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WASHINGTON STATE BAR NEWS

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# The Greening of The Bar

*There is a revolution coming. It will not be like revolutions of the past. It will originate with the individual and with culture, and it will change the political structure only as its final act. It will not require violence to succeed, and it cannot be successfully resisted by violence. This is the revolution of the new generation.*

**Charles A. Reich**



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## More From Steele

Editor:

Reckon you have room in your tabloid for a real editorial?

PAT STEELE

Tacoma

*Enclosed was an editorial from the July 30, 1971, Tacoma News Tribune:*

*Offer any criminal a choice of where he would prefer to serve his sentence, in a state or federal prison, and you can bet he would leap at the chance to put in his time with Uncle Sam. It is fairly well known that federal prisoners have it pretty good and none knows it better than the man who has served time in both.*

*Thus it is that a charge of "barbaric" conditions at McNeil Island federal penitentiary by five inmates in a suit that came before U. S. District Judge William Goodwin this week seemed a bit fanciful and capricious. And the Tacoma jurist found the charge to be just that — ridiculous — and threw it out of court.*

*The convicts specifically complained of conditions in the isolation units known as "the hole" and charged being sent there for disciplinary reasons amounted to "cruel and unusual punishment," a violation of their constitutional rights.*

*In dismissing the petition Judge Goodwin, in effect, issued a reminder to disgruntled inmates of why they're behind bars in the first place — they're paying for crimes committed against society. For that reason, he observed, a federal penitentiary "is not intended to be a Hilton Hotel type of institution."*

*Well put. Prisoners who find "the hole" cruel have a simple solution. Behave so as to stay out of it.*

## Rating The Judges

Editor:

I read with amazement and disappointment a news item wherein the Board of Governors of our association were seriously considering promulgating a program wherein the judges of the Superior Court would be rated by the practicing attorneys. As I understand it, the rating would consist of, amongst other things, a rating regarding temperament.

I personally do not feel that the judges should be placed in a position of conducting a popularity contest and I do not feel the Bar should fault a judge because he erred in regards to a conclusion of law. Having been a member of this Bar for approximately 19 years, I have observed a considerable change in the standards of the jurists on the King County bench and state by and large we have a judiciary of which we can all be proud. I do not feel that a judge, in hearing a particular matter, should be worrying about how popular he is with counsel who are appearing before him. If a judge behaves in a discourteous manner to counsel, the attorney can always talk to the judge in chambers and if the judge's conduct continues being ill-mannered and discourteous, there is always the remedy at the polls.

A conscientious and hard working judge makes many sacrifices by undertaking that position and once you start this program of rating the judges, the next thing that will follow will be releases to the press, and the judge instead of conscientiously following his judicial duties and dispensing justice as he feels it should be dispensed will be worrying about how good an impression he is making in front

of counsel and clients appearing before him.

I think we would be better off by diligently serving our clients, doing thorough research and spending what extra time we have in raising the image of the legal profession in our various communities.

HARRY C. WILSON

Bellevue

## Mandatory Bussing

Editor:

In keeping with the times, the Washington State Bar Association has adopted the one-man one-vote rule. This of course, has the effect of concentrating the power of the Bar Association in the Seattle area and decreasing the influence of the cow counties.

To overcome this injustice I have drafted the following resolution. You will note that it likewise adopts a mod solution to the newly created problem.

I am sending this resolution directly to you. I am concerned that if I sent it to the resolutions committee, they might approve it and this of course would mean rejection by the membership.

I am also enclosing a charter lease schedule from Greyhound Lines and also a new bus price list from GMC, so that the Bar can consider the relative merits of leasing or owning buses.

ROBERT A. FELTHOUS  
Selah

### RESOLUTION

*WHEREAS, the Washington State Bar Association has now adopted the one-man one-vote rule, and*



*WHEREAS, such creates an imbalance of representation by area, a majority of the lawyers living and practicing in Seattle and*

*WHEREAS, such imbalance is against the principles of democratic government,*

*NOW, THEREFORE, BE IT RESOLVED that commencing forthwith the Washington State Bar Association shall bus a proportionate number of Seattle attorneys to other areas of the State of Washington so as to bring about a proper and fair balance of representation by area.*

## Past Due Accounts

Editor:

The July *Bar News* carried an informal ethics opinion on "Service Charges on Attorneys' Fes."

May I say that I have also read Opinion 143 (May 1970) of the Legal Ethics Committee" . . . which may be found in your Desk Book.

It remains my opinion that not only would the discretionary imposition by lawyers of lawful carrying charges on delinquent accounts be compatible with our Canons of Ethics, but also such additional charges by attorneys do not necessarily demean the profession. Here, may I also observe that not all of the commercial world is unscrupulous; and merely following acceptable business practices certainly need not demean the lawyer.

It is my strong recommendation that our appropriate committees (management, ethics, etc.) take a more careful and objective look at some hard and fast facts of life.

RUSSELL W. NEWMAN

Seattle

As I write this, my first article for the "President's Corner," I have not yet taken office, but am performing one of my first unassigned and non-compensated duties. I am looking down on the beautiful gardens of the New Otani Hotel in Tokyo, for in company with Walter and Kay Robinson, my wife Edna and I are examining the abilities and efficiency of Jack McLauchlan's Travel Committee of the Washington State Bar (of which Walter Robinson is a member).

For those of you who have not availed yourselves of the opportunity of travel on one of the Washington State Bar sponsored trips, I highly recommend that you do so, as this committee has done a superb job.

As I looked over the hotel gardens to the square across the street, I noticed a group of protesters gathering. Soon the police arrived and the protesters marched off down the street, surrounded by police. I have no way of knowing what this group was protesting, but I stopped thinking about the beauty of the gardens and the hospitality of Japan, and began to think of some of the problems that we are facing in the Washington State Bar and its related associates.

I was shocked to hear that at the time of the giving of the last Bar examinations applicants taking these examinations showed up barefooted, and one even showed up without a shirt — pants only. Being over 30 and apparently one of the Establishment, it is impossible for me to understand this apparent lack of respect. My first impulse is to think "Is this a product of our law schools, and if so, what are they doing?" My second thought is "Have I grown so old that I have lost contact with fact? How can we expect respect for our courts from this



attitude?"

My considered thoughts are that there must be a lack of communication, and possibly there is a reason for this. Therefore, I hope that in my small way during this next year I can create a more open communication between the Bar Association, the law schools and the Judiciary. Maybe then I will understand how we will be able to secure the necessary respect for our courts even though we are allowing applicants to reach the final point of joining our profession without apparent respect for anything.

After a thorough examination, if it should be determined that the attitude of those taking the Bar is wrong, should it then be the duty of the schools to eliminate these students if they can't eliminate the attitude? Or must we adjust our profession and our courts to meet a changing world to allow such so-called freedoms?

Let us hope that with a closer relation of the Bar, Judiciary and law schools, and the assistance of all of their various members, that during the coming year we will find some answers beneficial to all three.



## Editor's Note

What happens next? Some say that the affirmative vote on the five resolutions submitted by the Young Lawyers constitutes a mandate to the board to implement the principles enunciated in the resolutions. Others speak in less forceful terms, calling the vote advisory to the board.



Creation of the office of president-elect and election of the president-elect by the membership can be brought about through amendment of the bylaws of the State Bar by the Board of Governors (Article XIII of the bylaws). An alternate course for amending the bylaws would be for 250 active members of the bar by petition to refer the bylaw amendment to a vote of the entire membership (Article IX, § 8 of the bylaws).

