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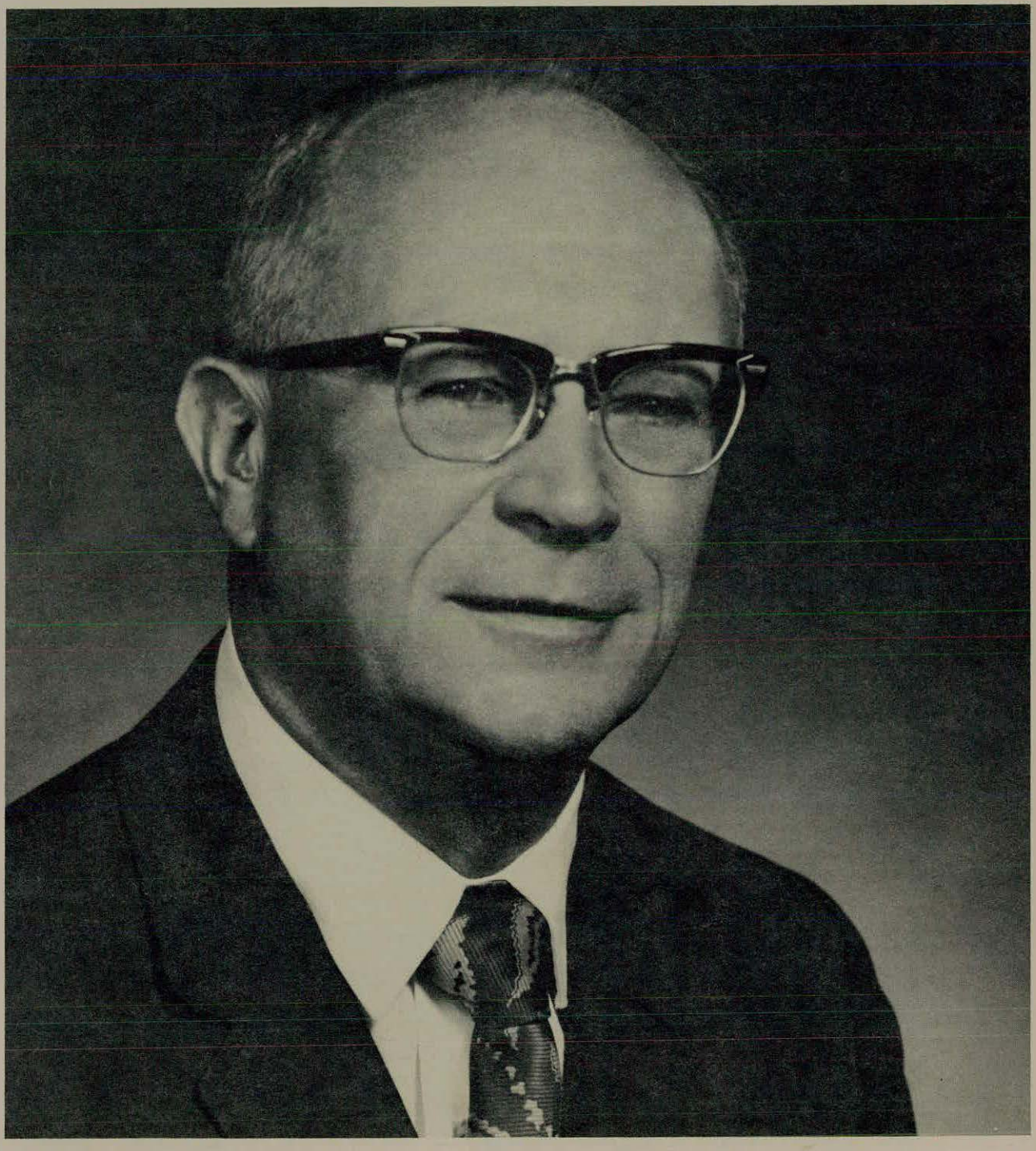
WASHINGTON STATE BAR NEWS



E. FREDERICK VELIKANJE – STATE BAR PRESIDENT, 1971-72

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Washington State Bar News

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CREDITS

- 3, 4, 6, 13 (Alberg photo), 15, 25 John D. McLauchlan
- 21 Port Townsend Leader
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- 24 James O. Sneddon

LEAD ARTICLES

IN THE NEWS

DEPARTMENTS

Letters

Action By Law Profs. Hit

Editor:

Noting in the press the action of a group of University of Washington Law Professors in gratuitously advising the public in the matter of our government's invasion of the "rights" of a witness, granted immunity and told by a Court to answer questions involving no less crime than bombing the United States Capitol Building, I cannot do less than say I am shocked. [see text of professors' statement on page 17.]

Have these men considered the ethics, yes, the morality of thus attempting to pressure the Courts where the matter is now under judicial determination? (Washington Canon of Professional Ethics No. 20)

The results recently published as to the success or want thereof of University of Washington Law graduates in recent Bar examinations would indicate some question as to the ability of some Law Professors to instruct in the Law. It would seem that graduate students, selected after considering grade averages and aptitude tests, should after three years of resident instruction expect a better return on their seven year investment of time and money than was evident in the number of failures at the last Bar examination.

It seems proper to suggest that Law Professors apply themselves to teaching and keep their gratuitous advice to themselves or at least present it in lawyer-like manner. Amicus Curiae is a time honored means of addressing the Court. Ex Parte press releases by lawyers dehors the Court and the record before the Court, partake of the nature of contemptuous insolence.

Stephen F. Chadwick

Seattle

Prisons

Editor:

Your May issue carried a rather ridiculous interview regarding ". . . Trouble at McNeil Island."

In recent years, I have made many trips to McNeil to see clients. The prison personnel were always cooperative. The lunches were excellent. Although the schedule was a bit inconvenient at times, the boat ride was pleasant. It has been my experience that when a lawyer is identified as the attorney for an inmate client, it is merely a matter of calling ahead and notifying the Warden's Office as to the date you wish to take the boat.

If Mr. Holley is under the impression that reporters are denied access to McNeil, he is in error. One reporter of my acquaintance has been to the Island repeatedly. The SIG program brings many people to the Island. These people mingle with the prisoners. The administration has had a work release program.

No matter how you cut it, a collection of felons is not a "group of beautiful persons." To so categorize them is, of itself, an act of irrationality. Mr. Holley's lack of perception is demonstrated when he intimates that there are a lot of "Birdmen of Alcatraz" at McNeil. Contrary to the whitewash of the book and the movie, the Birdman was a psychotic killer—is this the "real cream of our society" as Holley would lead us to believe?

There are many kinds of individuals at McNeil: some brilliant, some stupid; some kind, some vicious; some reformed and some unchanged. To lump all inmates together as "beautiful people" is to assault the senses of the reader with intellectual garbage.

Every institution has its inadequacies and injustices. McNeil likely has its share. However, the bulk of the remarks of Mr. Holley were grossly unfair and inaccurate.

JAMES E. CARTY

Woodland

Editor:

There are times when I am absolutely amazed by the members of my profession. I have reference to the letters of The Honorable (?) John J. Langenbach and Pat Steele of Tacoma, appearing in the June *Bar News*.

I am eternally thankful that Judge Langenbach is now retired as who can doubt that no long-haired attorney would get a fair hearing after reading his hysterical references to Mr. Lee Holley. And we also might ask about long-haired defendants? As far as Mr. Steele is concerned, the thought of his representing anyone out of the 20th Century absolutely frightens me in light of his vituperative reaction to Lee Holley's comments on McNeal Island.

I sincerely hope that the readers of the *Bar News* realize neither of their letters were in reference to or legitimately commented upon the issues raised by Mr. Holley. Rather, both chose to attack Mr. Holley. If either of the two letter writers would care to comment on the merits of the McNeil Island problems, I would be most happy to hear them. Otherwise, I would hope they keep their ulcerous spleens out of a profession devoted to advocacy and not demagogery.

Blair F. Paul

Seattle

The President's Corner

Both Seattle newspapers prominently displayed a news article recently reflecting the determination by the Seattle-King County Bar Association to raise the minimum hourly rate from $25.00 to $35.00. The Minimum Fee Committee was actually only putting the official stamp of approval on what had long been the established practice, and which, incidentally, still represents a minimum fee substantially less than that of other metropolitan areas such as Los Angeles and Chicago. I am sure the majority of the lawyers in this area were the recipients of calls from clients, most of whom had facetious remarks to make, particularly those clients who read their bills with some care and who were aware that they had been paying the so-called new rate for some years past.

However, there remains the underlying problem of the danger that lawyers could price themselves out of the market. We all know what has happened to rent, salaries, books, office machines and other overhead, in their continuously spiralling cost over the past few years. While we can explain logically the charge, we cannot dull the impact. Therefore, I think it is of the utmost importance that we continue vigorously the policies which we have already established of more effectively utilizing the lawyer's time. A step in the right direction has been the legal intern program and greater use of the paraprofessional.

One of the most time-wasting problems with which a lawyer is confronted results from the Rules of Discovery. I may be swimming against the tide, and I recognize that the modern theory is that a trial is no longer an adversarial matter, but instead is concerned solely with "seeking the truth." But I submit, when a lawyer brings an action and is confronted with from one hundred to three hundred written interrogatories in a stock form, the end results of which are that he must sit down, take what may be days of time, and prepare his opponent's case through a complete disclosure of his own activities and preparation, it is utterly silly. I think it would be much more effective if we eliminated all discovery in small lawsuits, say, those involving $10,000.00 or less, and in larger lawsuits have the rule provide that if an interrogatory could not be answered in not more than two sentences, the opposing party be required to take a deposition —an obviously much less time-consuming process-—and further that the same result would obtain if ten or more interrogatories were propounded.

In a column such as this I can only scan the surface. There are so many other places where time could be saved, and I am sure every one of you who reads this will think that I have omitted what to you is a prime example of the frustrations and lost motions in the practice. I am wondering if it would not be practical to have a bench-bar committee to work on the rules for a more effective utilization of the courts and the lawyers along the lines set forth in this column and others submitted by you.

I am sure the courts would cooperate with us if it were the consensus of the bar that, for example, motions for a new trial would come on automatically on the Friday afternoon following the conclusion of the trial and would be regularly scheduled and limited in time, or, for another example, that decisions be given in not-to-exceed three days from the conclusion of a trial, except in those rare situations where a

better decision could be given only after more research. On this latter point, we know that any trier of the facts will normally do much better at the conclusion of a case, and while the facts are fresh in his mind, than at a later time.

There is a whole field to be explored in the shortening of criminal trials and the shortening of appeals, without jeopardizing the rights of the accused.

If you feel that the subject of effecting time-saving practices, especially as between the bench and bar, deserves further exploration, I would appreciate hearing from you, to the end that appropriate action can be taken by the Board of Governors.

Editor's Note

$350 For a Non-Contested Divorce?

The Minimum Fee Schedule Committee of the Seattle-King County Bar Association recently recommended, among other things, to the SKCBA Board of Trustees that the minimum fee for non-contested divorce cases be increased from $250 to $350 and contested cases from $400 to $500. The Board of Trustees deferred action pending a review by the Lawyer Referral Committee.

One of the members of the Committee reduced his thoughts to writing:

I think that this is a quite inappropriate time for us to be raising fees in the area of divorce and domestic relations. This is a time when the use of para-professionals is increasing and when fairly standard uniform work in non-contested and default cases is to the point where it is almost mechanized or computerized. It is also a point in the life of the legal system where we must determine whether items such as domestic relations will continue to remain within the legal-court adversary process or be handled in some other fashion that is more responsive both socially and financially to the needs of our citizens.

I therefore feel most strongly that in those domestic relations cases where there is a default or an uncontested or agreed matter, the fees should not be raised but should probably be lowered. This would seem to be a situation where, in proposing a raise in the minimum fee schedule, the bar association might well be serving the profession financially but be doing a disservice to the profession in many other respects as well as doing a disservice to the citizens of the state.

Support was lent to this view when it was pointed out that one OEO Legal Services attorney in Seattle will be able to obtain divorce decrees in 2,000 cases this year. Very simply, that office has routinized the procedures and relies heavily on paraprofessionals. If the attorney charged a fee of $375 per case, his gross income for 1971 would be three-quarters of a million dollars.

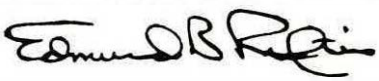
The problem faced by Lawyer Referral this year has been the man-caught-in-the-middle. The income guidelines for a person qualifying for OEO Legal Services is $2,500 plus $500 for each dependent. The minimum bar fee schedule for a contested case has been $400. While a large number of public service minded lawyers have served the man-caught-in-the-middle, Lawyer Referral Service indicates that it is increasingly more difficult to find lawyers for these individuals.

How many more people will be swept into this category if the increase to $500 is approved?

The LRS Committee refused to speculate. It is recommended that the increase be tabled until the Special Committee on Domestic Relations Reform, now being organized, comes up with its recommendations.

The Special Committee will be dealing with the Divorce Reform Act recently drafted by lawyers at the Legal Services Center for introduction into the State Legislature. It provides for such things as a simple filing procedure on forms provided by the family court. The entire procedure is analogous to small claims court procedure. An individual could go through the procedure without the need of an attorney. As a matter of fact, attorneys would be barred from participating in any family court hearings unless there is an issue of division of property valued in excess of $1,000. All proceedings would be in a family court division of superior court and they would no longer be an adversary type proceeding.

So that's what is in the wind. Also in the wind is a revised minimum fee schedule originating in a WSBA committee headed by Paul Cressman. Hopefully these same considerations will form the basis for any recommendations from that committee.



Election Bulletin: Three new members of the Board of Governors, to take office during the annual State Bar meeting in September, were selected in the recent congressional district elections. They are: 2nd District — **Edward J. Novack,** Everett, to succeed Storrs B. Clough of Monroe; 4th District — **Robert S. Day,** Kennewick, to succeed John S. Moore of Yakima; 7th District — **James P. Curran,** Kent, to succeed Charles I. Stone of Seattle.

THE CLARK COMMITTEE REPORT

By Michael Franck

I am constantly asked by the press, what is the foremost obligation of the organized bar today, and if one reflects briefly on it he could choose a variety of subjects, congestion of courts in certain areas, inadequate pay for judges in other areas, and many others; but in my administration the prime concern is the implementation of the Clark Committee Report to bring about reasonable, effective, disciplinary procedures and machinery in every jurisdiction in the United States.

ABA President Edward L. Wright

As all of you, I'm sure, know, the Clark Committee Report is a report which is critical of the profession's effort in the area of disciplinary enforcement. I think any discussion of what the Committee found in its survey of the enforcement practices and procedures in the United States must begin with at least the acknowledgement that the Committee was itself appointed by the House of Delegates of the American Bar Association, it was a Committee entirely of lawyers, and it was a report which was unanimously approved by the House of Delegates, and it seems to me that although the findings of the Committee should cause us a great deal of concern, we should not lose sight of the fact that it is a fairly viable profession which can create such a committee, have that committee develop a report which is so critical of the profession and have the profession unanimously approve that report. I do not think that every profession that we know of could demonstrate that kind of viability.

