actually the books were being sold at their usual price. Although the customer was getting books at their actual value, a long line of Federal Trade Commission cases holds this kind of selling to be unfair and misleading, a good example of how the Consumer Protection Act remedies may be used to avoid technical hurdles inherent in actions in fraud or contract. With the defendant caught in a clear violation, we were able to obtain a Consent Order which directed the company not only to cease and desist from the practices, but also to rescind the contracts and return the money of all purchasers who had bought relying on or as a result of the misrepresentations. With sets of books costing several hundreds of dollars each, the measure of damages would have been significant had this been a private suit.

Home Improvement fraud (current) . . . . . Either because of misrepresentation in solicitation of business, faulty work, onerous contracts or a variety

of other abuses, dishonest home improvement operators have been one of the largest continuing sources of consumer complaints. They have given the entire home improvement business a bad name. One of the most outrageous examples recently came to our attention.

In April, 1969, a certain local building contractor obtained the signature of a Seattle Central Area widow on a contract for home repairs. Ten work items were listed, for which the "sale price" was $5,673.00 "payable in monthly payments of $60 each" with the interesting proviso that "if short on money, interest only may be paid." In addition to the work item contract, the homeowner signed a standard form conditional sales contract and security agreement which briefly described the work before setting forth the financial details:

SALES PRICE	$5,673.00
SALES TAX	255.29
TOTAL CASH SALE PRICE	5,928.29
TOTAL DOWN PAYMENT	— — —
CASH PRICE UNPAID	5,929.28
TOTAL COST OF INSURANCE	— — —
FILING FEES ("official fees")	71.71
PRINCIPAL BALANCE	6,000.00
SERVICE CHARGE	5,040.00
TIME BALANCE DUE	$11,040.00

The agreement went on to specify eighty-four monthly payments of $60 plus a "balloon payment" of $6,060.00. The "service charge" is equivalent to 12% interest on the entire principal sum over the seven-year payment period.

This property had an estimated value of $9,000.00. The sales contract was secured by a trust deed against the property in the full amount of $11,040.00. When this case came to the attention of our office, long after the work should have been completed, we retained an expert surveyor who reported on February 9, 1970, that although the original price for work listed was not unreasonable had it been competently done, much had *not* been done or was accomplished in an inferior manner. The surveyor set a value of $450 on work which was actually performed satisfactorily. A $450 value contrasted with a contract price of $11,040 leaves some room for a significant damage recovery had private suit been brought.

TOWARD PRIVATE ATTORNEY INVOLVEMENT

These cases are merely suggestive of ways in which private attorneys could be involved in this newly expanded field of law. Should one be tempted to ask why the Attorney General's consumer protection staff is interested in encouraging private involvement, here are a few reasons:

1) Our staff can become seriously engaged in only a small number of the consumer fraud litigation opportunities we are aware of–the ones we believe are in the public interest.

2) In many instances, one or two complaints may indicate serious allegations of unfair or deceptive practices, but not of sufficient scope to justify our involvement. For years we have been unable to give the complainant satisfactory advice. Now we would like to suggest that he or she see a private attorney.

3) We believe it is the intent of the Washington Legislature (and hopefully of Congress) that consumer protection be more than a government agency function. This is the clear implication of the new state provisions for treble damages and attorney's fees. As in the anti-trust area, society is recognized to depend on the initiative of private lawyers for the assertion of individual rights.

CONCLUSION

Where do we go from here in the consumer protection field? Some suggestions are inherent in what is set forth above. In my opinion, development of the law in this important area is now up to private lawyers as well as the Consumer Protection Division. It is time for legal initiative and ingenuity. Lawyers who are interested in the field and and possess these qualities should be looking for cases and should be able to recognize them. Law firms should encourage their members and associates to become so involved as a further demonstration of their commitment *pro bono publico*. On this point it is interesting to note that the prestigious Washington, D.C., firm of Arnold and Porter has just assigned one of its partners to spend one year *full time* discovering *pro bono* opportunities for the firm and marshalling the efforts of lawyers in these areas.