Expansion of the Board of Governors from seven to twelve and implementation of the one-lawyer, one-vote principle could be brought about through legislative amendment, court rule or court test litigation. RCW 2.48.030 establishes the board as having a member from each congressional district. Change may well be available through the legislature; one-man, one-vote is a well-worn concept in that body.

The possibility of change through court rule, without legislative repeal of RCW 2.48.030, is an open question. *In Re Chi-Doo Li*, 79 Wn.2d 561, 563, n.2 (1971) (integration of the bar by rule).

The success of change through court test litigation is also less than clear. There is a case to be made. See: Sarasohn & Zuckman, "One Lawyer — One Vote: The Application of One Man One Vote to the Integrated Bar," *Journal of the Missouri Bar* (Sept. 1970).

It would be refreshing if the Board of Governors took the initiative and led the way. But time is short. The 1972 special session of the legislature is near. However, there is still adequate time to prove that the bar in this state is not a thoughtless defender of the status quo but is interested in democratizing its government and organization.

*Edmund B. Rafes*



## Quotes Quoted

### The young lawyers' 'revolt'

As events at last week's Washington State Bar Association convention made plain, the young lawyers' "revolt," already evident elsewhere in the nation, is shaking up the legal profession in the Pacific Northwest.

*The shake-up is healthy, refreshing and long overdue.*

The impetus for legal reforms in this state is largely from within the Young Lawyers Section of the Seattle-King County bar.

At the state convention, young-lawyer-sponsored resolutions sought changes not only in the Bar Association's internal structure (direct election of its president rather than by the board of governors, for example) but called for new approaches by the profession itself.

One of the most significant resolutions was one calling for investigation of procedural reforms (computerization to expedite court scheduling, group legal insurance, etc.) and for greater bar involvement in such contemporary problem areas as the penal system, drug abuse and consumer and environmental protection.

Last week's debates on these and other issues reflected the concerns of activist young lawyers in several parts of the country, where there are demands for ending abuses of the legal process, including disproportionately high legal fees.

For too long the legal profession as a whole has conducted itself as a sort of "closed shop" in which self-designated rights and privileges (including the sole power to discipline its own members) have insulated the bar from public-interest criticism.

But as *Fortune Magazine* has commented, society's grant of monopoly to the bar in such areas as probate, real estate and divorce and its heavy reliance on lawyers to achieve justice carries a special duty to make competent services reasonably available to all citizens.

*The "angry young men" in the profession may well be guilty of certain excesses, such as diminishing the dignity of the courtroom and using litigation as a political tool.*

By and large, however, the long-term effect on the bar's "establishment" should prove therapeutic and the lay public will welcome a continued drive for change.

*Editorial*  
*The Seattle Times*  
*September 13, 1971*

# THE GREENING OF THE BAR

By Slade Gorton

Late last year like some new comet from outer space Charles Reich's "*The Greening of America*" flashed into the consciousness of reading Americans; some felt that it stated the dilemma we face as a nation; others, considered less sophisticated, felt that it was fuzzy at best, nonsense at worst.

None of you who know me personally will be surprised when I say that I'm not quite ready to leap headlong into Reich's Consciousness III. While the good Professor is certainly thought-provoking, I would have to agree with one of the more articulate critics who concludes that most of his ideas have been stated better by others.

Nevertheless, the restlessness and disaffection with which *The Greening of America* deals touches a responsive chord in all of us, a pair of qualities which is at least as evident in the Young Lawyers Section of the Washington State Bar Association as it is in New Haven, Connecticut. So perhaps the Greening of the Bar is not inappropriate as a title, not only for this talk but for your functions.

Certainly yesterday's classic victory, successful because you touched the consciousness of others in the Bar Association, is an example of the Greening of the Bar.

Even if you accomplish nothing more revolutionary than to lead your fellow lawyers to a renewed sense of the social purpose of their profession, you will have made a significant contribution. But that sense of purpose must necessarily be the cause of more tangible changes, not

only in what we do but in how we do them.

Inevitably, of course, those who for whatever reason cling to the status quo will reject as "political" or "impractical" some of the suggestions we share for more intensive bar commitment. No doubt some of these same objectors or their philosophical predecessors laid their bodies in front of the reformers who insisted upon doing away with demurrers or upon providing one's adversary with the right of discovery as to unprivileged matters relating to one's case. Such people are unlikely to hear a cry for reform however articulate. But this audience need not be told that some of our institutions simply aren't working properly.

The 1933 legislature created the integrated bar, which I suspect Professor Reich might denominate a classic example of Consciousness I. Even that level, of course, is not without its moments of leadership in legal and social reform. The educational functions of the bar have been consistently successful; and while somewhat belated, its contributions to the very substantial problems of providing legal services for the poor can neither be overlooked nor deprecated. Finally, the success of the Washington Bench Bar Press Committee literally has us standing alone in the quality of the working relationships among these three interests in the entire nation.

Nevertheless, it is very, very difficult to take issue with the proposition that these and other projects have barely scratched the surface of the needed reforms in which the legal profession should be a leader rather than a follower in the State of Washington.

The efforts at reform directed at the structure of the Bar Association itself which were ratified

*Excerpts from the address of the State Attorney General to the State Young Lawyers Committee on September 11, 1971.*



yesterday were particularly significant, at least as a start.

The Seattle-King County Bar Association recently raised its minimum hourly fee for legal services to \$35, joining the Pierce County Bar Association in so doing. No doubt others have or will soon take similar action, marching resolutely into the 1970's with respect to fees. Moreover, I am advised that there was an entertaining session during this convention on the fine art of realizing one's financial potential as a lawyer by effective fee-setting and collection. I dare say, notwithstanding the fact that there was also a session on the legal aid program, that in the aggregate we spend much less time on, and commit much fewer of our resources to, the problems of affording legal services to the poor than we do to the problems of charging "professional" fees to our more regular and affluent clients.

Let's face the facts. When we speak in units of \$35 per hour, each of us knows that except for affluent business clients, and in areas in which at least plaintiff's counsel is more commonly compensated by a contingent fee, only a tiny percentage of Washington's citizens can afford such rates even under emergency circumstances. Not only are the poor in need of legal services which they can afford, but the average employed person, even when earning ten or twelve thousand dollars a year, must have available to him legal services in a fashion which does not threaten personal bankruptcy.

The Supreme Court of the United States has

stated that "collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment." Rather than giving its begrudging acceptance to legislation which almost inevitably will be forced on the profession by a resentful public, the Bar Association should lead the way toward practical methods of spreading legal costs, a practical way of insuring against catastrophic personal legal expenses, and the provision in appropriate areas of group legal services.

Next, the role in which the State Bar Association has been portrayed as the leading and in fact the only organized opposition to automobile insurance reform clearly reinforces every negative impression most laymen have of the legal profession. With or without the support of the organized bar, it must be clear that the state and nation face immediate major changes in the way in which compensation for personal injuries from automobiles are handled. These changes are likely to be at least as significant to the bar as the adoption of the federal rules of civil procedure in our courts. If the Bar Association does not take the lead in proposing an improved system of compensation for automobile injury victims, then, besides offering laymen proof that our concern for his well-being does not extend beyond our fees, we are likely to be subjected to ill-advised and unworkable legislation.

Nor, can any of us be satisfied with the Bar's lack of leadership in the field of correctional reform. While concern for correctional reform must extend far beyond the Bar Association, no single group is better able to combine technical skills with a commitment to reform as well as we can.