Secondly, let me point out that the Clark Committee did not investigate any state individually.

Michael Franck is the executive director of the State Bar of Michigan and has served as the reporter for the American Bar Association's Special Committee on Evaluation of Disciplinary Enforcement.

Excerpts from a speech delivered before the National Conference of Bar Presidents, February 5, 1971.

Justice Tom Clark

Its purpose was to ascertain the status of disciplinary enforcement on a nation-wide basis in the United States, and that is precisely what the Report talks about. Those of you who are not familiar with the way the Clark Committee operated should know that we went to eight different meetings throughout the country, at which we invited representatives from every state and at which representatives from every state appeared, and testified quite frankly concerning the problems in their own jurisdictions in the area of disciplinary enforcement.

It was not an undercover investigation, it was an open investigation, and the problems which are disclosed in the Clark Committee Report are largely the problems which the states themselves acknowledged existed, thereby evidencing some concern about those problems and a desire to correct them.

The Report covers thirty-six major problem areas, and I would not begin this morning to try to cover all thirty-six. What I will do is to go through the Report mentioning some specifics about those problems which are either the most universal or the most important.

Funding

Disciplinary Enforcement is a very expensive proposition, and so as with so many programs, the first and perhaps the most widely existing problem is the problem of money. To illustrate to you the range of financing of disciplinary enforcement in the United States, we go all the way from one state, which spends approximately $30.00 per member in the area of disciplinary enforcement to another state in which the only expenditure for disciplinary enforcement annually is the cost of reprinting the letterhead of the disciplinary committee, which of course, changes every year, and then we go all the way in between.

The problem of funding in general, is one which requires, I think, a new approach. Why we as lawyers are interested in disciplining our own members, perhaps the primary purpose of disciplinary enforcement is the protection of the public, and we as lawyers do that job on behalf of the public. There is, therefore, unquestionably a very large public interest in the subject of disciplinary enforcement.

It seemed to the Clark Committee that given that public interest it would not be unfair to suggest that the public treasury, either directly from the legislature of perhaps more appropriately through the funds of the highest court, bear at least a portion of the cost for disciplinary enforcement, so we suggested that perhaps there should be a sharing as there is, for example, in New York City between public funds and private bar funds to support the cost of disciplinary enforcement.

It is obvious, of course, that if the bar does not carry out the responsibilities of disciplinary enforcement, because it is financially strapped, the entire cost will then go to the public treasury as it does in the licensing of other professions. So some appropriation of public funds at this time to assist the bar in carrying out this responsibility will in the long run be a saving for the public treasury.

Fragmented Structure

The second problem that the Clark Committee found was the great number of states in which disciplinary jurisdiction is local and fragmented and this results in a number of problems. Rather than a state-wide system of enforcement, enforcement in some of these states is done in the local legal community. Very often that is a very small legal community and consequently you have the situation where complaints against lawyers must be judged by a committee composed of other lawyers who are personally, socially acquainted with the attorney against whom the complaint is made.

Now, I suggest to you that it is absolutely im-

(Continued on page 26)

CHANGE: CHALLENGE TO THE LAW

By Senator Henry M. Jackson

Over a period now of almost four decades, the law has been a part of my life, as it is of yours. As student, private practitioner, public prosecutor and as public lawmaker in both House and Senate of the Congress of the United States, I have seen the law from many sides, in many circumstances and many different times. I share with each of you a respect for law and an abiding faith in it. But it is that very respect and faith which impels me to speak now as I do.

Almost a century ago, at the end of the great war which set Americans against Americans and stained this land with bitter blood, Herman Melville made this observation.

"The years of the war," he wrote, "tried our devotion to the Union." But, he continued, "the time of peace may test the sincerity of our faith in democracy."

Today, once again, we are drawing to the end of a war which has set Americans against Americans. These years have sorely tried the fabric of our society and the sinews of our system. It is time for that war to end. America's resources must be shepherded for other demands, both at home and abroad. But, in saying this, I would echo Melville's words for these years, too.

It is my belief that the time of peace ahead may well present the sterner tests that our generations of Americans will have to face.

I say that in this perspective.

If there were no war today—if there had been no American involvement at all in Southeast Asia—this would still be a deeply troubled society.

Address given to the Annual Law Alumni Day Luncheon at Wayne State University Law School, Detroit, Michigan, on April 18, 1971.

We should not—we must not—forget that the seeds of our tensions and travail sprouted not in failures of foreign policy but in failures of domestic policy.

Before there was a North and South Vietnam, there was bias and discrimination among us. Before Saigon became a capital, before Laos and Cambodia were more than names on the map, before the DMZ was created and before the first of the tens of thousands of American lives were destroyed in those distant jungles, the sores and boils on our own body politic were already festering.

The coming of peace will not end our domestic trials. On the contrary, as the spotlight shifts to the home front, the dimensions of our domestic problems will be more exposed than ever. And as expectations for progress at home are not fulfilled when the war ends, our domestic turmoil will surely increase.

The history of nations is a history of continuous struggle between the people and the governments over them about the usefulness and responsiveness and even the very rightness of the law. At this period in our own history, I believe we are in the midst of such a struggle in our own land.

On this, as on much else, the issue of Vietnam has served—and is serving—to conceal far more than it reveals of the pervasive discontent and unease among Americans. Men and women, young and old, black and white who are not by nature or conviction participants in public demonstrations are, nonetheless, increasingly concerned about what they regard as the injustice of present-day American justice.

There are many bases for these concerns.

In many problem areas of our society—from drug addiction to trade regulation—the relevance

of the law to the issues involved is open to serious question.

In the administration of criminal justice—from traffic court to death row—the rightness of the law is open to serious question.

But there is more.

At the very root of the rule of law which we honor today lies the concept of the oneness of the law—one law, one standard, one justice for all. Yet we are increasingly aware that this fundamental concept is honored more in the breach than in the observance, that the principle is—all too often—lost in the practice.

We are tolerating not only one law for the poor and one law for the rich. We are, as well, accepting submissively one law for the young and one for their elders; one law for the dissident and one law for the conformist; one law for the man in uniform and one law for the civilian; one law for the uneducated and one law for the college graduate; one law for the small tax-payer and one law for the large tax-avoider; one law for the ordinary voter and one law for the big contributor; one law for the buyer and one law for the seller; one law for the borrower and one law for the lender.

This is wrong. We know it is wrong. Yet among those who have chosen, by their profession, to serve as custodians of the law, there remains all too often a curious passivity toward these wrongs. It is not enough for affluent practitioners, able professors or active public servants to sit in the sanctuaries of the law factories, or in the quiet of academic halls, or in the spotlight of daily affairs talking about equal rights and legal remedies.

We must not only talk the law, we must live it.

The alternative seems clear: a steady decline in respect for the law, a steady decline in the effectiveness of law as a balancing force in our society.

We should, I believe, be encouraged by the fact that we are in the midst of a major effort to make law more relevant, more responsive, more right.

We have seen this in the dramatic development of legal services for the poor, largely under government sponsorship; in the creative use of the law to fill the void left by moribund regulatory agencies; and in the use of statutes like the National Environmental Policy Act to protect the public interest in a healthy environment.

As these efforts have moved forward, they have stimulated an increasing interest in the law as an instrument of social change. Without acceding to extreme demands, without imposing impossible burdens on the law, I believe we must encourage and support the development of a more vital and relevant role for the law in the lives of all Americans.

Congress, for its part, could do much to assist in this effort. I believe the agenda of the present Congress should include action on legislation to permit consumer class action suits where a clearcut genuine cause of action exists; action on legislation to establish a National Legal Services Corporation, giving the present program of legal services for the poor the security and independence it needs; action to strengthen the National Environmental Policy Act, providing statutory recognition of the right to a healthful environment; and action to give reality to the Constitutional guarantee of a speedy trial for defendants charged with federal crimes.

These are some of the issues to which Congress should, in my view, give priority in this effort to revitalize the law. But as we turn to the task of correcting the imbalances which pervade our system, we must not forget the reality of man's long history of struggle with governments.

Abraham Lincoln put it squarely long ago when he said:

"It has long been a grave question whether any government, not too strong for the liberties of its people, can be strong enough to maintain its existence in great emergencies."

As we enter this decade of our second centennial, this is, indeed, a grave question.

Government, as an institution, is sorely troubled.

At every level, our cities, our counties, our states, and our national government as well, are thrashing about in the coils of problems which often seem to have no solution.

If government is not yet struggling to maintain its existence, it is struggling to assert and establish its authority over a vastly changed—and vastly changing—society.

The result is self-evident.

The institutional interests of government and the individual interests of the people are in conflict.

As the people react against the inequities of our present system, government does not respond. As the people seek to assert long dormant rights, government does not respond. As the people cry for change, government responds little—or not at all.

This conflict of interests poses the grave challenge facing not only the liberties of our system

(Continued on page 29)

PREPAID LEGAL COST INSURANCE

In both Portland and Seattle there is a high degree of interest by some top union people in the Teamster organization for the development of a prepaid legal cost insurance similar to Shreveport Plan for Prepaid Legal, according to F. William McCalpin, Chairman of the ABA special committee on prepaid legal cost insurance.

The Shreveport Plan was discussed on pages 16-17 of the April '71 *Bar News*. Further details of the plan have begun to surface.

In a speech at the ABA Mid-year meeting, Henry A. Politz, Chairman of the Shreveport Bar Association, spelled out details of the plan:

— the two-year pilot program involves Local 229 of the International Laborers Union.

— this union group of approximately 500, with their spouses and dependent children, constitute a group of 2,000 "insureds."

— the financing for the program comes from Ford and ABA Foundation grants and a voluntary dues payment of two cents an hour worked per member. It is estimated that seven cents would fully support the plan.

— the plan permits each union member to choose any lawyer in the Shreveport Bar Association, who will charge his usual fees.

— prior to commencement of the program, an American Bar Foundation team interviewed every member of the union and approximately one-third of the membership of the Shreveport Bar. The survey sought to capture attitudes and also to elicit information as to the prior level of use, or nonuse, of legal services by this group.

— the program expects to show that the fear of the cost of legal services has acted as a very real deterrent to a fuller use of legal services by a large segment of the public. It is believed that the potential client who is armed with an insurance policy to cover all or a substantial portion of the legal costs in fees will far more readily seek legal advice and do so before the crisis stage is reached.

— during the first 3½ months of operation, 32 union members arranged for counseling sessions with attorneys. The pre-program survey found that only 50 members had consulted a lawyer during the previous 12 months.

— the plan has four areas of coverage on a per year basis: (1) *Advice and consultation.* $100 at a maximum of $25 a visit; (2) *Office work.* If the advice and consultation leads to other work, the plan provides a maximum of $250 coverage. In such event, no payment is made under (1) above. This benefit requires a prepayment of $10 by the client not to be waived by the attorney; (3) *Judicial and administrative proceedings.* $325 for legal fees, $40 for court costs and $150 for out-of-pocket expenses. If the insured is a moving party in litigation, this benefit is conditioned on his prepayment of $25; (4) *Major legal expenses.* If the insured is named as a defendant in a civil suit, or is charged with a criminal offense by indictment or bill of information, or is named respondent in an action before an administrative agency of the city, parish, county, state or federal government, the insured shall be entitled to the litigation expenses and in addition, major legal benefits. These benefits provide 80 per cent of the next $1,000 of such expenses. Thus the insured may receive the benefits

under (3) above and up to $800 for his expenses in excess thereof. The plan excludes legal fees incurred in connection with certain types of litigation.

— the plan was structured to avert what may be serious obstacles to other plans. The following questions will have to be determined: (1) Is group legal a mandatory or permissive bargaining subject (29 U.S.C. §158)? in current negotiations, bargainers for the 750,000 members of the major postal unions are demanding that the U.S. Postal Service provide group legal insurance; (2) may an employer contribute toward a group legal services plan without violating the Taft-Hartley Act (29 U.S.C. § 185)? Democratic Sen. Philip Hart of Michigan is pushing legislation that would allow such contributions; (3) would group legal qualify as an "other benefit" to be provided by a tax-exempt voluntary employee beneficiary association (IRS § 501(C)(9))? The AFL-CIO is pressing the IRS to allow plans providing group legal services to be tax-exempt.

What else is going on around the country? The *Wall Street Journal* reported in its May 17, 1971 edition that:

A California law firm that started offering a plan for group legal service nine months ago now is under retainer to 30 labor unions, credit unions and other organizations with about 42,500 members. Danny R. Jones, a partner in the firm based in the Los Angeles suburb of Norwalk, estimates the plan will be serving over 50,000 people by June. Mr Jones and Melvin Belli, famed San Francisco trial lawyer, are consultants in setting up the most complete plan offered so far; it will be administered by a new nonprofit entity called the National Legal Care Program Inc., and it will be ready to offer its services by July. It hopes eventually to sign up groups across the country.

In Pittsburgh, district 15 of the Steelworkers Union started providing its 65,000 members free legal advice through a local law firm last October. About 300 members are using the plan each month, and officials from several other districts are interested in it.

Recently various bar associations have eased their long-standing hostility to any tinkering with the traditional individual nature of client-attorney relationships. Three Supreme Court decisions in recent years have rejected many of the associations' objections to group legal service.

There also has been growing concern among many lawyers about the service their profession is providing. Frets one Washington lawyer: "If General Motors produced cars the way we try to deliver legal services, a Chevy would cost $30,000 and one out of two would be a lemon." California attorney Jones notes that the poor are eligible for government-subsidized legal aid and the wealthy can easily afford lawyers, but he says "the people making between $5,000 and $15,000 (a year) aren't adequately served."

The legal needs of people in this income bracket were indicated this year in a survey of over 2,200 California schoolteachers, mostly earning $10,000 to $15,000 a year. More than 25% said that within the past five years they had had a "legal problem" concerning defective goods or consumer warranties. But only 3.5% had even spoken with a lawyer and only 1.1% had retained counsel.

The group legal services plan based in Norwalk, Calif., uses an innovative approach that's drawn some frowns from bar groups. An "umbrella" partnership of lawyers, known as Barnett, Jones, Miller, Seymour & Weldon, administers the plan; the partnership consists of representatives from each of 10 law firms. To increase efficiency, each firm has agreed to specialize in a certain area such as domestic relations, bankruptcy, criminal cases or probate matters.