For our part, when we feel the private action remedy may be applicable, we shall so advise anyone contacting our office. We would be happy to cooperate with any of the county bar association lawyer referral services in directing potential litigants to attorneys who are interested. We can make available to interested private attorneys research and briefing done in connection with the general applicability of the consumer protection laws. In the best spirit of our Anglo-American legal traditions, we would like to encourage full participation by lawmakers, courts and lawyers in the rapidly developing area of the law we call consumer protection.

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SUPREME COURT PRACTICE

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

The new Court of Appeals has been hearing cases now for over half a year. What can be said about this Constitutional innovation? Some statistics may provide interesting information to the practitioner engaged in appellate work.

DELAY. Prior to the Court of Appeals, the Supreme Court faced 940 active, pending cases. Of these 470 were ready but not set. When a case is to be considered ready is determined by ROA I-11, but generally it can be said that a case becomes ready thirty days after appellant's opening brief is filed. This backlog of 470 cases awaiting setting meant that there was an average delay of thirteen to fourteen months between a case becoming ready and being set for argument. By the end of February 1970 the number of cases not set but ready was as follows:

Supreme Court	82	
Court of Appeals		
Division I	88	
Division II	43	
Division III	44	
Total		257

The delay between a case becoming ready and setting had been reduced to an average of seven months. It may be noted that the Supreme Court by means of its transfer authority can equalize the delay between the Supreme Court and the three divisions. The number of ready cases pending in Division I as compared to the other two Divisions, of course, reflects the fact that Division I has two panels or twice the capacity. With respect to the future, it is anticipated that cases becoming ready during September and October, 1970, will be set during the January 1971 Sessions.

DOUBLE APPEALS. It has been the experience in other states having a court of appeals that supreme court review is sought in about half the cases determined by the court of appeals. It is too early to determine whether this percentage will hold in Washington, but 57 petitions for review have been filed. It is already apparent, however, that much of the Supreme Court's effort must be devoted to this type of work. The same study preparation and conference review are required to dispose of a petition for review as is devoted to an appeal filed originally in the Supreme Court. From the practitioner's standpoint, however, the question must be what is the chance of a petition for review being successful. Based on statistics alone the chances would appear poor. Of the 57 petitions filed, four have been granted and one remanded to the Court of Appeals for findings. Of the four granted, none has yet been decided, so whether any were ultimately successful is still in doubt. In any event, the present success of a petition for review is about 8%.

NEWS FROM THE COURTS OF LIMITED JURISDICTION

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

News from the King County courts should be of interest to judge, lawyer and motorist alike. A University of Washington law student, Woodrow Wallen, Jr., received a traffic citation from the Seattle Police Department and upon requesting a trial date, was informed of the rule of the Seattle Municipal Court, presided over by Judge **Vernon W. Towne**, that bail must be posted prior to assigning a trial date. This rule is applied not only by the Seattle court but practically every court of limited jurisdiction in the state. Mr. Wallen challenged this rule as being unconstitutional under the State Constitution, denying him his right to a speedy trial.

His motion was upheld by Judge **J.B. McLean** of Grant County who was a visiting judge in the King County Superior Court. Judge McLean ordered the Seattle Municipal Court to give the defendant a trial date without posting bail and further ordered that court to discard the bail-before-trial rule within 30 days of the signing of the order. **Roger Nowell**, city attorney for Seattle, indicated the city may appeal the case since the city felt they were proceeding in accordance with the rules of the Washington State Supreme Court.

The practice of most of the suburban King County District Courts seems appropriate to mention at this point. It is their practice to allow a defendant to come to the court or violations bureau, sign a Personal Recognizance bond (called an "O.R. Bond" in eastern Washington) guaranteeing his appearance for trial and the bail requirement is then waived by the court. This practice is commended by the writer to other courts not only because it avoids the constitutional problem but experience shows it is at least as effective as the deposit of money in producing the defendant for trial in traffic cases.

AG Opinions

AGO 1970 No. 1:

Under the provisions of chapter 271, Laws of 1969, Ex. Sess., the legislative body of a county, city or town may not require that a platter, as a condition precedent to approval of the proposed plat, secure so-called "drainage releases" from third party owners of land situated outside of the area proposed to be platted.

AGO 1970 No. 2:

This opinion directs its attention to the question under what circumstances may a police officer constitutionally detain a person for investigation of suspected criminal conduct without making a formal arrest.