Some of you may have heard me speak of the complex problems of the reform of the legislative process following the completion of this year's session. The legislature is perhaps the classic example of the debilitating effect of anachronistic forms even on dedicated and concerned members. No matter how many of our friends are elected to the legislature, its product is not likely to improve until its procedures do. The commitment of the Young Lawyers' Section to the basic reform of the legislative system through making public the method of financing political campaigns, the activities of the lobbyists, and the conflicts of interest of individual members, is a reform in our legal system which would be hard to match for significance.

*(Continued on page 16)*

# REFORM OF THE STATE BAR

By Tom Alberg

When the Bar Association asked me to appear in this program, they suggested that they title my talk: "The Young Turks." I objected to the title and we ended up with the enlightening topic: "Reform of the Bar Association." I objected to the title "Young Turks" because I don't look upon what the young lawyers are doing as anything very radical. I even think most young lawyers consider themselves as part of the establishment. I also believe that we overemphasize the distinction between older and younger lawyers.

The resolutions which were adopted at yesterday's business meeting could not have passed if they had not received substantial support from older as well as younger members of the bar. Many younger and older members share common concerns that reform is needed. I think what we are seeing is that some of the younger lawyers are more willing to devote their time and energies to accomplishing some of these reforms and I hope that the older members will join with us in working on some of these.

Many older lawyers have asked me what do you mean, reform. I am going to speak briefly on the reform of the legal profession, and society, generally.

## Reform of the Profession

Several of our speakers at this convention have referred to a recent Fortune magazine article, which, to say the least, is not flattering to the legal profession:

"The profession as a whole has more the char-

acteristic of a medieval trademen's guild, jealously guarding its rights and privileges. Much of the public's dissatisfaction with the bar arises from misuse of its fiercely defended guild-like monopoly rights."

"By and large . . . their ethics leave a lot to be desired."

"Many lawyers . . . accept more clients than they should and . . . serve them inadequately."

"Not infrequently attorneys embezzle clients' funds or give them bad advice about their rights."

If we are to improve our profession and to improve our standing in the community, more than cosmetic changes are needed.

What do younger lawyers propose?

## Legal Competence

In the area of legal competence, the State Bar Association could (1) establish an experimental program for lawyer specialization; (2) support a greatly expanded effort in continuing legal education (an effort, which happily the Association has recently announced that it intends to undertake); (3) encourage (and perhaps educate) legal assistants; and (4) establish a computerized legal research system (Washington is several years behind the leading states in this).

## Ethics

Related to competence is our standard of ethics. The young lawyers have urged the prompt adoption of the new code of professional ethics, the adoption of which has been unnecessarily delayed but which now appears headed for approval by January 1, 1972. We undoubtedly need stricter enforcement and perhaps a greater willingness to discipline for poor workmanship.

*Delivered on September 11, 1971 at the annual meeting of the State Bar in Portland. Mr. Alberg is immediate past chairman of the young lawyers section of Seattle-King County Bar Association.*



### **Adequate Legal Services For All**

We need an expansion of support of the legal services programs, so that adequate legal services are provided to all citizens in all parts of the State, irrespective of their ability to pay. We have highly successful programs in some areas, but the equivalent of no program in others. In how many areas can a poor person obtain a divorce? Not many.

There are numerous other programs that the Association should become involved in, at least on an experimental basis, to improve legal assistance. An example is the use of prepaid legal insurance for middle income families.

### **Reform of Society**

The last general topic of reform is the most difficult for many lawyers to accept as an appropriate subject for the organized Bar. They ask: Why should the Bar Association participate in reforming society?

It is true that the Bar has neither the resources nor inclination to reform all of society. Moreover, not all members of the Bar will agree on particular solutions.

On the other hand, younger lawyers see no reason why the Association must avoid controversy, and, assuming that a substantial majority of the Bar agree on certain reforms, why the Bar shouldn't actively support those reforms? Lawyers, since the beginning of this country, have played a major role in shaping and reforming our institutions. They are in many ways uniquely privy to the secrets and operation of politics and government. As a result they have a special expertise in a number of areas and can make important con-

tributions to solving problems that confront society.

Let me suggest two quite unrelated examples: (1) disclosures and ethics of public officials and (2) discrimination. There is growing public concern about the conflicts of interest of public officials and younger lawyers believe that the Bar should play a leading role in developing and advocating means for eliminating conflicts of interests. The Bar is not unconnected with such problems — the Seattle-King County Bar Association has recently created a fair campaign practices committee, which will address itself to a code of ethics for legislators, with particular emphasis on the lawyer/legislator. The new Lawyers' Code of Ethics illustrates part of the problem of conflicts of interest by lawyer-politicians when it prohibits the use in the firm name of the name of any full-time public official. The Young Lawyers Section is participating in the Coalition for Open Government, which is a broadbased group that is drafting a series of initiative proposals relating to campaign disclosures, income disclosure by legislators and lobbyists' reporting. These are efforts that the State Bar Association should also support.

In the area of eliminating discrimination, the Bar has a number of opportunities. I have already mentioned equal legal representation available to all. Related to this are special legal assistance programs, such as free legal assistance to minority businesses. The Bar can also take some direct steps in its own province — it must afford equal opportunity of employment for all — regardless of race, religion or sex.

The Bar can also assert moral leadership in its community. A fine example of this was the adoption by the Association of the resolution prohibiting meetings at any private club which discriminates on the basis of sex. This also applies to discrimination on the basis of race or religion.

This is the program of the Young Lawyers, or, if you will, the program in the future for the Washington State Bar Association.

I should say that I don't claim to speak for all younger lawyers. They are not monolithic; nonetheless, there is a new and growing body of young lawyers who seek substantial reform of the system. They populate large and small firms, plaintiffs' and defendants' firms, they are embarked on careers in which they practice tax law, real estate law, criminal law, and corporate law. They expect to become senior members of the Bar — members of the establishment. They also have a vision of a better world. □

# TO HOLD THE STATUS QUO

By Carl Maxey

Roy Mitchell in his invitation said, "Come over Carl and talk about conspiracy and contempt; after all you came out of the Seattle Eight trial smelling like a rose." And I told him that there were a lot of smells that emanated from that trial but that I didn't believe it produced any rose-like scent.

But I do wish to publicly say that Judge Boldt exercised wisdom, patience and capacity in the highest degree and it was a pleasure to work in front of him.

De Tocqueville said lawyers are the American elite class and this is true. As another speaker said, we run the country. We affect more lives than doctors, sociologists and engineers. In effect, we are the ones who make, pass, and enforce the laws.

My ten minutes will be spent discussing the atmosphere created by lawyers and judges that cause contempt and disruption conditions in the courtroom; that cause conspiracy trials and unrestrained conduct. And it argues well that we should accept the program of the Young Lawyers.

Our Chief Justice Warren Burger tells us that civility has been lost amongst us lawyers and that social progress cannot be expected from the courts. To me, this is an affront to the thousands of young men who are flocking to the law schools in hopes of bringing about a peaceful social revolution in our country.

It is not consistent with the best interests of

*Delivered on September 11, 1971 at the annual meeting of the State Bar in Portland. Mr. Maxey was Senator Jackson's opponent in the last primary election and practices in Spokane.*

justice. The Chief Justice sees himself in sort of a modern day "Ulysses" role:

"To mete and dole unequal laws unto a savage race.

To hold the status quo."

Indeed, his appointment and that of Blackmun and those attempted appointments of Haynsworth and Carswell were politically accomplished to turn the court around, almost as if by deliberate design to see that the next generation was made sure to inherit all the gut shaking problems that this one has.