This plan provides prepaid legal consultation to its 42,500 members, but they must pay the standard fees for any legal work beyond the consultation state. For such services, Mr. Jones claims, "the minimum (on the bar association fee schedule) becomes a maximum" for plan members. Thus, he says, a member can sometimes save $100 or more on a divorce proceeding.

Mr. Jones concedes the umbrella firm has steadily lost money since it got started. But he explains that one objective is to get "a track record" on exactly what use people will make of such a service. Mr. Jones says the cost of that plan, which will pay all legal expenses involved in such matters as civil proceedings, felony trials, wills or divorces, will be $9.95 a month per member and $4 more if he wants to include his family.

"If the Manson family had been in the plan," says Mr. Jones, "their legal costs up to now would have been $2 (the plan's proposed registration fee for each separate case; employers are expected to pay the monthly premiums.) Adds an official of the new plan: "And we would have been broke already." □

THE NEED FOR CIVILITY

Remarks of Chief Justice Warren E. Burger

With passing time I am developing a deep conviction as to the necessity for civility if we are to keep the jungle from closing in on us and taking over all that the hand and brain of man has created in thousands of years, by way of rational discourse and in deliberative processes, including the trial of cases in the courts.

Whether in private negotiation or public discourse, in the legislative process or the exchanges among leaders, in the debate of parties or the relatively simple matter of a trial in the courts, the necessity for civility is imperative. Without civility no private discussion, no public debate, no legislative process, no political campaign, no trial of any case can serve its purpose or achieve its objective. When men shout and shriek or call names, we witness the end of rational thought process if not the beginning of blows and combat. I hardly dare take the risk of adding that this may also be relevant to the news media.

I have not had time to research the source, but from the pockets of memory I recall a statement—probably something I read in the memoirs of a diplomat—that if the secret files of all nations could be opened we would find that the politeness, the good manners, the civility of diplomats and statesmen avoided more wars than all the generals ever won. Unprovable or not, I am prepared to believe that.

Lawyers' Monopoly

It is surely important for a gathering of lawyers, judges, and law professors to focus our thoughts, for the few minutes I will detain you, on the conduct of members of our profession. Lawyers are granted monopoly to perform essential services for hire, and it has long been almost an article of faith to us that monopolies are subject to strict regulation and public accountability for adherence to standards. Today more and more new and vexing problems reach the courts and they call for the highest order of thoughtful exploration and careful study. Yet all too often, overzealous advocates seem to think the zeal and effectiveness of a lawyer depends on how thoroughly he can disrupt the proceedings or how loud he can shout or how close he can come to insulting all those he encounters—including the judges.

A large part of the new litigation involves the rights of the whole of society, or claims of so-called "new property," or new Constitutional theories, or what some advocates describe as "political cases." At the drop of a hat—or less—we find adrenalin-fueled lawyers cry out that theirs is a "political trial." This seems to mean in today's context—at least to some—that rules of evidence, canons of ethics, and codes of professional conduct—the necessity for civility—all become irrelevant.

This is not a wholly new phenomenon. A century ago the courts of England, now a model of the disciplined, calm civility that is essential to a trial, were plagued by the misconduct and incivility of lawyers and judges alike. Judges improperly interposed their views on counsel and witnesses, lawyers bullied and baited each other and the adverse witnesses . . . .

The role of the press is a crucial one. Sometimes their highest service is to reflect precisely the conduct of the brash and swaggering lawyer or intemperate, blustering judge.

Excerpts from an address by Chief Justice Warren E. Burger at a meeting of the American Law Institute in Washington, D. C., on May 18, 1971.

The atmosphere of incivility . . . pervaded the courts of England during most of the nineteenth century. Conduct in their Parliament was much the same.

In this country we were not immune, and history records numerous episodes of physical attacks by members of Congress on their fellow members. Pistol-whipping and caning escalated from verbal attacks. News media were intensely partisan and vicious, and it was not uncommon for political leaders to horsewhip newspaper reporters.

Today, and increasingly in the past few years, we witness signs of a revival of some of this kind of incivility as well as violence.

Speakers are shouted down or prevented from speaking. Editorials tend to become shrill with invective, and political cartoons are savagely reminiscent of a century past.

A few weeks ago the distinguished former Solicitor General of the United States, Archibald Cox, tried to speak to his own students at Harvard and was met with this phenomenon. "The New York Times," not noted for lurid or extravagent reporting states — and I use "The Times' " language: "Mr. Cox faced a screaming, chanting audience" that refused to hear him out.

I suspect that Mr. Cox departed from his prepared lecture when—again, according to "The Times"—he said to his students:

"If this meeting is disrupted, then liberty will have died a little. Freedom of speech is indivisible You cannot deny it to one man and save it for others."

If Mr. Cox will let me plagiarize him a little, civility is also indivisible; we cannot abandon it ourselves and expect it to be practiced by others . . .

I submit that with a gathering that includes some of the leading scholars, teachers, lawyers, and judges in the land few subjects could be more relevant to discuss than the necessity for civility in the resolution of litigation in a civilized society.

I suggest this is relevant to law teachers because you have the first and best chance to inculcate in young students of the law the realization that in a very hard sense the hackneyed phrase "order in the court" articulates something very basic to the mechanisms of justice. Someone must teach that good manners, disciplined behavior, and civility—by whatever name—are the lubricants that prevent lawsuits from turning into combat. Many teachers of law have thought teaching these fundamentals was not the function of law schools and law teachers. Many good friends of mine in the law schools over the past 20 years or so have said to me, "We are teaching students to *think*—we are not running a trade school." But civility is to the courtroom and adversary process what antisepsis is to a hospital and operating room. The best medical brains cannot outwit soiled linen or dirty scalpels—and the best legal skills cannot either justify or offset bad manners.

With all deference, I submit that lawyers who know how to think but have not learned how to behave are a menace and a liability, not an asset, to the administration of justice. And without undue deference, I say in all frankness that when insolence and arrogance are confused with zealous advocacy, we are in the same trouble the courts of England suffered through more than a century ago. Today English barristers are the most tightly regulated and disciplined in the world and nowhere is there more zealous advocacy.

Judge Sets the Tone

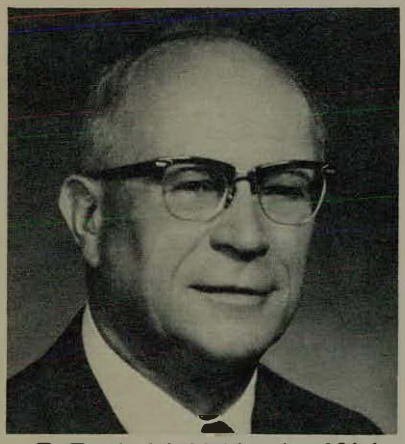
I suggest that necessity for civility is relevant to lawyers because they are the living exemplars—and thus teachers—every day in every case, and in every court, and their worst conduct will be emulated perhaps more readily than their best. When a lawyer flouts the standards of professional conduct once, his conduct will be echoed in multiples and for years to come and long after he leaves the scene.

Finally, civility is relevant to judges, and especially trial judges because they are under greater stress than other judges, and subject to the temptation to respond in kind to the insolence and bad manners of lawyers. Every judge must remember that no matter what the provocation, the judicial response must be judicious response and that no one more surely sets the tone and the pattern for courtroom conduct than the presider . . . .

So as the institute proceeds with its important business, I urge that we never forget the necessity for civility as an indispensable part—the lubricant—that keeps our adversary system functioning. If we want to protect that system we must firmly insist on the lubricant. □

WASHINGTON STATE BAR NEWS

Velikanje To Be President



E. Frederick Velikanje of Yakima is the son, father, nephew and brother of a lawyer—and he will be the fourth member of the University of Washington law class of 1935 to become president of the State Bar Association.

His election by the Board of Governors to serve as president beginning in September was announced a few days ago.

Velikanje has had a long and busy career of Bar responsibilities, has made countless contributions to Yakima civic and cultural activities and with his wife, Edna, has reared three sons.

He has served the Bar most recently as chairman of the busy Committee on Revision of the Judicial Article. He served in 1965-70 as State Bar delegate to the American Bar Association, and earlier was president of the Yakima County Bar and member of the State Bar Board of Governors. He has been member or chairman of a number of ABA and State Bar committees.

He is past president of the

(Continued on next page)

Reform of the State Bar

Tom Alberg

The Young Lawyers Section of the Seattle-King County Bar Ass'n has drafted and will present to the Washington State Bar Association Convention in September a series of resolutions and by-law amendments.

Section chairman **Tom Alberg** in the annual report of the section indicates that the measures are being presented "with the purpose of making the WSBA more responsive and involved, and which hopefully will begin a reform of the Bar Association and the legal profession in Washington State. To the young lawyers, a multitude of areas of the legal practice require reform: auto accident reparations, modernization of the practice of law (lawyer specialization, legal assistance, computerization, legal insurance), changes in law school education and bar exams and minority op-

(Continued on next page)

Convention Preview

Three speakers of national repute, eight seminars on a big variety of subjects and the traditional delightful social events will highlight the September 9-11 State Bar Convention in the Portland Hilton.

Speakers at the festive luncheons which are features of the Thursday and Friday schedules will be the noted J. Harris Morgan, third-generation lawyer from Greenville, Texas, who is in big demand throughout the country as a speaker at bar meetings, and Oregon's Governor Tom McCall.

The new national director for legal services of the Office of Economic Opportunity, Fred Speaker, will appear at a special seminar at 4:30 p.m. Thursday, September 10.

Legal-education seminars will include:

How to Defend a Criminal Case, with **Murray B. Guterson** of Seattle as chairman; Mortgages and Trust Deeds, **Gordon A. Livengood** of Kirkland, chairman; Land Use and Zoning, **Woodrow L. Taylor** of Seattle, chairman.

Three seminars are slanted toward lawyers' economic and personal interests. Law Office Management Committee presentations will be The Twentieth Century Law Firm — How to Be One, with **Claude M. Pearson** of Tacoma as chairman, and Romancing — Fundamentals of an Ancient Art, **George J. Velikanje** of Yakima, chairman. Both topics are keyed to Morgan's luncheon-address subject, Romancing Our Fees Into the Twentieth Century.

A special seminar, Up the Law!, will be divided into two

(Continued on page 18)

Reform of the State Bar
(Continued)

portunity and development. Moreover, the Bar Association must broaden the scope of its activities to include participation in the reform of laws and society, generally. Unauthorized practice of law, minimum fee schedules and public relations programs are a necessary part of the Bar Association but more important are better legal services, available to all, and reform and revitalization of our laws and political process."

The proposed resolutions and by-law amendments are as follows:

1. Resolution recommending to the legislature an amendment to RCW 2.48 (State Bar Act) to provide equal representation of lawyers on the board of governors.

2. Amendment to by-laws to provide that the members of the WSBA shall annually elect by mail ballot a president-elect and secretary-treasurer of the WSBA.

3. Amendment to by-laws to provide for an independent Young Lawyers Section with the power to adopt its own by-laws, to elect its own board of directors and officers and to take public positions on behalf of the Young Lawyers Section.

4. Amendment to by-laws to require annual mailing to all members of the WSBA budget for the current fiscal year, detailed statements of income and expenditures for each of last five fiscal years and annual report of activities of WSBA.

5. Resolution that WSBA undertake new and additional efforts to reform and revitalize the legal profession and legal processes, civil and criminal, for the purpose of providing adequate legal services and resolution of disputes for all persons.

Velikanje To Be President
(Continued)

Yakima Community Concerts and Knife and Fork Club and has been active in the Art Association. His interest in things cultural may have stemmed from a brief early career as a student violinist, although he notes he gave up that career in response to the earnest request of his family. "Everything came out sounding like 'Nearer My God to Thee'."

Outside the law business, his chief interests now are gardening ("which is great for getting me away from the telephone") and swimming in his pool, plus a bit of fishing and hunting, a pandemic disease in Yakima.

He was a track-team quarter-miler in college; he also took up fencing for exercise and ended up the team's No. 2 man in "foils and epees" and No. 1 man in sabre, which sounds formidable.

After admission to the Bar in 1936 he managed to find employment with the firm of Velikanje & Velikanje, which consisted of his brother, Stanley, and his father, E. B. Velikanje, both now deceased.

(His father's story should be told at length as an adventure yarn some other time. He was teaching school at 16, then went to managing mines in Mexico, herded cattle the hard way to Alaska, was an Alaska river-boat pilot and mail-route operator; after having lived a life resembling fiction, he started law school at University of Minnesota at age 32—without benefit of having attended even high school.)

That original law firm of V.& V. now has become Velikanje, Moore, Countryman & Shore; Fred's son, George F., is a member. An attorney-uncle, Milan, was responsible for the original transplantation of the Velikanjes into Yakima from Minnesota, where the clan had settled in the 1850s.

The Bar's new president also was a member of Delta Theta Phi legal fraternity, Theta Chi social fraternity, Masonic and Scottish Rite bodies and the Elks lodge. And he was an Eagle Scout.

Two of those three other "1935 UW" Bar presidents were Yakimans, by the way—John Gavin and the late Fred C. Palmer. John Huneke of Spokane was the other.

In Memoriam

George F. Baum, 68, Tacoma, died May 22. A 1935 graduate of the University of Washington Law School, he practiced with Bartley & Magnuson before Magnuson was elected to the U. S. Senate. At the time of his death, he was president of the Farwest and Rainier Plywood companies.

Arthur A. Giblin, 76, Seattle, died June 5. A 1931 graduate of the University of Washington School of Law, he had practiced law in the White-Henry-Stuart Building for 40 years.

William F. Lockett, 62, Seattle, died May 31. He was a 1954 graduate of Gonzaga University Law School.

Marshall McCormick, 65, Tacoma, died May 15. A 1938 graduate of the University of Washington Law School, he served as Tacoma City Attorney from 1956 until he was appointed Acting City Manager in July, 1970. He retired on May 3 and suffered a heart attack on the first day of his retirement.

James E. Seargeant, 89, Seattle, died May 31. A graduate of Stanford Law School, he was admitted in 1909.

Chavez Connection Denied

Last year rumors were rife in the Yakima Valley that federal employes were using their War on Poverty jobs as a base from which to help organize farm workers.

Two investigators were sent into the Valley from Washington, D.C. What did they find?

Officials at the Office of Economic Opportunity regional headquarters in Seattle refuse to say.

Such reports are confidential.

It's such brick walls which frustrate growers in the Valley who feel their tax dollars are being turned against them.

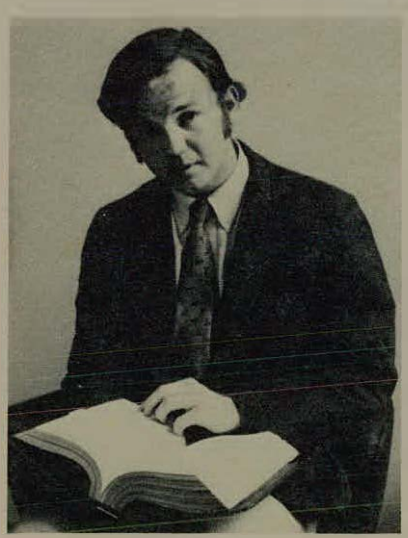
They must also withstand doubletalk and evasion.