AGO 1970 No. 3:

Under the provisions of RCW 35.23.352, a city or town of the second, third or fourth class is required to call for bids (a) to award a contract for liability and casualty insurance coverage, the anticipated annual premiums for which will exceed $2,000, and (b) to award a contract for the codification of municipal ordinances, the anticipated cost of which will exceed $2,000.

AGO 1970 No. 4:

Section 9(4), chapter 241, Laws of 1969, Ex. Sess., by which the legislature extended the state's pre-emption of excise taxation with respect to insurers to include "or their agents," does not prohibit the imposition of excise or privilege taxes by cities or towns on the gross income of insurance brokers as defined in RCW 48.17.020 and insurance solicitors as defined in RCW 48.17.030.

AGO 1970 No. 5:

During the pendency of proceedings under a resolution of the legislative body of an incorporated city to change its governmental classification to that of a noncharter code city under the optional municipal code (Title 35A RCW), an initiative petition signed by the requisite percentage of electors and calling for a change in classification to that of a charter code city, as provided for in RCW 35A.08.030, may not be accepted for filing.

Law School News

In line with the nationwide demand for an increase in clinical training for the law student, **Gonzaga Law School** students have recently been engaged in an experimental practical training program. **Harry Hennessey** of the Spokane Bar is conducting the sessions on an extra-curricular basis for interested students. Mr. Hennessey is meeting with the students weekly during the second semester in sessions that reveal the realities of the practice of law and are intended to provide the students with practical skills that will enrich any future clerking experience while making the clerk more valuable to the attorney with whom he works. The sessions include visitations to the court house and to various law libraries in the Spokane area. The student is assisted in becoming familiar with the practical rudiments of probate practice and law office management.

In another practical approach, **Phil Thompson** has been conducting most of the sessions in his Trial Practice course in a court room at the Spokane County Courthouse.

Because their graduation is nearing, three Gonzaga students who have been assisting at Legal Services Center, the agency that assists those in the poverty areas, are being replaced by three "younger" students. Legal Services Center is directed by **Herb Timblin** assisted by **Monty Foster.**

* * * * * * *

The Board of Governors of the State Bar of California is considering a revision of the **California State Bar examination**. It would, in the main, do the following: (1) Permit (but not require) students in accredited schools to take a basic bar examination in eight subjects during the summer before their last year of study and (2) If they pass that examination, admit them to practice without further examination upon graduation from an accredited school and satisfactory completion of courses in certain prescribed subjects; (3) Require student applicants who do not meet the qualifications for the basic bar examination to take an extended (an additional one day) examination after completion of their studies. These proposed changes would speed up the date of admission and, hopefully, will permit law schools greater flexibility in their curricula.

Office Practice Tips

LEGAL INTERNSHIP

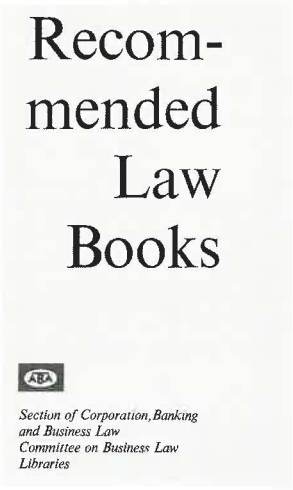
At the 1969 American Bar Association Convention at Dallas, Chief Justice Warren E. Burger speaking on the subject of legal internship said in part: "The shortcoming of today's law graduate lies not in a deficient knowledge of law, but that he has little, if any, training in dealing with *facts* or *people*—the *stuff* of which cases are made. It is a rare law graduate, for example, who knows how to ask questions—simple, single questions, one at a time in order to develop facts and evidence either interviewing a witness or examining him in a courtroom. And a lawyer who cannot do that cannot perform properly—in or out of court."