Judicial reform has come to symbolize speed and not quality. An all-out effort to cut the case load, but not to cure the injustice. We have a rebirth of the nation hiding behind the old shibboleth, "Our job is to protect society — not to change it."

I rise to say that I do not approve of contempt on the part of lawyers towards the court and I equally do not approve of contempt of judges towards the people. There should never be a return to that day when a judge, by the public washing of his hands, removes the guilt of indifference, hostility, membership in clubs that discriminate or incompetence. No one should accept the decisions simply because we are all members of the establishment.

It reminds me of an atmosphere that prevailed in part of World War I when pilots used to fly over the fields of their downed adversaries and gently drop roses to them, while down below in the dirt, in the grime, in the mud, hundreds of thousands of people were being killed in hand-to-hand combat.



I would hail the young lawyers to have the feeling of Eugene Debs:

“While there is a lower class — I am of it.  
While there is a criminal element — I am of it.  
While there is a soul in prison — I am not free.”

Young lawyers must love the law and must treat it with great care and respect as an institution that they can change, can grow in and keep judges young of mind and well informed. A good and fair court is the only security that any of us have.

The people have a right to look to the courts and to lawyers for progress, protection — not as constant bastions of the status quo, which is exactly what the American Bar Association and most State Bar Associations have become. Our nation casts about like a small boat at sea, and our courts reflect this, too. The country is rent between the young and the old, the black and the white, the conservative and the radical. There appears to be little or no national purpose, and our courts have helped cause this because they have not enforced quality justice nor involved themselves deeply enough in the causes of crime. Poverty, racism and neglect are the problems of every judge and of every lawyer and this will provide in its answer a quiet court room. Court room disruption in itself accomplishes nothing but disaster. And while I cannot speak for the Seattle Eight defendants, they seem to speak for themselves, I do believe that even they at this late date would recognize this.

Every day in America we see justice trampled in a thousand different ways by the court.

The Judge who automatically gives probation to the middle class white offenders because of their “social resources,” but denies it to the poor, the black, the Indian or the Chicano, because they are bad risks. Look at the case of young George Jackson — 19 and off to Soledad for a \$70 robbery. Seven years in solitary confinement.

Judges who hand down indeterminate sentences — three years to life. What a gamut for any person to have to run. It gave birth to a Rutchell McGee.

The court’s conduct at the Chicago Conspiracy trial was certainly as reprehensible as that of the defendants.

The judicial backing up of the government’s use of informers, provocateurs, taps, the selling of dynamite, the pushing of dope by the alleged informer.

The judge that last year sentenced a 19 year old black to 1,000 years for rape in Oklahoma.

The judge who sentenced a 20 year old black in Texas in 1970 to 1,500 years for rape.

The whole spectrum of judicial behavior in the Smith Act trials in the ’50s.

The judge in the 7th Circuit who for 30 years publicly admitted on the record he has never given probation to a draft law offender.

It was the courts that approved the internment of the Japanese in the 1940s — one whole ethnic group of American citizens placed in concentration camps.

The judges who decided *Plessy v. Ferguson*, who let the country exist under the doctrine of “separate but equal facilities.”

*(Continued on page 16)*

# WASHINGTON PRINCIPAL AND INCOME ACT

By Lyman W. Hull

On January 1, 1972, the Washington Principal and Income Act will take effect, establishing for the first time in this state a comprehensive set of guidelines for fiduciaries in accounting for receipts and disbursements among the interests of their beneficiaries *where the instrument itself does not so provide*.

House Bill 66 (Chapter 74, Laws of 1971) was passed by the Legislature at the 42nd Regular Session, signed by the Governor on March 23, 1971, and will be codified as a separate Chapter in title 11 RCW.

Trustees, their counsel and accountants should become thoroughly familiar with the terms of the Act and review trust instruments now in administration to assure future compliance with the law and avoid the possibility of a surcharge. While the Act promises greater consistency for the future in trust accounting it does so at some expense to present flexibility.

House Bill 66 originated with the Corporate Trustees Association of Washington, an organization of bank trust departments which found that the burgeoning trust business in Washington brought an increasing number of problems in administration. Lawyers, accountants and trust administrators were responding with conflicting answers to questions of allocation of income and expense between income beneficiaries and remaindermen. There were few guidelines provided

by Washington case law and only two statutory provisions which dealt only with corporate distributions.<sup>1</sup> The best solution appeared to be the Uniform Principal and Income Act the original version of which had been adopted in whole or in part in 26 states, and the 1962 revised version in 13 states.<sup>2</sup>

The Uniform Act was revised in several relatively minor respects by the Corporate Trustees to bring it into conformity with Washington practice and was submitted to the Judiciary Committee of the Legislative Council. It was retouched by the Council and by the Legislature before final passage. But the final version, as adopted, varies only slightly from the 1962 Revised Act of the Commissioners.

The function of this article will be to explain the application of the Act, describe briefly its essential provisions, point out changes in the law, and to spotlight some drafting considerations. We will also risk naming a few things that the Act isn't or doesn't do since they have been the subject of frequent inquiry during its legislative travels.

## APPLICATION

On January 1, 1972, the Act will become effective as to all trusts, whenever created, whether

1. RCW 23.74.010; RCW 23.74.020. We have excluded RCW 11.04.250 from the category of allocation statutes because it relates primarily to vesting and is not framed expressly as an allocation statute.
2. Idaho, Wyoming, South Carolina, Kansas, Maryland, Michigan, California, Indiana, Minnesota, Mississippi, Nevada, New Mexico and North Dakota.

*Lyman W. Hull is a member of Hodge & Dahlgren, Inc. P.S. He wishes to acknowledge the assistance of Merrit L. Foubert of the National Bank of Commerce in the preparation of this article.*



before or after the effective date of the Act, with the exceptions noted below. Likewise, it will apply to all trust assets, whenever acquired.<sup>3</sup> This uniform treatment of all trusts and all assets was adopted to avoid dual accounting systems either within a trust or among several trusts.

The Act also applies to all trustees of whatever character, whether corporate or individual. Similarly, it applies to all types of trusts *inter vivos* and testamentary to the extent that there are different interests in the income and the remainder.

As a result of a Senate amendment, the Act will only apply to estates of decedents who die on or after the effective date of the Act. The act will not affect existing probates. This amendment is expected to have relatively modest impact on probate administration since it is basically a deferral amendment.

Since the purpose of the Act is to provide accounting rules for trusts and estates essentially only when they have been omitted by the draftsmen, the Act obviously does not apply to those cases where a rule is provided by the instrument itself. Nor does it overrule conflicting provisions of a trust or will.

The Act does not affect any law pertaining to the quality of trust investments. Whether an in-

vestment is prudent or imprudent under the terms of RCW 30.24.020 is untouched by the Principal and Income Act.

## ESSENTIAL PROVISIONS

For the purposes of this discussion we have divided the Act into five basic areas.

Sections 1 through 5 are general in nature, setting forth definitions, standards of conduct and basic distinctions between income and principal and when the right to each arises.

Sections 6 through 10 deal with particular types of receipts such as corporate distributions, bond premium and discount, receipts from trade or business, disposition of natural resources and of timber.

Sections 11 and 12 establish rules with respect to property subject to depletion and property which is underproductive.

Section 13 makes allocation of expenses against income and principal.

Sections 14 through 18 are again general, including applications of the act, short title, severability, repeal of existing statutory law and function of section titles.