Jack Kent, regional OEO attorney, was asked if War on Poverty workers can involve themselves in unionization. His reply was that OEO people "are not being told to steer clear (of union activities). But they are not being authorized to be involved."

Where does that leave them?

Kent laughed, and said it was hard to make generalizations.

The Patnode trial in Prosser was an example of growers having to pay for their attorneys while people trying to organize farm workers had what one attorney reckoned was about $5,000 of free legal help from Seattle-based attorneys working out of the legal-services center in Seattle.



Mike Fox

[Benton County Superior Court Judge Richard G. Patrick held in *Garza v. Patnode*, April 30, 1971, that Washington's little Norris-LaGuardia Act, RCW 49.32.020, applies to farm workers and guarantees them a right to organize and to collectively bargain.]

Mike Fox is the young attorney who has involved himself most in the Valley. On a $900-a-month poverty-law fellowship from Howard University in Washington, D.C., it was Fox who directed last year's Patnode trial to what he regards as "a great victory for the farm worker. It gave him the right to organize."

Spanish-speaking Fox reckons he spends four days a week working in Seattle and three days in the Yakima Valley. He has 125 active cases ranging from divorce and debt collection to suits against the U.S. Department of Transportation.

What does he think of government involvement in such suits as the Patnode case?

Fox emphasizes he was the attorney for some nine people who were attempting to organize Patnode's ranch. He states he did not represent Cesar Chavez's United Farm Workers Organizing Committee.

And he stressed that the legal-service center is not a governmental agency.

However, of its $318,000 budget, $290,000 comes from the federal government, $8,000 from the state and $20,000 mostly from private attorneys.

"We're not involved in union organizing, but in people problems," said **Greg Dallaire,** director of the center in Seattle.

Which is what Fox said he was doing the other day at the union organizing meeting at the Yakima Golding Ranch. "I went to explain to workers the rights they have to be free from harassment under the Patnode verdict."

Greg Dallaire

Dallaire claims the estimated $5,000 cost of the Patnode trial to the legal services center was "ridiculous." He put it closer to $650. Fox said people he refused to name paid to fly several witnesses from California.

"Farm workers in the Yakima Valley are poor," said Dallaire. "And we're funded to be the attorneys for poor people . . . We don't represent the growers, that's for sure. But that doesn't necessarily mean we're anti-grower."

Dallaire described as "nit-picking" the charge by some attorneys that Fox was in the Valley last year practicing law before he was a member of the state bar.

Fox was called to the Valley Sept. 10 by workers trying to unionize. He was a member of the bar in Connecticut, but wasn't admitted to the Washington Bar Association until Sept. 15, he says.

The incident which led to the

Patnode trial occurred Sept. 16.

One attorney said such behavior by Fox was unethical, but that the bar association wouldn't criticize him because "Then the minority groups would shout about attorneys having the tightest closed shop."

OEO Attorney Kent said Congress has given only one poverty group clear-cut direction on involvement in unionization.

The act pertaining to VISTA (Volunteers In Service To America) states, "No funds authorized to be appropriated herein shall be used to finance labor or anti-labor or anti-labor organizations or related activities."

Kent said, "So in one sense, in respects to VISTA, Congress has expressed its intent.

"Though if this applies beyond VISTA is a question which is unanswered."

Yakima County commissioners have made their intentions clear. Unless the group seeking funding of an anti-poverty program in the Valley specifically promises not to get involved in the farm-labor question, the commissioners won't give it the blessing necessary to open up the federal coffers.

The group may then, in theory, involve itself only in those programs which are in its approved work program.

One of the problems with the old War on Poverty group which was defunded early this year was that it had created community centers each of which was doing its thing without centralized control.

It was a situation which could lead to involvement in farm organization, even though that was not part of the formal program.

Commissioners think they have that stopped.

However, that's only one prong of what growers feel is a multi-front federal attack through a multitude of federally funded agencies all directed at helping unionize farm labor the growers are far from convinced wants to be organized.

They see government, not as an impartial adjudicator, but as an active participant biased totally in favor of the union.

— Jack Briggs
Associate Editor
Tri-City Herald
May 12, 1971

Rule 9—Legal Interns

The proposed changes in Rule 9 — Legal Interns, summarized on page four of the May '71 *Bar News*, have been adopted and promulgated by the supreme court by order dated May 21, 1971 (79 Wn.2d 1103-8).

As reported by **Shan Mullin,** Seattle, in a recent speech to the Spokane County Bar Association, Washington's year-old legal internship program has been beneficial to the public, the courts, the legal profession and law students.

Mullin, who is chairman of the State Bar Association's internship committee, said 123 law students have qualified in the program's first year.

Mullin said 39 of the interns have been admitted to the bar and 73 are still licensed to practice under terms of the rule adopted by the State Supreme Court in mid-1970.

State and federal grants totaling $47,970 have been approved for a law student intern program for the King, Pierce and Snohomish county prosecutors' office and the Seattle Public Defender's office. Receipt of the federal grant was announced June 2.

As reported on page 34 of the June '71 *Bar News*, the State Bar will be the sponsoring office for the program. Twenty-six interns will be hired for the fiscal year beginning July 1.

Besides the three prosecutors' offices and the Public Defender's office, other prosecutors' offices in the state might also participate. It has not been determined yet how many interns will be assigned to each office.

The interns will work 40-hour weeks during the summer prior to their final year of law school and 10-hour weeks during the following academic year. They will be paid $3.50 an hour.

Also the SKCBA Young Lawyers Section has established a program with the University of Washington Law School to enable third-year law students to staff the University District Legal Aid Office. These third-year law students will be practicing law under the limited license granted by Rule 9.

The Section is looking for young lawyer volunteers interested in acting as supervising attorneys on a one-to-one basis for U of W law students staffing the University District Legal Aid Office. The volunteer attorney would not be required to be present at the Legal Aid Office, but instead could review the work of his assigned legal intern at his own office. Rule 9 requires that supervising attorneys have practiced in Washington or elsewhere for three years or more. All those interested in becoming Committee members and serving as supervising attorneys should contact **William S. Weaver** at 1900 Washington Building, Seattle, Washington, MU 2-8770.

Without supervising attorneys there can be no legal interns and without legal interns the whole University District Legal Aid Office program will fail.

UW Law Profs Hit Bacon Action

A declaration by law school professors concerning the government of the United States and a nineteen year old girl, Leslie Bacon, who has been effectively imprisoned for more than one month through proceedings in which she has not been charged with a crime.

We are law school professors, speaking for ourselves, and not for the institution at which we teach. We publish this declaration to alert the public to the present threat to and actual repression of individual liberties.

The federal government's treatment of Leslie Bacon convinces us that the Justice Department believes that, without providing even an intelligible justification, it has lawful power to arrest any citizen, at any place, at any time; to remove such a person from the place of arrest to any district in the country where a federal grand jury is sitting; and (by imposing excessive bail) there to hold him (or her) in custody during questioning about events alleged to have occurred anywhere in the United States; and, when the citizen challenges this assertion of absolute authority by refusing to submit further to the government's interrogation, to jail him for contempt.

On April 28, 1971, Leslie Bacon was taken into custody in Washington, D.C., on a complaint for her arrest as a material witness. The complaint alleged only that she knew of "circumstances and persons responsible for violations" of federal law. The complaint did not identify the alleged violators nor did it specify the laws allegedly violated. The complaint did not specify any facts to substantiate the government's assertion that Leslie Bacon knew or could have known of such violations.

On the government's further unsubstantiated assertion that she would take flight, bail was set at $100,000—a sum that neither she nor her parents have been able to raise to purchase her freedom. Unable to establish her defense to charges not yet made, she was transported 3,000 miles to Seattle, Washington on April 29.

Previously, Leslie Bacon had been in Seattle only once—a one-day stopover two years ago. Although federal grand juries were then in session in Washington, D. C. and New York the government chose to transport her across the continent, separating her from friends who had supported her and legal counsel who had represented her. Throughout her appearance before the Seattle grand jury Leslie Bacon has been asked no questions about events alleged to have occurred in the State of Washington.

According to publicly available information, Leslie Bacon testified before the federal grand jury on April 30, May 1, and May 2, without invoking her Fifth Amendment privilege against self-incrimination. Late in the proceedings on May 2, she finally decided to invoke her Fifth Amendment privilege. The United States District Court ruled that she had waived that right by her answers to related questions during the first days of her testimony, and directed her to answer. She complied. Thereafter, she refused to answer any further questions, again asserting her Fifth Amendment privilege.

The government moved to compel her to testify under a grant of limited immunity from prosecution. She refused to testify further. She contends that the immunity offered does not confer upon her a protection equal to that of the Fifth Amendment, and that it is therefore not constitutional to require her to answer the questions posed.

. . .

Leslie Bacon has appealed the order committing her to jail, seeking a decision by the Ninth Circuit Court of Appeals on the constitutionality of her imprisonment. She has been denied release on bail pending the outcome of that appeal in an opinion that finds her "dangerous to be at large" because "Miss Bacon appeared to take the matter as a joke with much giggling and communication with people in the back of the courtroom with whom she was apparently acquainted," and because "several members of the group were carrying what this Judge recognized as flags of North Vietnam."

We believe that the McCarthyist course of action followed by the Department of Justice in this case imperils not only the liberty of Leslie Bacon, but that of every citizen. If the American public wishes to remain free, and to preserve those institutions by which freedom may be protected, it must register its opposition to the course of action pursued by the United States in the case of Leslie Bacon.

Dated: June 4, 1971

Cornelius J. Peck
John M. Junker
Roland Hjorth
Geoffrey Crooks
Donald H. J. Herrmann
Lehan K. Tunks
Michael M. Martin

The Ninth Circuit Court of Appeals on June 15th ordered Miss Bacon released on her personal recognizance pending appeal of the contempt citation.

Convention Preview
(Continued from page 13)

portions; **Efrem Z. Agranoff** of Everett and **James S. Turner** of Seattle are chairmen of the first presentation, The Trouble With Lawyers; **Douglas D. Peters** of Selah will chair the second, The Bar Views the Bench, and Vice Versa, with two judges and two lawyers as panelists and U.S. District Judge Alfred T. Goodwin of Portland as moderator. **J. David Andrews** of Seattle is general chairman of the seminar.

The urbane and charming **John N. Rupp** of Seattle will be moderator for the popular Saturday morning feature, the Speak-Out Teach-In; speakers will be a short dozen lawyers from throughout the state speaking their minds on a variety of things.

Ladies are invited to the Thursday and Friday luncheons, as well to the Young Lawyers luncheon Saturday, and of course to the Thursday evening no-host reception and the Friday evening cocktail party and dinner dance. In addition, a busy and attractive program for the ladies attending the convention is planned.

At the Friday morning business session, which this year promises to feature discussions livelier than usual, the new Bar president and three new Board of Governors members will take office.

Legislation '71

Governor Evans exercised his veto power as to certain bills reported on pages 20-21 of the June '71 *Bar News*.

As to SB 441, **Senator Andersen's** "Crime Christmas Tree Bill," the governor vetoed a section which would have allowed local rock-festival laws to take precedence over state law.

A provision to give police discretion to photograph and fingerprint juveniles between the ages of 14 and 18 also was vetoed. Evans said this now may be done with permission of the Juvenile Court.

A section of the bill giving authority to counties and cities to offer rewards of up to $5,000 for apprehension of convicted felons and a portion dealing with demonstrations and picketing near courthouses also were vetoed.

Evans said his veto of the section on demonstrations was to preserve the constitutionality of the bill. The revised section still punishes obstruction and interference in the judicial process without violating terms of free speech guaranteed by the First Amendment, Evans said.

The mandatory minimum penalty of five years for possession, manufacture and disposal of incendiary devices was vetoed. The maximum of 25 years was left in.

As to SB 108, **Crimes,** the Governor vetoed the section which provided that no court shall suspend or defer the sentence of any person having been convicted of selling narcotics or dangerous drugs for profit.

As to HB 321, **Traffic Laws,** the language which would have prohibited a court from suspending either the fine or jail sentence on a first offender for driving while intoxicated was deleted by Senate amendment.

As to HB 321, **Traffic Laws,** Gov. Evans is studying what, if any, steps can be taken to save the State Occupational Drivers License Law, which has been repealed as a result of one of his item vetos.

Jack Nelson, motor-vehicles director, said the governor's veto of one section of a bill dealing with sentencing of persons convicted of drunken driving and habitual traffic offenders inadvertently repealed the present law.

"What it really means is that after August 9, the effective date of the bill, the department will no longer be authorized to issue occupational licenses for any reason," Nelson said.

The department normally issues between 250 and 350 such licenses a month.

Nelson said he does not think persons who have occupational licenses before that time will have them revoked by the fluke.

"But the attorneys may view that problem differently," he said.

Nelson says there is apparently no alternative to shutting down granting of occupational licenses until the Legislature meets again in January.

"It was a goof," said an Evans aide, who added that it was done in error. He said Evans was seeking advice on the problem.

The aide said the governor's office hopes that the error was the only such mistake to result from the flurry of decisions the governor made on more than 200 bills left on his desk in the last few hours of the Legislature.

Hearings Under Financial-Responsibility Law

The United States Supreme Court ruled on May 24, 1971, that a state cannot suspend an uninsured motorist's license after his involvement in an accident without first affording a hearing to determine "whether there is a reasonable possibility of a judgment being registered against him as a result of the accident." *Bell v. Burson*, 39 L.W. 4607 (1971).

Washington suspended 15,724 licenses last year under its financial-responsibility law without such a hearing being held. State

Motor Vehicles Director Jack Nelson, at the time the opinion was released, estimated that it could cost $1 million a year for Washington to hold hearings before revoking driver licenses. He said the ruling could lead to 30,000 administrative hearings each year and that he has neither the staff nor the money to handle such a load.

The court pointed out alternative methods of compliance. The state may decide to include consideration of the question at the administrative hearing or it may elect to postpone such a consideration to the *de novo* judicial proceedings in superior court. The state may decide to withhold suspension until adjudication of an action for damages brought by the injured party. The state may elect to abandon its present scheme completely and pursue one of the various alternatives in force in other states, i.e., compulsory insurance plans, public or joint public-private unsatisfied judgment funds, and assigned claims plans.