The law students at Gonzaga Law School in Spokane have initiated the Law Clerks' Society which has as its object the training and certifying of law students as law clerks so that they will have a definite area of practical training to offer law firms the first day they walk in the door. Since many classes at Gonzaga are in the evening a majority of the students have four to six hours during the day when they can work in law offices, courthouse and title companies. The Law Clerks' Society sponsors a one-hour lecture from nine to ten every Monday night covering a special area which can be handled by a law clerk. a law clerk's manual is being developed which has detailed treatment of these areas. Each student who is certified will take with him a complete manual which he can show to a prospective employer and follow in carrying out his duties. Some of the chapters which are being developed are as follows: basic briefing; service of process; courthouse services; basic real estate closing; basic probate procedures; basic pleadings; and investigations. Each law clerk is qualified as a Notary Public before certification. An attempt is being made by the society to arrange for rotation of employment so that each student will have an opportunity to work both in the courthouse and in a law office. Standard wage rates are being established. It is felt that once the full scope of the law clerk's duties are explained to a busy lawyer, the clerk has been oriented by the special lecture series and is implemented with a detailed manual, that he will be a very valuable addition to the office and will receive the clinical training suggested by Chief Justice Burger without spending an additional year in preparation.

Harry E. Hennessey

Books

Recommended Law Books, Edited by Richard Sloane (American Bar Association, 307 pp. $5.00)



As noted in the foreward to this book, in the busy life of every law firm time must be given to assure that the firm's library is the sharp and strong tool it should be for practice of the profession of law. It is a timely task but this book should make that task easier. The book is intended to provide a standard against which lawyers can measure their libraries and to give guidance in the purchase of materials in accordance with the size of the library.

Forty-six of the chapters break down the various fields of law from accounting to criminal law and procedure to urban and rural affairs and list the key treatises and articles in the specific area of the law.

Sixteen of the chapters break down the various legal reference works from citation books to legal encyclopedias to statutes and list the leading works.

Eleven of the chapters break down the various general reference works from atlases to quotation books.

The single feature that distinguishes this guide from all other is that practicing lawyers themselves made the selections. The books are graded into three categories: recommended for all offices; recommended for medium-sized and large offices; and recommended for large offices.

Books not graded are included to show that they exist.

Quotes from book reviews and responses from a survey of lawyers are used to evaluate the books listed.

Reviews of the book are generally favorable.

Chicago Bar Record: The book "is highly recommended. By its own rating system it deserves a black square, which means that a copy belongs in every law office, large and small."

New York Law Journal: "This is a good book. I can't imagine any lawyer, or law librarian, trying to build his own collection, operating without it."

Lawyer/Public

The Benton-Franklin Bar has shown again that public service—selfless professional contribution to the community—can provide at the same time highly effective public relations.

The bar association, centered in the Tri-Cities, with the Tri-City Herald sponsored a triple-header series of public legal forums in March. They were highly successful, as such forums have been in other Washington cities.

Hugh B. Horton broached the idea to the bar and immediately, as often happens, found himself appointed chairman. He took the proposal to editors Don Pugnetti and Bill Bequette, who extended great cooperation. The local school districts cooperated by providing auditoriums and even student ushers and question-collectors.

Programs (at 8 p.m. Tuesdays) were scheduled on family contracts and legal problems (Richland), wills and estates (Kennewick) and "Legal Liabilities From Kids-Cars-Homes" (Pasco). The newspaper published almost daily advance, crowd-building stories and in addition published (on Page One) a "question box" on which audience questions could be submitted to the lawyers on the speaking panels.

Crowds were about 600, 1,000 (in the larger Kennewick auditorium) and 600. There were far more questions than the panels had time to answer; Horton's panel on wills and estates had enough well-considered questions to occupy it for several evenings, he says.

A reporter "covered" the sessions and the newspaper published extensive stories on the questions and answers at each.

And the bar, in providing ethically proper but clear and factual answers, put to rest some legal myths, solved some puzzles and brought some reassurance to the hundreds who attended and the thousands who read the news articles.

– Public Relations Committee

Twenty Years Ago

Mathieu brought them to the mat. **George**, State Chairman of the Unauthorized Practice of Law Committee, was real busy throwing real estate men and notaries public out of the work of drawing Wills and Quit Claim Deeds. This seemed to be important to Seattle lawyers particularly because the Comptroller, with the advice and consent of the corporation counsel, said that city's lawyers must pay business and occupation tax because the Supreme Court of the United States had said so. Was this one of the early decisions of the Werner court? Anyhow, we are paying.