### Sections 1-5, General Provisions:

Sections 2 and 3 of the Act provide the basic ground rules as to what is fair and what is foul in trust accounting. There are four basic rules:

(a) If the trustee follows the terms of the trust instrument he is in safe territory notwithstanding contrary provisions of the Act or seemingly inequitable provisions of the trust instrument.

(b) But the trustee is bound by the Act if there is no contrary provision in the instrument.

(c) If neither the instrument nor the Act provides an applicable rule, the Act then requires the trustee to do what is reasonable and equitable.

(d) If the trustee is given discretion in crediting or charging receipts or expenditures he may exercise that discretion contrary to the terms of the Act without incurring an inference of imprudence. Therefore, the draftsman may exclude the instrument from the Act altogether by inserting language giving the trustee broad discretion with respect to the manner of ascertainment and allocation of income and expense among beneficiaries. Many will forms today provide such discretion.

Section 3 furnishes the important definitions of income ("the return in money or property derived from the use of principal") and principal ("property which has been set aside by the owner . . . so that it is held in trust eventually to be delivered to a remainderman") and an illustrative

3. Sec. 14

(but not exclusive) list of each.

Section 4 is devoted primarily to timing — when the right to income arises. If the instrument specified a date then that date controls. If it does not specify a date, then it is the date when the asset becomes subject to the trust. For inter vivos gifts into trust timing will be a question of fact. For testamentary trusts and “pour over” wills, Section 4 provides that income accrues from the date of death of the testator.<sup>4</sup>

Receipts which are due but unpaid at date of death are principal. Therefore, if the decedent is engaged in a business or profession the returns from which are irregular and substantial fee-type payments, they may be unavailable to the income beneficiary without special language. Receipts in the form of periodic payments, such as rent, interest or annuities, however, accrue from day to day and become income commencing on the death of the testator.

A subject which caused mild controversy both in the Legislative Council and in the Legislature was the disposition of accrued but undistributed income on the termination of the income beneficiary's interest. Should it go to the estate of the income beneficiary (or to her if she remarried)? or should it pass to the next entitled interest under the instrument? The Uniform Act requires the former disposition. Many will forms, and many testators when asked, generally prefer the latter disposition. The Legislative Council chose the Uniform Act approach, only to be reversed by the Legislature. This final outcome, disposing of the accrued but undistributed income in favor of the next entitled interest under the instrument has appeared to some as inequitable. They have argued that if the widow remarries one day before the distribution date of six months worth of income, she would automatically be excluded from sharing in it. The argument is not without some merit. The opposing arguments are (1) presumably she has, through remarriage, found a new source of income, and her late husband doubtless would prefer to see his hard-earned estate go to his children rather than to be enjoyed by his widow and her new spouse, and (2) if the income is important to her she can always wait a day. It is also pointed out that if her interest terminates by her death it will not be necessary to probate the income interest for which she now has little use.

Section 5 deals with both income and expense during the period of administration of a decedent's estate. As to expense, it provides that all expenses in connection with settlement of the estate, including debts, funeral expenses, estate taxes, interest and penalties concerning taxes, family allowances and fees of attorneys and personal representatives are charged against principal. This is consistent with section 5 of the Uniform Act. In large estates where it may be desirable to take some or all of the administration expenses and/or fees on the income tax return rather than the estate tax return to the benefit of the income recipient and detriment of the remainderman the draftsman should include language which will allow the executor latitude in re-allocating these charges back against income in order to equalize the taxes.

As to income, specific legatees and devisees receive the income from the property bequeathed or devised to them less taxes, ordinary repairs, and other expenses of management and operation of the property, and appropriate portions of interest and income taxes accrued since the death of the testator. All other legatees and devisees receive the balance of the income, less the balance of corresponding charges, in proportion to their respective interests in the undistributed assets of the estate.

#### **Sections 6-10, Particular Types of Income:**

Section 6 deals with corporate distributions, and, while substantially longer than its predecessor, RCW 23.74.020, reflects essentially the same thinking. There is one major addition, however, which is contained in subsection 3. This covers distributions by a regulated investment company or a real estate investment trust. Subsection 3 states that all distributions from ordinary income of such entities are deemed to be income to the receiving trust. All other distributions including distributions from capital gains, depreciation or depletion, whether in the form of cash or an option to take new stock or purchase additional shares, are deemed to be principal.

In addition, subsection 5 permits the trustee to rely entirely on the statement of the distributing corporation as to the character of the distribution.

Section 7 provides rules with respect to bond premium and discount. It states a flat rule that the trustee shall not make provision for amortization of bond premium or for accumulation of discount except where the trust instrument pro-

4. This is consistent with RCW 11.04.250. See also *In re Patrick's Estate*, 195 Wash. 105, 79 P.2d 971 (1938).

vides otherwise. This section adds an instruction not contained in the Uniform Act, stating that if the instrument provides for either amortization of premium or for accumulation of discount, but not for both, then it is the duty of the trustee to amortize *and* accumulate.

Subsection 2 of section 7 furnishes the expected rule for bonds which have a fixed schedule of appreciation, such as Series E Bonds, allocating the annual appreciation or increment to income. The income beneficiary becomes entitled to the increment out of the first principal cash available or, if none is available, then when the increment is realized by sale or redemption of the bond.

Section 8 of the Washington version departs significantly from the Uniform Act. This section governs income from trade, business or farming operations. The Uniform Act states that if a trustee uses principal in the settler's business the net profits are income and if a loss occurs in any fiscal or calendar year it falls on principal and is not carried into any other fiscal or calendar year. The Washington version states that the proceeds and losses of trade, business or farming operations shall be allocated in accordance with what is reasonable and equitable in view of the interests of the income and remainder beneficiaries and in view of what a prudent owner would do. This is presumed to permit the trustee to recoup a loss in a preceding year out of the profit of the current year.

The disposition of natural resources, such as the right to receive royalties, working interests, production payments and the like, are covered by section 9. Here, again, there is a small departure from the Uniform Act in order to keep the law current with Federal income tax law. The Uniform Act requires a transfer from income to principal of 27½% of the gross receipts, which is the former depletion deduction, now reduced under the Internal Revenue Code to 22%. The Washington Act calls for a transfer to principal of an amount "to the extent deductible from Federal income taxation" under existing tax laws at the time of receipt.

It is important to note that if a trustee holds an item of depletable property on the effective date of the Act he shall continue to allocate receipts in the manner used before the Act and shall not make a change to the allocation provided under the Act. However, as to any depletable property acquired after the effective date of the Act he must follow section 9.

Section 10, which governs receipts from timber property offers little in the way of particular guidelines. It refers the reader to section 2 which, in subsection 1(c), states the basic rule of fairness which covers all cases where there is no particular rule.

### **Sections 11-12, Depletion and Underproductive Property:**

Section 11 states a special rule for all depletable property not covered by section 9. This includes leaseholds, patents, copyrights, royalty rights and rights to receive payments on contracts for deferred compensation. A receipt in any one year from any such property is income up to 5% of inventory value of the property and the balance of the receipt is principal. Inventory value is defined in section 1(2) as the cost of property purchased by the trustee and the cost or adjusted basis of other property at the time it becomes subject to the trust. However, in the case of testamentary trusts the trustee uses the value for federal estate tax purposes if there is one, otherwise for inheritance tax.