The court observed that the state may properly bar the issuance of licenses to all motorists who do not carry liability insurance or post security. However, the court reasoned that once licenses are issued, their continued possession may become essential in the pursuit of a livelihood. Thus, suspension "adjudicates important interests of the licensees. In such cases the licenses are not to be taken away without that procedural due process required by the Fourteenth Amendment. *Sniadack v. Family Finance Corp.*, 395 U.S. 337 (1969)."

On June 4, the Washington State Motor Vehicle Department announced new administrative rules, effective immediately, in an attempt to comply with *Bell*. Now any person notified of suspension of his driver's license may request a hearing before a special three-member board. All evidence will be from affidavits submitted by the motorist and from reports of investigating law officials.

ABA Revision of Judicial Ethics

A select committee of the American Bar Association, composed of leading judges, lawyers and legal scholars, has issued a tentative draft of revised Canons of Judicial Ethics. The draft constitutes a comprehensive revision of the current nearly half-century-old canons.

The draft of proposed new rules of judicial conduct, which was mailed to some 15,000 lawyers, judges, media representatives and other interested individuals, proposes standards covering a wide range of judicial ethics. The draft incorporates portions of a report circulated by the committee in June of 1970, important new provisions, and also reflects many suggestions received by the committee in response to its preliminary report.

The committee will welcome further suggestions in writing, and there will be opportunities to make suggestions orally at a public hearing Oct. 30 at the House of the Association of the Bar of the City of New York, 42 W. 44th St., New York, as part of a three-day meeting of the committee on Oct. 29-31.

A final draft will be submitted as an information report to the ABA when it meets at the Association's midyear meeting in New Orleans on Feb. 7-8, 1972. The proposed canons then will be submitted for House adoption at the ABA annual meeting in San Francisco, Aug. 14-17, 1972.

The present canons of Judicial Ethics were drafted by an ABA committee headed by then Chief Justice William Howard Taft and were formally adopted in 1924. Traditionally, the ethics codes for state judges are identical with or substantially similar to the ABA canons.

Upon adoption by the House, the ABA will follow past practice and request appropriate authorities in the 50 states and the Judicial Conference of the United States to adopt the revised canons as standards applicable to the conduct of all federal and state judges.

The revised canons for judges contain provisions designed to prevent conflict of interest. A new provision states that judges must disqualify themselves if they have any financial interest — "however small" — in a case that comes before them. This applies to Haynsworth, who owned shares in a company involved in an appeal to his court.

Another new provision specifies that judges must publicly report any compensation they receive from outside sources. This relates to Fortas, who was criticized when it belatedly became known that he had accepted a $20,000 fee from the family foundation of Louis Wolfson, the legally troubled financier.

Bernard G. Segal, then president of the American Bar Association, appointed the Special Committee on Standards of Judicial Conduct in 1969 and selected as its head Roger J. Traynor, former Chief Justice of the California Supreme Court, and now visiting professor of law at various law schools. The committee began functioning in September 1969.

Among the 14 committee members is King County Superior Court Judge **George H. Revelle.**

Federal Local Rule Amended

The 1966 amendments to the Federal Rules of Criminal Procedure made it permissible for defendants charged with crime committed in the Western District of Washington to be tried at any place within the district, Public Law 91-272, effective June 2, 1970, abolished divisions within the Western District of Washington. As a result, it is now permissible to try any civil case anywhere in the district.

The Court thought it advisable to have a rule providing for the assignment of cases for processing to the Clerk's offices in Seattle and Tacoma.

In the next few years it can be anticipated that about 40-42% of the Court's business will be handled by judges who are stationed at Tacoma.

Local Rule 4(d) (2) is deleted and of no further effect, and Local Rule 4(d) (1) is amended to read as follows:

"Case files shall be maintained in the Clerk's office in the city to which the case has been assigned for processing. All papers related to the case shall be filed in the Clerk's office in that city. Papers relating to cases which have not yet been assigned for processing may be filed with the Clerk in either of his offices."

Cases falling into the following categories shall be assigned by the Clerk for processing in the cities indicated:

United States tax cases, civil and criminal — Tacoma.

Habeas Corpus (Military custody) — Tacoma.

Bankruptcy matters — City where original petition filed.

Cases removed from Pierce, Kitsap, Mason, or Grays Harbor Counties or Counties south of them — Tacoma.

Cases removed from other Counties — Seattle.

All cases in which a part or all of the relief sought is release from custody of law enforcement officers, prison officials, parole boards, or the like, or a declaration that such authorities have no power over a person, where custody is at McNeil Island, shall be assigned to Tacoma for processing. All other such cases shall be assigned for processing to the city where the junior active judge has his official station, except that petitions for relief under 28 U.S.C. §2255 shall be assigned to the city where the original criminal conviction was processed.

The Clerk shall assign all other cases for processing according to the following rules:

(1) All civil cases involving only one defendant, who resides in the Western District of Washington: if defendant resides in Grays Harbor, Mason, Kitsap, or Pierce County, or a county south of them, the case shall be assigned to Tacoma; all other such cases shall be assigned to Seattle.

(2) All other civil cases shall be processed where they are presented for filing.

(3) Criminal cases in which the first count of the indictment or information charges that a crime was committed in Pierce, Kitsap, Mason, or Grays Harbor County, or a county south of them, will be assigned to Tacoma. Criminal cases in which the first count of the indictment or information charges that a crime was committed in some other county will be assigned to Seattle. All other criminal cases will be divided evenly between Seattle and Tacoma. Selective Services cases will be assigned to the city most convenient to the defendant's current residence, if known.

Prisoners given right to contact news media

Massachusetts prison inmates have a constitutional right to communicate their grievances to the news media, Federal Judge Charles E. Wyzanski Jr. has ruled.

In a decision that breaks new ground for inmate rights, Judge Wyzanski held that prison authorities might withhold from the mail only those letters that threatened security or jeopardized inmate discipline or rehabilitation.

Judge Wyzanski said that to sustain a "class discrimination" against grievance letters to the press would "permit prison authorities to govern men's lives on the basis of conjecture or of unexamined habits, not on the basis of expertness or experience."

Although he did not rule whether newsmen might write or interview prisoners, Judge Wyzanski nevertheless sharply restricted the traditional prerogatives of penal administrators.

Noting the qualifications in his decision, Judge Wyzanski said that "to refuse a prisoner the right to send a grievance letter to the press can hardly be justified on the ground that it will make him more submissive to authority, or teach him to obey without questioning or complaint, or subject him to a deserved suffering, or deter potential wrongdoers. Nor is there any reason to suppose that if other prisoners learn about the letter through its publication, they will become unruly."

COWLITZ REPORT
By O.H. HUSEMOEN

Cowlitz County has joined other counties and now has a Public Defenders System to handle indigent criminals. Commencing in the month of April, **Wayne Roethler** and **Jess E. Minium, Jr.** were retained by the County Commissioners to act as Public Defenders. All indigent criminals will be handled by the two attorneys unless it appears to the Court that there is a definite conflict.

The Prosecuting Attorney's staff has added **Darrell Lee,** formerly of Kent and the King County Prosecutor's office, as its Chief Criminal Deputy. **James P. Billberg** is now Chief Civil Deputy.

Don McCulloch has moved his office and is now associated with **Wayne Roethler.**

Last November the Cowlitz County elected a Board of Freeholders and **Odine H. Husemoen** has been serving as Chairman in drafting a Home Rule Charter for Cowlitz County. The final draft was completed and submitted to the County Commissioners at the end of June.

Judge **Alan Hallowell** is having continued success, this time on the golf course as his foursome won honors recently in a local tournament. At the same time, **Donald L. Donaldson** was attending the week-long conference of the American Public Power Association in Puerto Rico.

The City of Kelso was without a City Manager for a few weeks and **Robert Altenhof,** from the City Attorneys' office, filled in as the temporary City Manager. **David Hallin** has been acting as Judge pro tem in the Longview Police Court in recent months.

Harry Holloway III has associated with Port Townsend attorney A. C. Grady, left, and is shown in the middle here with Superior Court Judge Joseph Johnston after being sworn in to the Washington State Bar recently. Holloway, 26, is a graduate of Creighton University Law School.

EAST KING REPORT
By CHARLES F. DIESEN

Roy C. Mitchell, director of professional activities for the State Bar, spoke at the May 17 luncheon meeting of the East King County Bar Association. Traditionally the May meeting is held at Snoqualmie Falls Lodge where, in line with the tradition, a four course lunch was served.

Dick Beaudry has moved his practice from Seattle to Eastgate where he shares office space with **Hugh Stroh.** Dick spent several years with the Department of Labor and Industries, and part of a year in downtown Seattle before moving to Suburbia where he lives.

Melville Oseran, Gerald M. Hahn and **Robert C. Kelley** have moved their offices to the Business Center Building in Bellevue. They had been practicing together in Kent.

GRAYS HARBOR REPORT
By JOHN L. FARRA

The Grays Harbor Bar Association again invites all members of the Washington State Bench and Bar to the annual Salmon Derby. This year the event will be held on August 20. The gentlemen handling the derby this year are Ted Zelasko, Robert L. Charette, and the Honorable Warner Poyhonen. Any member of the bench or bar interested in obtaining further information about the Salmon Derby or signing up for the derby, please contact Ted F. Zelasko, Becker Building, Aberdeen, Washington.

The State Board of Governors met down in Ocean Shores on May 14. The Grays Harbor Bar Association put forth a cocktail hour on the evening of May 13. The cocktail hour and dinner were well attended by members of the local bar and the members

of the Board of Governors. The success of the function can be credited to Les Stritmatter, Paul Stritmatter, and David Foscue. The event on May 13th took place at the Ocean Crest Restaurant. On May 14th, the Board of Governors held a conference for the presidents of the county bar associations. Four local attorneys attended, John Schumacher, Omar Parker, Paul Bitar, and Ted Zelasko.

The local bar held elections on May 21, 1971. The following officers were elected: President, Paul Bitar; Vice President, Jack Burtch; Treasurer-Secretary, David Foscue.

The newest city in the State of Washington, Ocean Shores, has announced that Paul Stritmatter, Hoquiam Attorney, is the new Police Judge.

SEATTLE-KING REPORT
By LLEWELYN G. PRITCHARD

Thomas, Holman & Dawson has announced that **John H. Chapman,** formerly associated with McCord, Moen, Sayre, Hall & Rolfe, has become a member of the firm.

Local P.I. columnist Emmett Watson reports that **John Rupp,** general counsel for Pacific Northwest Bell, repeating a San Francisco quip, commented: "They have been married so long that they are on their second bottle of Tabasco sauce."

John M. Davis has been elected to the Whitman College Board of Trustees.

The ABA Young Lawyer Section lawyers in Public Service Committee, **Christopher Bayley** Chairman, will be sponsoring a luncheon in N.Y. at the ABA annual meeting at which Senator **Henry M. Jackson** will be speaking.

Gordon S. Clinton

CARE (Cooperative for American Relief Everywhere, Inc.) observing its 25th anniversary of worldwide service this year, marked the occasion in Seattle with a reception and benefit at the Eames Theater, Pacific Science Center, May 18. Proceeds from the benefit will provide food aid for some 1,000 needy refugee families not otherwise reached by CARE aid. Regugees have come in great numbers to Hong Kong, until today the colony, originally planned for 200,000 people, harbors 4 million.

Success of the event is credited to a diligent committee, three of whom are Seattle attorneys: **Gordon S. Clinton, Miss Muriel Mawer** and **Griffith Way.**

Mr. Clinton, former Seattle mayor, on a "flying trip" to the Orient in April took time out to visit the CARE office in Hong Kong and participate in a distribution of food packages to newly-arrived refugee families.

Pinckney Rohrback has been elected Chairman of the Shoreline Community College Board of Trustees.

Superior Court Judge **Nancy Ann Holman** has received an award as the Alumna of the Year at Boston College Law School.

The Seattle-King County Bar Association has elected the following for the coming year: **Jack P. Scholfield,** President; **Betty B. Fletcher,** 1st Vice-President; **Burroughs B. Anderson,** 2nd Vice-President; **Harold F. Vhugen,** Treasurer; **Walter H. Hageman, Jr.,** Secretary. For Board of Trustees for a three-year term, ending June, 1974; **Brian L. Comstock, David D. Hoff,** and **Edward N. Lange.**

SKAGIT REPORT

Michael Lewis has become a partner with Alfred McBee in Mount Vernon. A 1970 graduate of the U. of W. Law School, he recently returned from Fort Lee, Va. where he took training as an Army first lieutenant.

SNOHOMISH REPORT
By MICHAEL W. HERB

District Court Judges **Donald Priest** and **Faye Collier Kennedy** and Deputy Prosecutor **Don Hale** conducted two mock trials for the Washington State Legal Secretaries Association in Snohomish County on April 28th and May 21st. Former Snohomish County Superior Court Judge **Charles R. Denny** is now serving full-time as a pro-tem judge in King County Superior Court. The firm of Newton & Newton, after fifty years, has changed its name designation and will now be known as Newton, Newton & Kight.

On April 26, 1971 **Bruce Jones,** city attorney for Everett, broke a new informal record by jogging 1½ miles in 11 minutes

and 32 seconds at the Woodway High School track in Edmonds. Two witnesses (and the only spectators) were Bruce's boys, Jeff and Brian.

SOUTH KING REPORT
By STEPHEN C. JOHNSON

Yes, attorneys and Judges, there is an Enumclaw and you are all invited to the Association's annual golf tournament on July 30, 1971. As usual we will adjourn directly from the links to the posh surroundings of the Enumclaw Bar Association's Country Estate and Polish Sausage Factory for a short repast and award ceremony. Following the lead of the legislature supported by an A.G.'s opinion the clock will then be turned ahead to August 10, 1971 for the purpose of conducting charitable raffles and bingo games. Reservations should be lodged through Phil Biege, General Delivery, Enumclaw.

THURSTON-MASON REPORT
By STEPHEN J. BEAN

Gerry L. Alexander was recently elected President of the Thurston-Mason County Bar Association. The Bar Association also voted to establish a Young Lawyers' Section, and it is rumored that **F. Parks Weaver, Jr.,** who crusaded for the Young Lawyers' Section, will accept a meaningful draft for the position of Presidency.

Following the lead of Judge **Hewitt A. Henry,** Judge **Frank E. Baker** recently purchased a new home near the Olympia Country and Golf Club and is expected to lower his handicap considerably.

Speaking of new homes, neither Judge Henry, Judge Baker, nor **Argal Oberquell** have had the open house to which the Bar Association expects to be invited, so unless one or all of the above invite the Bar Association soon, President-Elect Alexander has tentatively planned on the Bar Association inviting itself to one or all of the above-mentioned individuals for an evening of potation.

Stanbery Foster, Jr., is about to purchase a home and his open house, open to all members of the Washington State Bar Association, will be Friday, August 13, 1971.