Births

William A. Raley left Buckley to practice in Port Angeles. **Nathan G. Richardson** parted Skykomish to become a deputy prosecuting attorney there. In Seattle, **Frederick J. Lordan** joined Kelley, O'Sullivan and Myers. **John D. Blankinship** became part of Montgomery, Montgomery and Purdue. **Walter Walkinshaw** joined his father, Robert. **Leo F. Richter** entered the prosecuting attorney's office.

Walla Walla Wends Its Way

The lawyers there centered upon **Herbert Ringhoffer** to succeed **John Gavin** as member of the Board of Governors in the Fourth District. Herbert's father had been a pioneer saddle maker so apparently his fellows thought his son would be good at riding herd on the dynamic bar members at that end of the State.

Shocking

Building new public structures, whether they be stadiums or courthouses, is always a questionable pastime. Imagine the consternation of Judge **Ralph O. Olson** of Bellingham when he found his private chambers equipped with everything for comfort including electric shaver outlets. Men shaved in those days. However, the dumbfounding arrangement was the location of the jail and the sheriff. The jail was placed upon the top floor with apparently pleasant views of the surrounding environment, although the term was unknown then. The sheriff was placed in the cellar. How could justice be more equitably distributed than that.

BIG BELLS FOR BELLINGHAM!!

David J. Williams

Notices

Wanted and Unwanted

For Sale: All current and complete: ALR–$1,500, CJS–$550, USCA–$260. Robert D. Richmond, P.O. Box 848, Eugene, Ore. 97401.

For Sale: From the estate of James W. Bryan, Jr.–RCW; RCWA; Wash. Dig.; Wash. Rpts., 2nd; Shep. Wash. Citations; Wash. L. Rev., Vol. 27 (1947) to current vol.; Medical Atlas for attys., includ. crtrm. drawings set; CJS; Am. Jur. and Am. Jur. 2d through Vol. 47; Sup. Ct. Rptr., Vol. 22 to current; ALR; ALR2d; ALR3rd, including all indexes, digests and later case services. Contact Judge Robert J. Bryan, Kitsap County Courthouse, Port Orchard 98366. TR 6-4441.

Wanted: Complete used set of ALR 2d. Contact David L. Wolf, 758 St. Helens Ave., Tacoma. FU 3-5388.

For Sale: Amer. Dig. complete through Sixth Decennial (253 Vols.), plus General Digest, Third Series, (9 Vols.); LRA, complete Original Series, New Series and Latter Series (149 Vols.); and Fed. Supp., complete to date. Farm Credit Banks of Spokane, Law Library, W. 705 First Avenue, Spokane 99204, (509) RI 7-7141, Ext. 216.

For Sale: 1 grey metal Shaw-Walker File Cabinet with 4 drawers –$37.50; 1 brown leatherette arm chair–$15; 1 brown leatherette office chair–$12; 2 brown metal book shelves–$10 each. Mrs. Manfred Simon, 1221 Minor, Apt. 703, Seattle 98101. MA 4-0109.

For Sale: Law Library, Complete sets, like new. ALR 2nd, 3rd–$700; Am. Jur. 2nd–$600; Am. Jur. Proof of Facts–$175; Am. Jur Pleading and Practice Forms–$175 or highest offer. CH 3-9004 (Seattle).

For Sale: Nearly new USCA complete set. Also complete Book Publishing RCW. Joseph T. Pemberton, 124 E. Holly, Bellingham. 733-8370.

Will Information Sought

Winnifred Bell, 72, Lowell Apts., 1102 8th Ave., Seattle, died in early March. Anyone having information of her last Will please contact Clarence W. Pierce, 2602 Smith Tower, Seattle 98104.

STATE BAR ASSOCIATION
ANNUAL MEETING
September 10, 11 and 12, 1970
HOTEL VANCOUVER
VANCOUVER, B. C.

Ideas for Legislation

Lawyers who have suggestions for new legislation or amendments to existing legislation are asked to forward the suggestions to the State Bar Association.

Hawkins Suspended

Kenneth C. Hawkins, Yakima, has been suspended from the practice of law for a period of 18 months to commence June 1, 1970. *In re Hawkins*, 77 W.D.2d 787 (1970).