Section 12 sets up a special set of rules to allocate receipts after the disposition of property which is underproductive. This would be property which has not produced an average net income of at least 1% of its inventory value for more than a year (the Act does not *require* sale of such property; it only allocates the proceeds after sale). When such property is sold a portion of the proceeds is treated as delayed income to which the income beneficiary is entitled. The trustee computes the net proceeds of sale and then computes the amount which, had it been invested at 4% per year for a period equal to the time when the property was underproductive would have produced the same amount as the net proceeds. The difference between these two figures is the delayed income, with a few additional adjustments. It should be remembered that this section is applicable to both real and personal property.

### **Section 13, Expenses:**

Income is charged with a specific list of ordinary expenses in connection with administration plus one-half of costs and fees on a periodic judicial accounting, one-half of regular compensation and all taxes on ordinary income. Income is also charged with a reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principals. However, depreciation is not charged for

a residence which is occupied by a beneficiary or for property which was not being depreciated at the time the act takes effect.

The depreciation rules represent a change in Washington law. Heretofore, the Washington courts have held that a trustee may not establish a depreciation reserve without express authority in the instrument or in statutory law.<sup>5</sup>

Principal is charged with the fees not charged to income under the preceding paragraph and for specific charges involved in the cost of investing and reinvesting principal. Principal is also responsible for extraordinary repairs, including special assessments and for taxes levied on profits or gains from the sale of principal.

#### **Sections 14-20, General Provisions:**

Section 14 tells how the act applies and section 19 when it takes effect, as discussed at the beginning of this article. Section 15 states the short title of the Act; section 16 contains a severability clause; section 17 repeals RCW 23.74.010 and 23.74.020; section 18 deals with the headings and section 20 requires the Act to be codified in Title 11, containing the probate code.

#### **CONCLUSION**

Trust accounting is at best an esoteric art, and to the uninitiated beneficiary it frequently appears to be nothing less than sorcery by which his expectations mysteriously emerge in the hands of another generation.

Doubtless the Act will fail to please every lawyer, accountant and trustee. Even those who were involved in its adaption to Washington practice conceded a reluctance to accept the consensus in one or two provisions. However, based on the experience of other states which have followed a similar path, the imperfections are believed to be a small price to pay for the certainty which the act brings to trust administration. In fact, in this age of consumerism it is surprising that H. B. 66 escaped the legislative process without being retitled Truth in Trust Accounting Act since that in a sense is its objective. □

## **The Consumers of Legal Services**

There are parties which have been affected by all the deliberations at this convention who have not been active in the Bar Association.

Yesterday, it was pointed out that the Bar is a monopoly and it was described as being somewhat of a public utility. The public utility analogy is interesting but not entirely valid. The Bar Association is really different from a public utility. Other state sanctioned monopolies have built-in procedures for the consumers of their services to be involved and participate. That isn't true of the Bar Association. The Bar has been accorded the privilege of self-regulation rather than by some state agency.

There has been very little or no effort to involve the public in evaluating the new code of professional responsibility — little or no effort to attempt to find out what the public thinks about these things. Some of the issues are group legal services, use of paraprofessionals, prepaid legal services, fee schedules, self-help legal materials (like Mr. Dacey has in mind), and advertising. The issues, when intelligently dissected, come back to the question of the quality of legal services for the public and the acceptable level of hazards to which the public should be exposed.

Well, this is certainly a subject to which the public should have something to say about. It's a little disturbing that when lawyers deliberate on these matters and make these acceptable levels of hazards and risks, which can also be described as quality control in legal services, without any serious effort to solicit and consider the views of the public.

In the Model Cities area in Seattle, we did ask a group of people certain questions in a questionnaire to attempt to determine their attitudes.

The principle should not be "What is good for General Motors is good for the country." I think it would be healthy for the Bar Association and for the public generally to devise a system in which the views of the consumers of legal services were solicited, received and seriously considered when policy judgments are made which affect the quality, availability and costs of legal services.

I realize that this would be a difficult task but as a start it might be referred to the Resolutions Committee.

5. *Chapin v. Collard*, 29 Wn. 2d 788, 189 P.2d 642 (1948)

*Charles E. Ehlert*  
*September 11, 1971*



Judith Callison Trethewey, Seattle and Efram Z. Agronoff, Everett



Mr. and Mrs. Philip H. DeTurk, Puyallup



Seantor and Mrs. Francis E. Holman, Seattle

### The Greening of the Bar

(Continued from page 6)

The list of suggestions which I have made is certainly personal and impressionistic, and may well be disorganized. I hope at least that it will provide some suggestions on a place to start, but I do wish to leave one last thought with you.

Too often we regard reform as a static goal. I believe to the contrary, that reform is not a specific point on the political spectrum, but a constant process which feeds on itself.

Even if all of your proposed reforms were adopted, the Bar Association would still be an institution, an institution like every other constituting a bastion of the self-interests of its members, constantly in need of further renewal. Even reformers themselves need reforming, but no time to start on that process is as good as today; no people can be found better fit to lead that process than we here. □

### To Hold the Status Quo

(Continued from page 10)

Oh, God, how our nation suffers still from the fruit of that poisonous tree.

The Dred Scott decision. The judges that approved the sale of a body. That a black had no rights that a white man need respect. In the last publication of the Black Panther newspaper it was stated that a white man had no rights that a black man need respect. What a bread we cooked for ourselves.

The thousands of times in court that Indian treaty rights have been abused.

Lastly and locally, the judges in Seattle who in 1969 had the opportunity to call a grand jury and turned it down when everyone in the State knew that law enforcement was for sale in King County.

Justice and Judges deserve the respect that good performance would bestow. It was said of Robert Kennedy that he was a decent man who saw wrong and tried to right it — who saw suffering and tried to end it — who saw war and tried to stop it. A judge should live in such a manner that this could be said of him too and so should we lawyers. □

# WASHINGTON STATE BAR NEWS

## Young Lawyers Triumph at Annual Meeting

All five resolutions introduced by the Young Lawyers at the annual meeting passed by substantial majorities. President **Bob Beresford** remarked that he was sure that because of their substantial support, they would be considered by the Board. "I'm sure all you have to do is put the heat on them."

The atmosphere was noticeably different at the end of the convention on Saturday, September 11th, compared to the Board's meeting on Tuesday, September 7th. As a result of an AG opinion dated September 2, 1971, ruling that the opening meetings' law applied to the Board of Governors, the Young Lawyers sent a representative as a spectator to the Tuesday meeting of the Board.

The Young Lawyers had submitted a list of members, which they wanted named to the Young Lawyers Committee. Incoming Board member **Bob Day** of Pasco remarked: "I'm stubborn enough that I don't think they should tell me who should be on the com-

## A Traumatic Time for the Judges

Incoming President Fred Velikanje addressed the annual Washington Judicial Conference meeting in Vancouver and was characterized as saying: "Look, forget this tenure business; we're not interested in giving you tenure."

Republicans Axel C. Julin, Chairman of the House Judiciary Committee and Francis E. Holman, member of the Senate Judiciary Committee, said that they found no sentiment to give judges

any kind of tenure. The sentiment is to discipline the judges. Then Board member Neil Hoff revealed that the Bar plans to ask lawyers to rate the competence, temperament and other qualities of judges in their respective counties. "I don't think you're going to like this," Hoff conceded to the judges. Said one of the judges, "You've heard of the 'Nielson rating.' Well now we have the 'Neil rating.'"

mittee." Outgoing Board member **John Moore** of Yakima commented: "The Young Lawyers have some good ideas but some lousy ideas also. Look at some of the goofy resolutions they are introducing." Holdover Board member **Jack Lynch** of Olympia announced: "They have lost sight of the fact that they are lawyers. Otherwise why not have an Irish Lawyers section or a Catholic Lawyers section." Holdover Board member **Neil Hoff** of Tacoma merely stated: "I welcome all their wars and all their fights."