WALLA WALLA REPORT

Daniel N. Clark, 28, has returned to Walla Walla to practice with Stephen M. Ringhoffer. A 1968 graduate of the law school at the University of California at Berkeley, he joined OEO legal services in California, most recently being executive director at Vacaville. Problems of pollution, traffic, and the fast, unstable growth of the San Francisco area led to his return to Walla Walla. "Once you've been away from Walla Walla for awhile you realize what a beautiful and appealing area it is," he said.

Schematic plans for remodeling the Hall of Records building, located adjacent to the courthouse, for use as the county law library have been submitted to the Board of County Commissioners. Vernon McFall, architect who prepared the plans, estimated that the cost of remodeling the building for use as a law library would be more than $35,000. **Jack Williams,** a member of the local law library committee, said the County Bar Association has endorsed McFall's plans.

YAKIMA REPORT
By RANDY MARQUIS

Changes:

Anthony Arntson announces removal of offices to Suite B, 313 So. 11th Avenue, Yakima, effective June 1, 1971.

Acquisitions:

Jon Martin has returned to the firm of Martin & Marquis on a para-professional basis for the second summer in a row. **James Kennedy,** a classmate of Jon's, occupies a similar position with the firm of Halverson, Applegate & McDonald.

Bar Business:

On May 26, 1971, a new slate of officers was placed in power. **James B. Hovis** is the new president of the Yakima County Bar Association. Other officers are as follows: Vice President: **Howard Hettinger;** Secretary: **F. James Gavin;** Treasurer: **William Almon;** Trustees: **Philip Noon, Vince Beaulaurier, Robert Willis.**

Bar Picnic:

Informed sources report that the annual Yakima County Bar Picnic held on June 12 at the century-old Ahtanum Mission was a distinct success. It was reported by picnic chairman **Bill Weigand** that there was a noticeable lack of games of chance in spite of **George Twohy's** persistent advocacy of maintaining the long-standing tradition of gambling for fun. With reference to the annual confrontation on the ball park between the young and the not-that-young, determination of the victor was submitted to arbitration since the umpire could not reach a decision.

Briefly Noted

Boldt to Chair Law-School Committee

United States District Court Judge **George H. Boldt** has been appointed chairman of a University of Puget Sound ad-hoc committee to review a proposal to establish a law school at the university. Judge Boldt and the 10-member committee will study the financial feasibility of such a school and how it would fit into the priority structure and long-range plans of the university.

New Addresses

Professor **George Neff Stevens** has left the School of Law at Texas Tech University and may now be found at Hastings College of Law. **J. R. Cissna** has left Federal Way and may be found in Cissna Park, Illinois.

King County Local Rules

There have been recent additions and amendments to the Local Rules of the Superior Court for King County, effective June 1, 1971. Changes have been made in Rule 33 — Interrogatories to Parties, Rule 40 — Assignment of Cases, Rule 94.04 — Divorce Actions, Rule 36 — Admission of Facts and of Genuineness of Documents, Rule 77(C) (5) (I) and 79(d) (5) — Sealed Files, Rule 94.04 —Divorce Actions, Rule 101.28 — Probation Revocation Hearings and Rule 101.04(j) — Presentence Reports.

Status Report

The **Code of Professional Responsibility** has now been adopted in 31 states. In 11 other states (including the State of Washington) and the District of Columbia, the Bar Association has approved the Code and petitioned the state's highest court for adoption. That leaves only eight states where no definitive action has been taken yet.

Carrying out duties of the Ninth Circuit Court of Appeals are three University of Washington Alumni — from the left, Judge M. Oliver Koelsch, '32, LLB '35; Judge Frederick G. Hamley, LLB '32 and Judge Eugene A. Wright, '34, LLB '37.

Hourly Rate Up

After giving due consideration to the revision upward in other cities and counties in the state and country and to the increased cost of the practice of law, the Seattle-King County Board of Trustees increased the general services hourly rate under the **Minimum Fee Schedule** from $25 to $35. Also, trials in or attendance in United States District Court and Superior Court for a full day was increased from $225 to $300. For post-trial motions, the full day suggested minimum was increased from $225 to $300.

Harris Named to Commission

State Representative **Edward F. Harris,** Spokane Republican, was appointed by Gov. Dan Evans to join the State Utilities and Transportation Commission. The salary is $23,500 a year. The term will expire January 1, 1973.

Young Lawyers Form Environmental Law Committee

The Washington State Young Lawyers Committee recently formed an environmental law subcommittee. The basic purpose leading to the formation of the committee was the realization that in many parts of the state environmental law problems do not receive proper attention due to the inavailability of interested lawyers. The purpose of the committee will be to put lawyers interested in environmental law problems in contact with groups and organizations working in the environmental area. A related purpose of the committee will be to work with other bar committees on environmental problems.

Anyone interested in becoming involved in environmental law is invited to contact Committee Chairman Harvey S. Poll at 920 Logan Building, Seattle 98101, Mutual 2-8020.

McLAUGHLAN AT LARGE

Dean Lewis H. Orland, Gonzaga School of Law.

Dean Richard Roddis, U of W School of Law

Board Member John Ripple et ux Spokane

(L. to R.) Del Cary Smith, Jr. et ux, Spokane Bar Pres. and Frank Hayes Johnson et ux, Spokane Bar Vice Pres.

(L. to R.) Richard E. Schultheis, Port Orchard, Kitsap Bar Pres. and Paul E. Sinnitt, Tacoma, Chairman Legal Education Liaison Committee.

The Clark Committee Report

Continued from page 6)

possible for a committee which is composed of members who deal with the lawyer against whom the complaint has been made day in and day out, for them to adequately judge him in the first place, and secondly for the public to believe that any judgment that results from that process is indeed a fair judgment.

We do not permit that kind of close contact when we try cases involving non-lawyers, and I do not suggest by that that because lawyers in a local community know the attorney against whom the complaint has been made, that there is any banality in their handling of those complaints. It is simply too much to ask of a human being for him to deal objectively with someone he has known for many years, worked with for many years and whom he will have to continue to work with the day after the hearing on the complaint has been held.

So we have suggested that disciplinary jurisdiction be put on a state-wide basis, and in those states which are too large to have one committee effectively handle the entire state, to have that committee divided into regional committees around the state, recommending that in no state there be more than four such committees. Our feeling being that in New York, for example, where four could handle it, that being the largest state, that certainly is enough of a division for the rest of the United States.

Delay

The third major problem which the Clark Committee found involved the question of delay. If you go across the United States, the time between the receipt of a complaint and the final imposition of discipline varies from a few months to more than five years. Now, obviously as we all know, if it takes five years to process a complaint that is neither fair to the complainant nor to the public if the public should be protected from the lawyer against whom the complaint is made, nor is it fair to the lawyer who is accused of misconduct if he should be, and indeed later on is found to have been unjustly accused.

Part of the problems resulting in delay are lack of financing, manpower, experienced staff attorneys and so forth. But there is also a part of that delay which is due to the kind of structures which are in existence. In some states there are two or three or four investigations and re-investigations of the complaint as it goes from a local agency to a state-wide agency and then to a court agency.

In some states lawyers accused of misconduct are accorded more due process than is a man accused of first degree murder facing the death penalty. So the Clark Committee suggested that the procedures be streamlined, that there be an investigation to determine whether or not a formal hearing should be held, that a formal hearing should be held in those cases where it is recommended, but then there is a recommendation to the highest court for the imposition of discipline.

This would avoid multiplicity of investigations and of hearings and should substantially reduce any kind of delay which is due to the structure of the disciplinary process.

Professional Staff

Another major problem in most states is the lack of a professional staff, or a professional staff which is inadequate to handle the job. This, of course, depends to a large measure on the first problem I mentioned, the question of adequate financing, The fact is that if you do not have a professional staff engaged in disciplinary enforcement then you must rely upon the work of volunteers, and while volunteers are willing, and in many states there are a good number of them, the fact is that the volunteer that is a private practitioner owes his first obligation to his private practice, so his efforts in the field of enforcement are those to which he can devote his spare time.

The use of the volunteer also means that you have an inexperienced individual investigating complaints and processing them. You have a lack of records, you have all the kinds of problems that result when you do not have a professional staff trained in the subject in which they are supposed to act.

So we have recommended that a professional staff be developed in each jurisdiction to handle the investigation and presentation of misconduct cases. We do not suggest and would resist any suggestion that the volunteers be removed from the grievance committee, or from the judging process.

We strongly believe that private practitioners, volunteers who are themselves engaged in practice and know the difficulties and problems that a lawyer faces in everyday practice, are the only ones who are capable of doing the judging, but we do recommend that as far as the investigation and the prosecution in cases is concerned, that be turned over to a professional staff.

The next problem that we found was the problem of those areas of misconduct, and they are

usually systematic areas of misconduct, which simply are not going to result in complaints. There are lawyers, not many but some, who engage in misconduct with their clients, whereby both the client and the lawyer gain some benefits. Perhaps the most widely known example is the falsification of claims, or perhaps immigration frauds whereby an ineligible alien is brought to the United States through a fake marriage which is dissolved as soon as they get to this country.

Systematic Misconduct

Now, that kind of misconduct is not going to result in a complaint, because the client is not only not hurt, but actively encourages that kind of misconduct to gain some benefit from it, yet, if the profession is to carry out its responsibility of ridding itself of those members who should not be permitted to practice, it must investigate those known areas of misconduct even though they do not generate complaints.

Now, very few disciplinary jurisdictions make any effort in this regard, and that is largely the result of inadequate resources and staff, but given adequate resources and staff we suggested that disciplinary committees seek ways of obtaining information about such systematic misconduct and initiate investigations into them with the purpose of ridding the attorneys who engage in that kind of misconduct from the profession.

Resignations

Another problem which we found, is the problem of accepting a resignation from an attorney who is under investigation. Many attorneys accused of misconduct who know they cannot successfully defend the charge and do not want to go through the trauma and expense of defense, offer to resign when the complaint is still in the investigative stage.

It used to be that those resignations were accepted, and there was good reason for that because, first of all, the attorney who resigns becomes ineligible to practice, and is therefore removed as a threat to the public long before the attorney who insists upon a full-fledged hearing and a court determination.

Secondly, where there are limited resources, the attorney who resigns saves the resources of the disciplinary agency for the difficult and contested proceedings, but a difficulty cropped up. Many attorneys who resigned would, two or three or four years after the resignation, move for reinstatement, and they would allege that they had resigned, true, but they didn't resign because they were guilty of the complaint, but because they got poor advice from their attorney, or they became frightened, or for any reason other than that they were guilty of the conduct alleged.

Well now, it is four years later and a disciplinary agency faced with such a claim is required to show that the attorney resigned because he, in fact, was guilty of the complaint pending four years before, but the complainant may no longer be around, essential evidence may no longer be available, witnesses may have died. As a result, a number of states have passed rules refusing to accept resignations while a complaint is pending precisely to avoid this kind of problem, because such a rule, a refusal to accept resignations, requires a formal proceedings with a record of evidence, but the difficulty with that procedure is again the public is not protected as properly as it could be if the resignation were accepted, and the disciplinary agency is required to use substantial resources in prosecuting a complaint involving an attorney who wants to resign.

We have recommended, therefore, that resignations be continued to be accepted, but as a condition of acceptance the attorney is required to file an affidavit in which he in effect admits that he is resigning because he has committed the acts alleged in the complaint. We suggest that that affidavit be sealed so that it cannot be used in any civil or other proceedings against the attorney, because that is not the purpose of the disciplinary process, but then the affidavit is available if, at some future date, the attorney moves for reinstatement alleging that he was not really guilty of the complaint pending at that time.

Reinstatement

Another problem which we found, that disbarred attorneys are too readily reinstated in many jurisdictions. When an attorney is brought up on charges and those result in a formal proceeding before the court, the court has one of three choices generally: censure, suspension, or disbarment.

When the court disbars the attorney it has, in effect, said, "Suspension is inadequate and this man should be disbarred". And the word "disbarment" carries the connotation, at least to the public, that this is a permanent revocation of license.

The Clark Committee was very much split on this question. Some of us felt that disbarment ought to mean what it says, and that the Ohio

practice, for example, ought to be followed. Ohio has a rule of the Supreme Court which says, in effect, any man disbarred shall never again be permitted to practice law.

Other members of the Committee felt that rehabilitation was a possibility, although they acknowledge that rehabilitation was a difficult thing to prove, but we all agreed that the practice in some of the courts of reinstating disbarred attorneys, merely on a showing that a certain minimal period of time had elapsed, and nobody knew of any further conduct in which the disbarred attorney had engaged, was an inadequate basis upon which to reinstate.

That practice is so bad in some states that you have a situation where the attorney who is suspended for a specific number of years must await the expiration of that period of time before moving for reinstatement, while the disbarred attorney, who has no period of time involved in the disbarment order, can apply and in some cases has been reinstated before the attorney suspended for a specific number of years.

And so, the Clark Committee recommended that, as a minimal requirement, no attorney who has been disbarred be permitted to reapply for admission until the expiration of a period exceeding the maximum period that the court in that jurisdiction uses for the imposition of suspension. Generally speaking, in the country that would be five years. But no attorney who has been disbarred may apply for reinstatement until at least five years have passed, and that in applying for reinstatement the burden be on the attorney to show continued legal competence which would permit him adequately representing clients if he were readmitted, and the burden on him to show evidence of rehabilitation. Something beyond the mere fact that he has not been caught again since his disbarment.

Self-Discipline

The final problem I would like to discuss with you today is the problem which I think is going to be one of the most difficult ones to resolve. The legal profession uniquely is given the right and, indeed insists upon the right, to discipline its own members.

Now, it seems to me, and it seemed to the Clark Committee, that part of that responsibility was the reporting by lawyers of major acts of misconduct of which they become aware. If the profession can indeed and claims that it can discipline itself, then obviously if a lawyer knows of a substantial act of misconduct by another lawyer he must report that to the disciplinary agency. That is the only way the system can work, and indeed it is the only way the profession can maintain credibility in this area with the public.

And yet, the fact is that lawyers and judges generally exhibit a reluctance to report instances of misconduct. That is an understandable reluctance, but it is one that must be overcome if the system of self discipline is to be preserved. And our credibility is further harmed in this area because of the fact our Canons of Ethics, or Canons of Judicial Ethics, and now the Code of Professional Responsibility, all say that this is the obligation of attorneys and judges and yet, while we write it into our rules every time we revise our rules we keep that provision, we simply do not do anything to see to it that that requirement is observed.

In fact, everybody who has been involved in enforcement knows of numbers of cases which not only a second lawyer has known about in time and not reported it, but he will very often have communicated with the first lawyer on behalf of the client, and said, "If you don't do this and that I am going to report it to the disciplinary agency".

In some cases that demand by the second lawyer has forced further misconduct by the first lawyer in order to avoid a report. A perfect example is in the area of conversion.