Deadline for the next issue of the *Bar News* is May 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 applicants on file:

1. Prominent Central Washington firm seeking young lawyer with good academic background to engage in general practice with emphasis on trial work.

2. Former Vista staff attorney (in Alaska), member of Washington and Alaska Bars, seeking private general practice with medium sized firm in northwest part of the state.

3. 1968 Michigan Law School graduate, currently Political Science instructor at eastern university, interested in practicing law in Seattle area as of July 1, 1970.

4. Four-man suburban office seeking lawyer age 25-35 to begin at $600 plus percentage in accordance with production. Must be willing to devote time to public service activities.

5. Upper one-fourth graduate of UW Law School with experience as prosecutor, deputy attorney-general and in private practice seeks corporate staff counsel position.

6. Virginia Law School graduate, currently clerk for Superior Court Judge, with outstanding scholarship and activity background wants general civil law practice in Washington.

7. Hearing Examiners needed by State of Washington to begin at salary range $865-$1104.

Calendar

May	9	Professional Corporations, State CLE . . . Spokane
	22	Pacific Coast Labor Law Conference . . . Washington Plaza Hotel, Seattle (8:45 A.M.-5:15 P.M.)
June	12	Tax Reform Act, PLI Program . . . . . Olympic Hotel, Seattle
	19-20	Damages, Settlement & Evidence, ATL Seminar . . . Portland, Oregon
July	20-25	Short Course for Defense Lawyers in Criminal Cases . . . . . Northwestern University, Chicago
July	20	Harvard Program of Instruction for Lawyers . . . . .
August	1	Cambridge, Mass.
August	3-8	Short Course for Prosecuting Attorneys . . . . . Northwestern University, Chicago
August	24-28	13th Biennial Conference of the International Bar Ass'n . . . . . Tokyo
Sept.	10-12	State Bar Annual Meeting . . . . . Hotel Vancouver, Vancouver, B.C.
Sept. Oct.	27 – 2	7th Annual Hawaii Tax Institute . . . . . Princess Kaiulani Hotel

CHARTER FLIGHT TO LONDON – 1971

The Travel Committee has chartered a DC-8 aircraft from Canadian Pacific Airlines which will depart from Vancouver for London on July 10, 1971, and the return trip will be from Amsterdam to Vancouver August 8th. The timing of this trip will permit convenient attendance by our members at the convention of the American Bar Association to be held in London starting July 14th. Members of the Washington State Bar Association, their spouses, dependent children, and parents living in the same household are eligible. The lawyer member need not be on the flight (a happy relaxing of the former rule).

We anticipate that this trip will be a quick sell-out of the 140 seats that will be available. We will have our own aircraft and the flight will be deluxe in all respects. The time of departure is in the high travel season and it is apparent that the tickets are at a bargain price.

Fill out the enclosed application form and mail with your check payable to the order of the Travel Committee, Washington State Bar Association, in the amount of $289.00 for each ticket to:

Travel Committee
Washington State Bar Assn.
c/o Seattle-First National Bank
P.O. Box 3586
Seattle, Washington 98124
Attn: Mr. William A. Mobley,
Trust Officer

It is essential that the completed application form and your check be mailed to the bank to insure a reservation of seats, which will, as is our custom, be on a first come, first served basis. While the flight date seems a long way off, our planning is not premature, for the demand for space both on our aircraft and in London hotels might well exceed the available supply. Our members need not attend the convention of the American Bar Association in London to come along on the flight. Members who will attend the convention should register for it without delay and all should consider an early reservation of hotel rooms.

Labor Law

The Third Annual Pacific Coast Labor Law Conference will be held at the Washington Plaza on May 22. It has a phenomenal panel headed by Arthur A. Fletcher, with speakers from Cleveland, New York, Washington, D.C., Philadelphia, Little Rock, and Los Angeles. Contact Eugene R. Nielson, IBM Bldg., Seattle for information.