A skirmish did occur at the annual business meeting on Friday. When the results were in, The Oregonian ran an article with the headline "Young Lawyers Nudge Bar Group on Changes."

"The Young Lawyers group of the Washington State Bar Association won the first battle Friday in its fight to change the way the organization operates when a series of resolutions was approved at the annual convention in Portland's Hilton Hotel.

*(Continued on page 19)*

## Award of Merit to Spickard



Don Spickard, Seattle, was presented an award of merit at the annual meeting in Portland for his work as chairman of the Clients Indemnity Fund for the last eleven years. Serving since its inception, President Beresford estimated that Spickard spent 10 to 15% of his time processing and investigating the claims. Spickard is on the house counsel staff for SAFECO Insurance Co. in Seattle.

Over the past 11 years, eight lawyers have defaulted with clients' money. There have been 32 claims; \$26,000 has been paid out.

Winners of the award in prior years are:

- 1970 — Alfred J. Schweppe
- 1969 — George V. Powell
- 1968 — DeWitt Williams
- 1965 — E. K. Murray, John Davis, Robert Elston
- 1964 — E. Glenn Harmon
- 1963 — Ben C. Grosscup
- 1962 — Charles Horowitz
- 1961 — Charles Osborn, Jack M. Whitmore
- 1959 — Ted Cummings
- 1958 — George McCush, Judge Wm. J. Steinert, Clarence Coleman, Herbert Ringhoffer
- 1957 — Ben C. Grosscup, Arnold Breezer

## Oregon State Bar Association to Develop Guidelines for Public Interest Firms

For over a year, the Oregon State Bar has been engaged in an ongoing dialogue with attorneys from legal services programs and *pro bono* law firms to maintain an awareness of the developing problems of these programs. Recently, the Board of Governors of the State Bar met with representatives of the two "pro bono" law firms in Portland with the idea of developing possible guidelines to deal with the potential problems of advertising, solicitation, and champerty and maintenance. The Board of Bar Governors then requested the firms to submit suggestions on what could be done.

The law firm of Marmaduke, Aschenbrenner, Merten & Salt-

veit submitted a position paper, presently under consideration by the Bar, which proposes a certification system by the Bar Association for public interest law firms. The proposal defines a public interest law firm as one where at least 50% of the attorney time in the firm is devoted to matters in the public interest (compensated and noncompensated time), and where the members of the firm commit themselves to a low net income level "commensurate with the ideal of serving the public interest rather than the economic interest of the members." The theory is that if the income of the members would be limited, the profit motive would be curtailed and thus

normal objections to solicitation and advertising would be obviated. Their proposed guidelines would allow for solicitation in specifically defined public interest cases, and would allow for advertising the public interest specialty.

The proposed guidelines would go beyond the recent District of Columbia Bar Association decision which approved a specific advertisement for clients in newspapers, magazines, and radio by a public interest law firm that did not charge fees. The opinion is interim in nature until such time as the D.C. Bar Association develops overall ethical guidelines for the operation of public interest law firms.

### AG Opinions

**AGO 1971 No. 14:** Deals with certain aspects of disability leave under the **Washington Law Enforcement Officers' and Fire Fighters' Retirement System.**

**AGO 1971 No. 15:** Deals with when a married woman must have the consent of her husband before having an **abortion.**

**AGO 1971 No. 16:** Discusses purposes for which monies in a city's paid **firemen's pension fund** established under RCW 41.16.050 may be used.

**AGO 1971 No. 17:** Discusses to what extent Chapter 58.17 RCW, relating to plats and subdivisions, are applicable to **mobile home and camping parks.**

**AGO 1971 No. 18:** Section 4, Chapter 202, Laws of 1971, Ex. Sess., requires each incorporated city or town located in a particular county to pay a proportionate share of the county's expenses of maintenance of **voter registration records.**

### In Memoriam

**G. Wright Arnold**, 85, Seattle, died September 2. A 1913 graduate of Harvard Law School, he practiced patent law in Seattle for 52 years, retiring in 1966.

**F. Hayes Elder**, 33, Seattle, died August 15 when his car spun off the Brussels-Oostende Motorway in Ghent and crashed into a bridge support. His wife also died in the crash. A graduate of the U. of W. Law School where he was managing editor of the Law Review, he had intended to return to Seattle in the next few days to join Houger, Garvey & Schubert. In 1965, as state representative from the 34th District, he was the Legislature's youngest member at 26. After one term, he became an assistant to U.S. Senator Warren G. Magnuson. He was named to the staff of the Senate's Commerce Committee. For the past three years he was editor of Way Forum, published by the World Assembly of Youths, in Brussels.

**Patrick A. Geraghty**, 62, Seattle, died August 9. A 1933 graduate of Gonzaga University Law School, he was a member of Geraghty & Geraghty.

**John T. McCutcheon**, 79, Steilacoom, died August 9. A 1920 graduate of the University of Washington Law School, he was an assistant U.S. attorney in Tacoma from 1927 to 1932, a state representative from 1941 to 1943 and a state senator from 1943 to 1951 and from 1959 until his death.

**Gordon R. Sanborn**, 39, Seattle, died September 4, when an Alaska Airlines 727 slammed into a 3,500-foot mountain in Alaska killing 111. A 1961 graduate of Wayne State University Law School, he was a partner in Christensen & Sanborn.

**Wallace T. Whitford**, 58, Ephrata, died June 14. A 1948 graduate of Gonzaga University Law School, he was a deputy prosecutor for Grant County.

## Annual Meeting

(Continued from page 17)

"More than 500 Washington attorneys were present as the controversial changes were debated. Veteran convention goers said the business meeting usually attracts about 50."

The *Seattle P-I* carried front page articles for two days running. The first was entitled "'Democratic' Bar Sought" and the second was "Young Lawyers' Ideas Win." The *P-I* placed at 600 the number of State Bar members voting on the resolutions at the meeting.

The *Seattle Times* editorialized (see page 4).

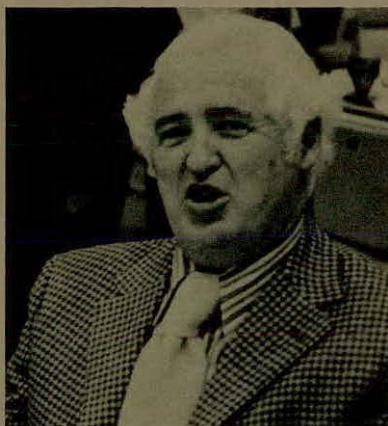
## Direct Election and President-Elect

The first measure was a proposed bylaw amendment to create the office of President-elect and have direct election of the President-elect. The Resolutions Committee, **Harold Pebbles** of Olympia, Chairman, recommended neither a "pass" nor a "no pass" but rather that it be referred to the newly constituted Committee on Organization and Government of the Bar. The resolution was introduced by **Ed Raftis**, of Seattle, who moved its adoption. A motion to table was made from the floor, which went down to defeat by a standing vote. It was probably this vote which broke the backs of the opposition.