An attorney takes funds of client number one. Client number one in desperation goes to lawyer number two. The lawyer number two contacts lawyer number one and says, "Unless you make restitution, I am going to report you."

Lawyer number one, in order to avoid that report and to make restitution comes up with the money that he has converted. Perhaps three or four years later a disciplinary agency finds that lawyer number one got the money to make restitution from client number two, whose funds he had in hand at that time.

This is a serious problem, and as I say, it reflects upon the entire credibility of the profession in this area of disciplinary enforcement.

The Clark Committee recommended first of all, an educational program within the profession to make lawyers aware of the importance of this requirement.

Secondly, we recommended that in aggravated circumstances where an attorney has failed to report a substantial act of misconduct of which he

was aware, then it seems to me, and it seemed to the Clark Committee, that perhaps sanctions ought to be imposed against the second lawyer for not reporting it, for violating the Canons of Ethics or the Code of Professional Responsibility as it were in that regard. □

Next Issue — How Does Washington State Measure Up in the Area of Disciplinary Enforcement?

Change: Challenge to the Law
(Continued from page 8)

but also the rule of law. Can we emerge from the tests of the 1970s without bringing into being a government "too strong for the liberties of its people?"

I cannot, of course, engage in prophecy.

But I cannot ignore existing evidence.

Over recent years, we have seen emerge a consistent pattern of response from government beseiged.

Whether the challenge has been to war policies or peace policies, whether to foreign policies or domestic policies, government has more and more answered criticism with aggressive overreaction. Increasingly, there has been resort to tactics which can only be described as repressive.

On this again, as on so much else, I would point out that the war issue—the Vietnam issue—has distorted our perception. Our attention has focused on the action involved in preventing disorder in the street. Yet, in the process, our attention has been diverted from the action involved in twisting old and cherished traditions of the law.

This is not idle rhetoric. We all read of last year's poll in which a majority of Americans declared themselves ready to restrict the freedoms guaranteed by the Bill of Rights. Some of these rights, such as the right to privacy, are already in jeopardy. But the problem goes beyond this. The illusion that we can buy social order at the expense of civil liberties has already been translated into statute by Congress, most recently in the District of Columbia crime bill enacted last year.

I invite your attention in particular to the concept of preventive detention embodied in that bill. It was sold to Congress as an imperative for a war against crime in the streets. Implicit in the argument of its advocates is the idea that preventive detention is no real concern of the law-abiding citizen.

Yet I would contend that this argument is an adaptation of Orwellian "Doublethink."

The very purpose of preventive detention is to permit the jailing of citizens not for cimes they have committed but for crimes—in the opinion of the authorities—they might commit.

The existence of such a power—so alien to all the principles of the rule of the law—should properly disturb the law-abiders more than the lawbreakers.

For such a power is the first power of tyranny.

If such a power exists, then it changes the import and meaning of other activities which government is increasingly asserting as its right—activities such as wire-tapping, surveillance of private citizens, public villification of political views of those in private organizations, public denunciations against and attacks through public agencies on the media which exist to inform the citizenry.

The power to detain citizens for crimes which they might commit is not far removed from the power to detain citizens for words they might speak or thoughts they might think.

I dislike speculating—as I am sure you do, too—about directions so foreign to our traditions.

Yet disarray in public affairs and weakness in government provide the climate in which totalitarianism has flourished most rapidly.

I speak as I do because I believe that "The time of peace may test the sincerity of our faith in democracy."

The decade we are entering is to be a testing time.

Our challenges at home—our challenges abroad—will be many.

But let us not deceive ourselves.

No greater challenge lies before us than that of preserving the rule of law in our volatile society.

The custodians of that tradition cannot be passive.

We must concern ourselves with the law's relevance, its responsiveness and its rightness.

We must concern ourselves with the law's oneness.

We must concern ourselves with the law's directions.

If our Life, Liberty and Pursuit of Happiness are threatened by our adversaries' aggressiveness, they are no less threatened by our own passivity.

Law will rule our land only so long as those of us who study it, practice it and make it devote ourselves with courage to its safe-keeping. □

The Courts

SUPREME COURT PRACTICE

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

The 1971 legislative activity will have some effect on appellate practice:

S.B. 449, effective August 9, 1971:

A — Substitutes a $25.00 fee for the former $5.00 appellant's and $3.00 petitioner's filing fees.

B — Eliminates the filing fee for respondent, formerly $2.00.

C — Provides that counsel of record and criminal defendants shall be furnished a copy of the Court's opinion without charge.

D — Increases the cost of a certificate of admission to practice from $1.00 to $2.00.

E — Extends the right to costs on appeal to criminal as well as civil cases.

F — Amends RCW 80.04.190 to provide standard procedures for an appeal of a judgment of a superior court reviewing a determination of the Washington Utilities and Transportation Commission.

S.B. 122, effective August 9, 1971:

Amends over 120 statutes to include the Court of Appeals in statutes involving appellate procedures.

Requested Legislation which failed included S.B. 57 and H.B. 176, identical bills. Both bills were passed by the house in which introduced, but both died in Rules in the other house. The bills amended RCW 10.01.112 to authorize the expenditure of public funds for the payment of court-appointed counsel representing an indigent petitioner seeking a writ of habeas corpus in the Court of Appeals or Supreme Court.

Having become involved with the subject of legislation, it may be of value, particularly to prevailing counsel on appeal, to invite attention to a statute apparently overlooked by at least half of counsel filing a cost bill. RCW 4.84.080, provides in part:

> When allowed to either party, costs to be called the attorney fee, shall be as follows: . . . (5) In all actions where judgment is rendered in the supreme court, after argument, fifteen dollars.

A later, but still nineteenth century enactment, RCW 4.88.260:

> Costs shall be allowed in the supreme court . . . to the prevailing party as follows: . . . twenty five dollars attorney fees . . .

RCW 4.88.260 is limited to civil cases whereas RCW 4.84.080 is not, but there seems no real explanation for the inconsistency. In any event the practice is to approve in civil cases a cost bill for attorney fees in the amount of either $15.00 or $25.00 and to assume a $15.00 bill is a gesture of gallantry on the part of the prevailing party.

THE COURT OF APPEALS

By **ROBERT F. UTTER**, *Judge*
Division 1

Judge **Herbert Swanson** will be participating as an instructor in the Seminar for Trial Judges held at the Criminal Justice Education and Training Center in Issaquah, Wash., July 12 through 16. He will lecture on the subject of "Practical Suggestions for Avoiding Common Errors on Appeal." Judge Swanson was invited to attend the Appellate Judges Seminar held at the University of Alabama April 27 through 30. Appellate judges from many regions of the United States were present and an opportunity was given to review many of the administrative and legal questions facing appellate court judges throughout the country.

* * *

The Joint Editorial Board is a 10-member body established in November 1970. Its Chairman is Judge **Charles Horowitz** and one of the board members is **Malcolm A. Moore** of Seattle. It consists of 5 members of the National Conference of Commissioners on Uniform State Laws, and 5 members of the American Bar Association Section on Real Property, Probate and Trust Law. Its duties concern the **Uniform Probate Code.** It is empowered to confer with legislative commissions throughout the country, organize institutes for the presentation of the Code to Bar Associations and other interested groups, and to review and evaluate changes in the Code proposed by state legislative commissions or other interested groups to make sure that such changes are consistent with the overall purposes and benefits of the Code.

The Uniform Probate Code won approval of the National Conference of Commissioners on Uniform State Laws and the American Bar Association in 1969, after seven years of study. It

is intended to provide relatively simple and modern methods for the handling of estates and trusts and the affairs of infants and disabled persons. The code has been enacted in Idaho with minor changes. Arizona and Hawaii have engaged reporters to study the code on behalf of their legislative bodies. New Jersey has introduced legislation to enact some provisions of the code immediately and study for adoption other provisions of the code. In the state of Washington, Senate Bill 313, introduced in the 1971 session of the State Legislature has been placed in the hands of the state judicial council for study, report and recommendation to the state legislature.

The code is at this time under study by bar associations and other interested groups in at least 35 states.

* * *

The judges of all divisions of the Court of Appeals met at Alderbrook Inn to discuss common problems facing the court. Concern was expressed over the growing backlog of cases. Division I reported it was unable to set for the spring term 135 cases that were ready to be heard. Division II was unable to set 50 ready cases and Division III 30 ready cases for the spring term. Civil settings for Division I were approximately one year behind, and criminal cases, by virtue of the priority accorded to them, accounted for 74% of the cases set for the spring term. A committee composed of Judges **Vernon Pearson, Harold Petrie, Charles Horowitz, Frank James, Raymond Munson,** and **Dale Green** was appointed to study ways by which appeals might be expedited.

* * *

The judges unanimously agreed to request the Bar to refrain from filing requests to withdraw as appointed counsel in criminal cases. The procedure, to date, where counsel has believed an appeal to be wholly frivolous has been for him to so advise the court and request permission to withdraw. That request must, however (1) be accompanied by a brief referring to anything in the record that might arguably support the appeal; (2) be accompanied by a copy of counsel's brief being furnished to the indigent; (3) be accompanied by time allowed him to raise any points that he chooses; and (4) the court—not counsel—after full examination of all the proceedings, should decide whether the case was wholly frivolous. *State v. Theobald*, 78 Wn.2d 173, 470 P.2d 188 (1970); *Anders v. California*, 386 U.S. 738, 744, 18 L. Ed. 2d 493, 87 S. Ct. 1396 (1967). This procedure has been unsatisfactory from a standpoint of the resolution of the issues and effective use of the time of both counsel and the court. It is believed the customary method of presenting claimed errors in the appellate's brief, without a statement by counsel of his belief on the merits of the claimed errors, will be more satisfactory in resolving the issues on appeal.

SUPERIOR COURT NEWS

By ROBERT M. ELSTON, *Judge*
King County Superior Court

The following state superior court judges are scheduled to attend the National College of State Trial Judges this summer: **Nancy A. Holman, James A. Noe** and **Horton Smith** (King); **Robert J. Doran** (Mason-Thurston); **Harry A. Follman** (Island-Skagit); **Alan R. Hallowell** (Cowlitz); **B. J. McLean** (Douglas-Grant); **Edward P. Reed** (Clark); and **Byron L. Swedberg** (San Juan-Whatcom). The judicial college program is a four-week session from which 1,450 of the nation's state trial judges (including 40 from Washington state) have graduated. The faculty includes outstanding authorities including U.S. Court of Appeals Judge **Eugene A. Wright** (formerly King County Superior Court Judge) and King County Superior Court Judge **George H. Revelle.**

* * *

Professor John C. Coughenour, University of Washington School of Law, this spring again conducted a Moot Trial program as part of his course in Trial and Appellate Practice. The following judges presided over trial of two evenings' duration: King County Judges **Keith M. Callow, Robert M. Elston, Edward E. Henry, Frank D. Howard, James W. Mifflin, James A. Noe, George H. Revelle, Frank H. Roberts, Jr., Charles Z. Smith, Horton Smith,** and **Stanley C. Soderland** and Kittitas County Judge **W. R. Cole.**

* * *

Judge **W. R. Cole** (Kittitas) will attend a two-week graduate session. He is a 1967 graduate of the college.

* * *

Judge **Charles Z. Smith** (King) has been appointed to the faculty of the National College of District Attorneys (Houston) for its two summer sessions involving district (prosecuting) attorneys from throughout the United States. Judge Smith will conduct a class in "The Judicial Function (Criminal Justice System)."

Office Practice Tips

The 1971 Legislature created one additional superior court judgeship in each of the following counties: Clark, Island, and Pierce. These positions will be filled by appointment by the governor.

NEWS FROM THE COURTS OF LIMITED JURISDICTION

By MURRAY A. McLEOD, *Judge*
Aukeen District Justice Court

The Washington State Magistrates Association (WSMA) has set its annual conference for the last week-end in September to be held in Yakima. The emphasis this year, according to Judge **Gary Utigard,** President, will be on more general theory and problems facing the courts as a whole, rather than the practical workshop aspects held in the past. This has come about largely due to the granting of funds for the use of Providence Heights College for training workshops for judges of Courts of Limited Jurisdiction. Judge Utigard has expressed his hope that as many of the judges as possible will be able to attend this most important function.

* * *

H. B. 188, which passed in this past session of the legislature, allows for the alternative use of the name District Justice Court or District Court for those courts and that the judges thereof be referred to as District Judges. The Board of Governors of WSMA has adopted the use of the name District Court and would request all members of the bar to modify their pleadings, captions and other references to those courts in line with the new change.

* * *

The Washington State Chief Clerks and Administrators Association for Courts of Limited Jurisdiction held a training workshop the week of June 7th at Providence Heights College. The workshop funded by a grant from the state highway traffic safety commission, has placed a great deal of emphasis upon the handling, calendaring, accounting, and planning for traffic matters, an area of continual growing importance in the lower courts.

* * *

Judge **Murray A. McLeod,** Aukeen District Court, King County, was granted a scholarship to attend the alcoholism workshop in Salt Lake City, Utah the week of June 12th.

Probate Data Sheets

Whenever I set up a new probate file I first select a multiple file, described in an earlier article, then pull a probate data sheet and probate schedule. The schedules vary depending upon the type of probate. There are separate schedules for probate of wills, administration, special administration and homestead. The information on the data sheet pretty well covers what is required for each category. Our particular data sheet is set forth on the opposite page.

There is always a question of judgment as to how much information should be put on a data sheet. There really isn't any point in covering everything required by a Federal Estate Tax Return, because when you know you are getting an estate involving a federal return it makes much better sense to substitute a Form 706 for the data sheet in the first place. The only thing that it lacks to be a complete data sheet is the telephone number of the client and a reminder to review the client's last income tax return for clues of any property that the client might have failed to mention. All executors are primarily concerned about the amount of the tax and the sooner they know that you are working on it the happier they will be. There is nothing more annoying than to have your inventory and appraisement in the Court file, the time for filing claims expired, and turn to the 706 only to see that there are a dozen personal questions unanswered and your client is not available just when you have the time and the mood to work on it. Actually if we start with a 706 the schedules can be copied on a copy machine and used for the general inventory and appraisement in the probate file without duplicating work.