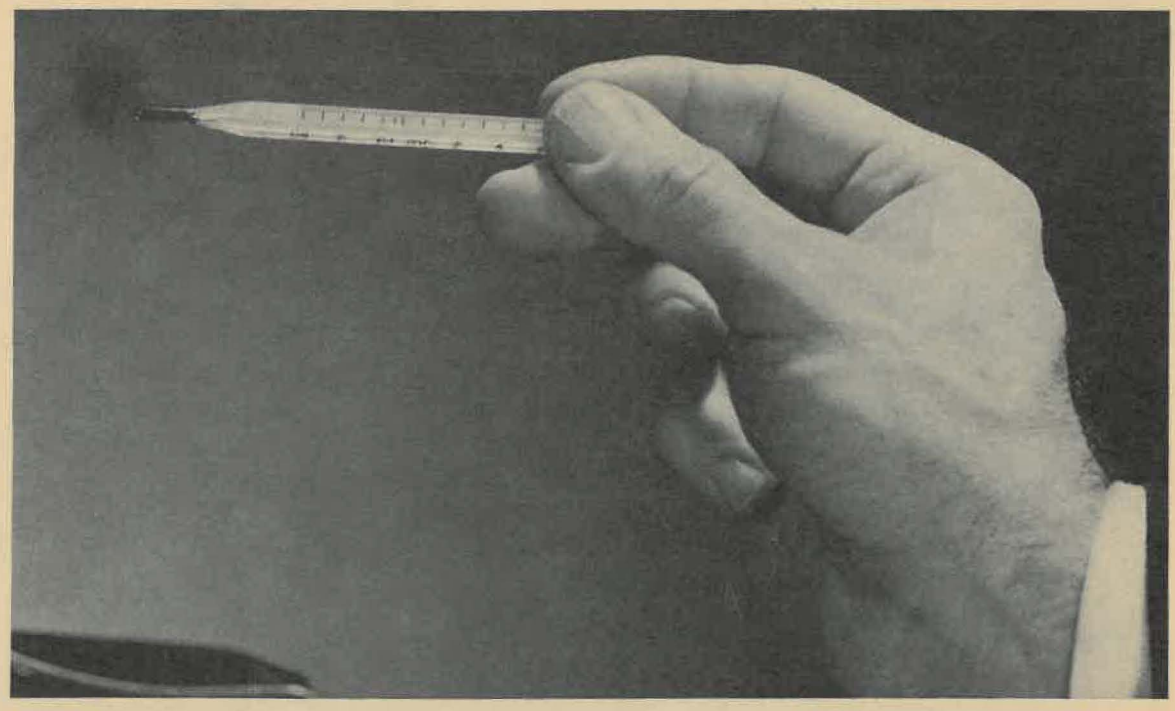
Legal Secretaries to Meet

The Holiday Inn at Everett will be the scene of the State Convention of the Washington Association of Legal Secretaries on May 22, 23 and 24. An educational seminar will be held on Saturday, May 23. Mr. **Richard C. Reed** of the State Bar Association will cover the area of law assistants in the law office which is of current interest to the State Bar Association. A representative from the Court of Appeals will also be a speaker.

Honorable Judge **Paul E. Hansen** will be the installation officer at the banquet on Saturday night, and Mrs. Esther McChestney of the Everett Juvenile Court will be the guest speaker at the banquet.

MEETINGS HELD BY STATE BAR ASSOCIATION DURING MARCH:

March	6	Lawyer Referral
	13	Escrow chapter of Unauthorized Practice of Law
	14	Judicial Article
	14	Legislative
	19	Disciplinary Hearing
	20	Communist Activities
	20	Board of Governors
	24	Internship
	31	Travel Committee



how's the corporate health of your clients?

The most damaging disease among corporations has to be forgetfulness. *Conejos County Lbr. Co. v. Citizens Savings & L. Ass'n.*, 459 P. 2d 138, and *Detelich v. Mayo's R and A Clothing, Inc.*, 304 N. Y. S. 2d 67, are recent examples of what happens because of it. In one a company officer forgot to notify counsel of a writ served. In the other everyone forgot to notify the Secretary of State of a change in address for receipt of service of process. A default judgment was entered, and affirmed, in both cases.

Small wonder tens of thousands of lawyers prefer to designate C T agents and offices for their clients. It's the easiest, surest, least expensive protection you can get for your clients against that kind of trouble.

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