Harry E. Hennessey

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

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

Probate Data Sheet — Decedent

Name of Deceased _____ Age _____ Soc. Sec. No. _____

Date of Death _____ Place of Death _____

Will Dated _____ Where Found _____

Witnesses _____

Property in Washington: _____

_____

_____

Value: Real $ _____ Personal $ _____ Separate $ _____ Community $ _____

Annual Rents, Issues & Profits $ _____ In Other States _____

Petitioner _____ Address _____ Phone _____

Admin. _____ Address _____ Phone _____

Insurance on Decedent: Ordinary Life $ _____ Beneficiary _____

Annuities $ _____ Beneficiary _____

On Surviving Spouse $ _____ Beneficiary _____

Transfers Within Five Years _____

Joint Bank Accounts, Stocks, etc. _____

Preferred Creditors: Funeral $ _____ Paid _____ Cemetery $ _____ Paid _____

Last Illness $ _____ Paid _____ Expenses of Admin. $ _____ Paid _____

Other Known Creditors: _____

_____

_____

Offsets: Taxes $ _____ Assessments $ _____ Mortgage or Contract $ _____

Liens $ _____

Appraiser _____

Heirs at Law - Devisees	*Relationship*	*Age*	*Address*	*Share*

Medical Expense, Interest, Taxes, Contributions, etc., for income tax return to date of Death _____

Former returns checked for assets _____ Title insurance policies and Deeds for descriptions _____

Securities for Listing _____ War Bonds for Listing _____ Certificate of Ownership for automobiles for listing _____ Dividends and interest paid on life insurance _____ Benefits: Soc. Sec. _____

Union _____ V.A. _____ Fraternal _____ Wages Due _____ Insurance coverage checked _____ Taxes Checked _____

The Board's Work

The State Bar's Young Lawyers Committee will be asked to review the subject of possible **specialization** in legal practice, the Board of Governors decided at its May meeting at Ocean Shores.

A special Bar committee, chaired by Cleary S. Cone of Ellensburg, in late 1968 had recommended unanimously against certification of legal specialists and there has been no further official Bar consideration of the subject.

Despite some *de facto* specialization and the belief of some lawyers and others that specialization may be in the public interest, the practical obstacles to any program of certification have been regarded by most bar associations as too difficult to overcome. But the American Bar Association and others have continued to examine the subject, and in February 1971 the California Supreme Court approved a pilot program in specialization at the request of the California Bar's Board of Governors.

In view of the extensive research of the subject since 1968 and the inception of pilot programs elsewhere, the Washington Board felt a fresh look at the possibilities is indicated.

At its May 13 meeting the Board of Governors also:

√ Heard an explanation by Richard R. Hodge of Tacoma, Disciplinary Board chairman, and Charles I. Stone of Seattle, chairman of the Special Committee on Discipline, on a number of proposed changes in the **Rules for Discipline of Attorneys.** The Board discussed the draft at length and agreed upon several changes.

√ Approved stipulations between the Disciplinary Board and **two attorneys** for transfer to **inactive status** by the attorneys.

√ Dispatched a variety of business affecting individuals, including bar-exam applicants and requests to represent indigents in Federal Court.

√ Approved two opinions of the **Legal Ethics** Committee.

√ Discussed a Law Office Management Committee recommendation that the association sponsor an **economic survey** of the Washington Bar, and decided to obtain information about possible firms which could provide such a survey.

√ Received with thanks a Benton-Franklin Bar Association **invitation to hold the 1972 Bar convention in** extensive new facilities in **the Tri-Cities,** and decided to investigate the possibility thoroughly.

Ethics

On occasion lawyers approach the Legal Ethics Committee with a question, only to be referred to the black desk book. The following informal responses are of interest:

Service Charges on Attorney's Fees

You inquire concerning the article from a publication called *Lawyers World* published in March 1971.

The article in question is written by a W. H. Short of Houston, Texas, an individual associated with the data processing business. It is entitled "Service Charges for An Attorney's Accounts Receivable." Needless to say, Mr. Short urges service charges on past due fees and opines: "The legal profession can learn some basic economic and psychological facts from our manufacturing and retail contemporaries."

Mr. Short's suggestion has been rejected, previously, in Washington. The rejection is based on the theory that the legal profession is somewhat removed from the business of merchandising bananas, kitchen appliances, fertilizer or other items of commerce. This subtlety seems to have escaped Mr. Short.

Please see Opinion 143 (May 1970) of the Legal Ethics Committee of the Washington State Bar Association which may be found in your Desk Book.

The Banks Do It — Why Not Us?

You ask if your firm could publish a bulletin to send to your clients offering your firm of lawyers as executors in estates. You enclose a copy of a flyer published by an Everett Bank entitled "Why *shouldn't* my husband name me as executor?" The article contains enough broad generalizations, as to the perils of probate, to frighten any unsophisticated testator into the Trust Department of the bank.

It is suggested that you read Opinions 8, 23, 103 and 117 of the Legal Ethics Committee published in your Desk Book furnished by the Washington State Bar Association. Also read Canon 27. It is an established principle that the executor named in a will is free to obtain counsel of his choice. He is not bound to retain the attorneys who drafted the will. If a member of the firm of attorneys who drafted the will is also named as executor that freedom of choice is not present. Thus, an attorney should act as an executor reluctantly, and only upon the unsolicited urging of the client for compelling reasons relating primarily to the well-being of the estate.

Lawyer/Public

The California Bar, often in the forefront of innovative activities, 29 years ago broke new ground when it employed a full-time director of public relations. The man, Berton J. Ballard, a former newsman, turned out to be a fortunate choice; before he retired several months ago he virtually created the role of bar public relations.

His basic conclusion, expressed in a "farewell" newspaper interview, is this:

The individual lawyer through his day-to-day contacts across his desk and in the community is the most effective vehicle of public relations for the bar and the legal profession.

"Lawyers have come to depend perhaps altogether too much on 'push button' public relations by way of TV and have forgotten that their real strength lies in their local person-to-person and community activities," Ballard said.

"That is to say, lawyers, through better service and through informing the local public as to what they are doing, can meet the problems of public relations for the bar and for the bench much more readily than can a highly geared, highly expensive TV or advertising program which is always being proposed by somebody."

He noted that the telephone company recently took a survey and "found that among people who liked the company best and the people who hated them the worst, the one factor which overrode race, age, economic status or political considerations, the one thing that made the difference in public relations was service to the individual.

"The sooner the lawyers find that out — that it's in the things that happen across their desks and in their relations to the community — the better the public relations of the bar are likely to be."

—Public Relations Committee

Twenty Years Ago

The convention neared. Honorable Harold R. Medina, United States Court of Appeals, was named the banquet speaker.

The expense to those attending is, of course, always pertinent. This was no exception. The rates published ran from $2.50 per room with washbasin only to $16.00 per couple. It appears that the average rate for two was about $9.00. These, of course, were somewhat lower than those running up to $35.00 for members who wish to enjoy the American Bar convention this summer.

BIRTHS

Mitchell G. Kalin appointed Superior Court, Grays Harbor County by Governor Langlie.

Elected to the Board of Governors, **J. H. Gordon** of Tacoma and **Harold A. Pebbles** of Olympia.

The Thurston-Mason County Bar elected **Ernest L. Meyer,** President, and **Hewitt Henry,** Secretary.

Walla Walla Bar named **Charles F. Luce,** President, and **Matt J. Ennis,** Secretary-Treasurer.

Spokane County Bar called **John Huneke,** President, and **Kenneth E. Gemmill,** Vice-President.

Seattle Bar elected **DeWitt Williams,** President, **Henry W. Cramer,** First Vice-President, and **Shirley N. Holland,** Secretary.

Former Supreme Court Judge **George B. Simpson** and his son **Donald Simpson** opened as partners in their own building in Vancouver.

In Spokane County, **W. Kenneth Jones** and **Harvey W. Clark** opened in Justice **Frank Weaver's** former quarters.

Karl V. Herrmann and **Everett A. Stinson** opened in Millwood.

DISSENTERS

To the dismay of some, **Kenneth A. MacDonald,** Seattle attorney, announced that he and 23 others had organized the Washington Committee for Conscientious Objectors. MacDonald explained, "Our primary purpose is to defend the rights of conscience in periods of tension. We propose to inform individuals conscientiously opposed to war of the various legal channels open to them and to assist them to analyze and clarify their thinking on war with special regard to moral and religious principles."

***

M. W. Bean, in the Seattle Daily Journal of Commerce, quotes Irvin S. Cobb who remarked, "If it ever becomes my misfortune to go insane, I hope to be living in Washington, D.C., where I will not be noticed." Times have not changed. Witness SST.

David J. Williams

Notices

Wanted and Unwanted

For Sale: Wash. Dig.; Rapkin-Johnson Legal Forms; Towne Wash. Prac; and Executive law office furniture. W. Laurence Wilson, 18029 - 85th Pl. W., Edmonds 98020 (PR 6-8466, evenings).

For Sale: Wash. Dig. Vols. 1-13 (26 books) 1969 supp.; Am. Jur. (current) (replacement cost, $1,200; value, $800); Wash. Prac. Vols, 2, 5 & 6; Jones on Evidence (6 vols.); Wigmore on Evidence (10 Vols.); Williston on Contracts; Williston on Sales; and 1-Model 47CA Thermo-Fax Copying Machine. Any reasonable offer accepted. Contact Skagit County Prosecuting Attorney, Courthouse Annex, Mount Vernon 98273 (336-6106).

For Sale: RCW current, $150. Arnold Sadler, 5250 Rainier Ave. S., Seattle 98118 (PA 2-7171).

For Sale: Wn. Rpts.; Wn. Dig.; CJS; Wn. App. Mrs. Arthur Giblin, 3891 - 44th N.E., Seattle (LA 3-2409).

Books Needed

Editor:

Recently we have taken an inventory of our Law Library here at the State Penitentiary and find it quite depleted.

It is wondered if you would be so kind as to inform the judges and prosecutors plus as many of your friends as possible and see if they would be willing to donate any law books from their libraries to the Law Library here.

The books could be sent to us in care of the State Librarian here at the Institution.

CLARENCE M. ROBINETT
Law Clerk-Librarian
Walla Walla 99362
P.O. Box 520-126-334

Will Information Sought

Anyone having any information pertaining to the last will and testament of Bertha Edwards, please contact Leon L. Wolfstone, 1117 Norton Bldg., Seattle 98104 (MU 2-3840).

Important Inheritance Tax Change

The recently adjourned Legislative Session made an important change in RCW 83.44.010 providing for a reduction in time for paying inheritance tax without interest from 15 months to 9 months. The reference is to HB 213, which became chapter 132, Laws 1971 1st Ex. Session.

The effective date of the act is September 1, 1971. The Department of Revenue construes the effect of the bill to be that the new 9-month time limitation applies to the estates of decedents whose date of death is on or after September 1, 1971.

The same act amends RCW 83.40.020 to require that copies of the Federal return shall be filed with the department on the same time schedule as required by the Internal Revenue Service.

RESOLUTIONS

Any member of the Washington State Bar Association may at least twenty (20) days before the opening day of the annual meeting (September 9, 1971) present to the Resolutions Committee, in writing, any resolution pertaining to the legal profession or to the Association, or to any officer or committee of the Association or other appropriate matter, for consideration at such meeting. (See Article IX, Section 5 of the Bylaws of Washington State Bar Association.)

The members of the Resolution Committee are:

Harold Pebbles, Olympia, Chairman
Jerome F. Combs, Tacoma
William Fraser, Bremerton
Russell V. Hokanson, Seattle
George W. McCush, Bellingham
Richard H. Riddell, Seattle
Darrell E. Ries, Moses Lake
Charles Scanlan, Spokane
Jerome R. Walstead, Longview

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) Eastern Washington farm-community lawyer seeking someone to enter partnership and eventually take over practice which includes two offices.

(2) Federal Government seeking hearing examiners at salary levels generally exceeding $24,000.

(3) Attorney with 14 years' experience private practice and 5 years as corporate staff counsel, Seattle-area layoff victim, will re-locate anyplace in this state or Northwest.

(4) Large service corporation seeking attorney to become corporate officer with responsibility for wide range of commercial and tax matters.

(5) Attorney in Washington ocean beach area seeking someone to take over most of his practice and to act as city attorney.

Calendar

CPA Seminars

The Washington Society of Certified Public Accountants conducts a series of professional development programs and invites lawyers to attend those which may be of special interest to them.

Information may be obtained from the Society's offices, 347 Logan Building, Seattle 98101.

Among scheduled seminars which may interest attorneys are these:

Professional Corporations, July 9, Sea-Tac Thunderbird, Seattle, $60; Protecting Your Practice Against Liability, July 23, Ridpath, Spokane, $50; Farm Accounting Seminar, August 19, Rivershore, Richland, $20; Unaudited Financial Statements, August 20, Rivershore, Richland, $35; Subchapter S Corporations, August 20, Rivershore, Richland, $55.

Deadline for next issue of the *Bar News* is July 27, 1971.

July 14-18	1971 Annual Meeting of the Lawyer Pilots Bar Ass'n. at Salishan, Gleneden Beach, Oregon.
July 21-25	1971 World Conference on "World Peace Through Law and World Assembly of Judges," Hotel Jugoslavia, Belgrade, Yugoslavia.
July 31 - August 1	National Conference on Medical Malpractice and Doctor-Lawyer Relationship in Los Angeles . . . sponsored by CEB and Medical-Legal Society of Southern California in Los Angeles.
Aug. 29 - Sept. 4	National College of Advocacy, sponsored by ATLA and Hastings College of the Law, at Hastings in San Francisco.
Sept. 9-11	Annual Meeting of the Washington State Bar Association in Portland, Oregon at the Portland Hilton.
Oct. 10-15	8th Annual Hawaii Tax Institute at the Princess Kaiulani Hotel in Waikiki.
Dec. 3 (Friday)	1 to 6 p.m., Washington Civil Trial Practice, State Bar CLE seminar. Ridpath Hotel, Spokane.
Dec. 11	9 to 4, Washington Civil Trial Practice, State Bar CLE seminar, Olympic Hotel, Seattle.
Dec. 18	9 to 4. Washington Civil Trial Practice, State Bar CLE seminar, Evergreen Inn, Olympia.

Convention Speaker OEO Legal Services Director

Fred Speaker

A special program has been arranged by the State Bar Legal Aid Committee for 4:30 p.m. Thursday, September 10, during the Bar convention in the Portland Hilton.

Fred Speaker of Washington D.C., the Office of Economic Opportunity's new director for legal services, will talk on the philosophy and emphasis of the federal legal services program, and the availability of federal funding for new programs, most particularly in non-metropolitan and rural areas.

Speaker in 1970-71 was Pennsylvania attorney general. Earlier he had been in private practice, was assistant to Governor Scranton, served on the Nelson Rockefeller presidential campaign staff and was counsel to the majority leader of the Pennsylvania House of Representatives.

Officers and leaders of local bars are especially urged to attend the session, Bertram Metzger Jr. of Seattle, Legal Aid Committee chairman, said.

State Bar Association
Annual Meeting
September 9, 10 and 11, 1971
Portland Hilton
Portland, Oregon

Remember to make contributions to the Washington State Bar Foundation

WASHINGTON STATE BAR ASSOCIATION
505 Madison Street
Seattle, Washington 98104