While the vote was being taken on the motion to table, President Beresford stated that his comment was not to be taken as pro or con but as to the charge that the office of president was not responsive to the Bar: "I don't know how I could be more responsive. I can tell you from personal experience that I spend 50% of my working day responding to letters from **Llew Pritch-**

**ard**, Chairman of the State Young Lawyers."

**Jack Lynch** then rose to speak, stating "The Board of Governors, with the President, has appointed a committee to study the re-



Jack "The Cardinal" Lynch

organization of the State Bar. There is a fair and diversified membership on that committee. Frankly, this is a matter of grave concern to all of the members, not only those here, but attorneys throughout the State of Washington. I recommend to you that this matter be passed over to the committee for its consideration and report and then be referred back to the next convention."

**Neil Hoff** rose to ask whether this meant that the President would always be elected from Seattle. The President merely replied: "You've been a real help, Neil . . . Does anyone want to make any pertinent comments?"

**John Rupp** of Seattle, a past State Bar President, then spoke in favor of the proposed bylaw amendment: "I think the President-elect office is an excellent idea. This office is found in the ABA and in our county bar associations. Direct election of the president is a sound principle. Neil Hoff argues it would always be someone from Seattle. I don't

think it would work that way. It has been suggested that there would be extensive campaigning for the office of President of the Bar Association. I have very serious doubts about that."

**Frank Johnson**, Vice President of the Spokane County Bar Association, then spoke, arguing that no position should be taken on the principle of direct election until the committee studied the matter for a year.

A standing vote head count was then taken with the President stating: "By the way, there are ample seats forward if you would care to sit down . . . That's not to be construed as my position on the matter."

The President then announced "The resolution passes by a majority of less than two-thirds.

"I'm sure the fact that there is substantial support for this resolution, a substantial majority, will be considered by the Board of Governors. The Board can



Neil "The Senator" Hoff

take a referendum without any two-thirds majority if they want to do so, and I'm sure all you have to do is put the heat on them. This meeting has approved the resolution. It is advisory to the Board. There is no question that it has a substantial majority and it is up to the Board whether to

refer it to the membership or the committee on organization of the Bar."

**Jack Lynch** then spoke up again and said he thought the President was in error and the only thing the Board could do was refer it to a vote of the membership by mail ballot. Beresford quickly quipped: "Jack you're out of order. You're allowed to speak once here."

#### **One-Lawyer, One-Vote**

The one-lawyer, one-vote resolution then was brought on. The Resolution Committee recommended that it not pass.

**Tom Alberg** spoke first in favor of the adoption of the resolution which recommended a change in how the membership of the Board of Governors is apportioned and recommended increasing the size of the Board from seven to twelve. Change must be accomplished through legislation or perhaps court rule. Currently 52% of the lawyers in the State are from King County, yet only two of the seven Board members are from Seattle.

**Duane Taber** from Pasco came forward to speak against the resolution. "I have just been told I have a disproportionate vote because I am from Pasco. I don't look like a guy who has a disproportionate vote; I look like a guy with a hangover. However, I feel like a guy who is using brand X deodorant because all of a sudden magically I have been wielding too much power. We tried to remedy that by sending an incompetent, like Bob Day, on the Board, and then we won't be so forceful on the Board; we won't overpower and overwhelm you giants from King County. Seriously, the name of the game today is communications. Now communication requires people to assemble. We, right now, have a wonderful means of communica-

tion the way the Board is constituted. The cow counties have one up there. I haven't heard anyone come back and be asked how did he vote. I think we give Mr. Day the power to wield the gavel with the rest of them. But the point is you have a statewide communication. There is no isolation built into your system at all. If you adopt this type of thing, you're going to be isolating the



**Irving Clark, Jr.**

smaller counties, who have a more difficult time incidentally gathering than you people in Seattle. In Seattle, you can gather more lawyers within ten miles than in the entire southeastern Washington. I caution you gentlemen that this could isolate the Bar."

**Irving Clark, Jr.**, of Seattle, then spoke in favor of the resolution. "I suggest to you that all of you can support this thing. Many of you have worked hard for these concepts at the national and state political level. You are really being, I won't say hypocritical, but perhaps thoughtless when you don't follow through logically and carry on the concept to the business of our own body. As to domination by Seattle lawyers, the Seattle-King county Bar Association is itself more diversified in political and social outlook — more split on its views

on most major issues than all the rest of the Bar. If you think for a minute there is some 2,000 vote monolith coming out of Seattle, you haven't seen the Seattle-King County Bar in action."

The question was called and only the yeas had to stand as it was clear it passed by a substantial majority.

#### **Reform of the Bar**

The next resolution was on the Reform of the Legal Profession and Legal Processes and the recommendation of the resolutions committee was that it be adopted. Considering the batting average of the resolutions committee, **Bob Beresford** remarked to its chairman, "That will fix 'em, Harold." **Bob Mussehl** of Seattle spoke in favor of the resolution: "The public has granted to the legal profession numerous monopoly powers. Our powerful charter makes the legal profession analagous to a public utility and implies a special obligation to insure the general availability of legal services. Now anyone who feels we have met our obligation is either kidding himself or has not thought the matter through."

The closest comments in opposition to the resolution came from **Roger Walsh** of Seattle in a question from the floor referring to the matters proposed as being "window dressing."

A standing vote was taken and the President declared the Association "four square for motherhood."

#### **Independent Young Lawyers Section**

The last resolution of the Young Lawyers, an independent Young Lawyers Section, was introduced by **Llew Pritchard**. The resolutions committee recommended a "do pass" provided the resolution be amended to

provide that the Section's bylaws be subject to Board approval. The resolution was passed as amended. **Neil Hoff** commented: "I move when all of us arrive at our 36th birthday we be lined up against the wall and shot." Bob Beresford's comment was: "You know, I think the proper solution would be to have **Muriel Mawer's** Bar Exam Committee tighten up a little bit."

The resolution on publication of the budget, financial statement, annual report and meetings summaries by the Board turned out to be moot as the Board had voted to do this.

At the close of the business meeting, **Alice Ralls** was honored for her sixteen years as Executive Director. Her comment: "From what I've heard today, I think I'm getting out at the right time."

### Sex Discrimination

Women's Lib had its day in the convention when a resolution was adopted saying that no more state bar association meetings should be held in private clubs or other facilities which discriminated on the basis of sex.

**Betty B. Fletcher**, first vice president of the SKCBA, argued: "This Bar Association is a mandatory organization. Those of us who are lawyers must belong to it. It is also an agency of our state. As you know, discrimination is not only immoral, it is also illegal."

The members spurned a resolutions committee recommendation against passage. Upon passage, President Bob Beresford told Mrs. Fletcher: "Betty, I welcome you to join me in a steam bath at the Rainier Club."

### Other Matters

Another resolution passed by the Bar urged all lawyers and judges to join in support of the

World Peace Through Law programs so nations will resort to law and arbitration instead of force in the solution of problems. **Cameron Sherwood** of Walla Walla introduced and spoke in favor of the resolution.

Chief Justice **Orris L. Hamilton** of the State Supreme Court said in his annual report that all ready cases had been set for argument this fall. There is no backlog of ready cases in the State Supreme Court. He commended the Board of Governors for standing behind, and not very far behind, the Supreme Court.

**Doug H. Beighle** of the Perkins firm in Seattle won the tickets to Hawaii, thereby breaking the long standing Yakima winning streak.

### Occupational Licenses May Be Issued

The state may continue to issue occupational drivers licenses although an error in an item veto by Gov. Dan Evans apparently repealed the whole law, a state attorney general's opinion has ruled.

Assistant Atty. Gen. Richard A. Mattsen based his opinion, asked by motor vehicles director Jack G. Nelson, on two State Supreme Court decisions in similar circumstances.

The 1971 legislature changed the occupational drivers license law to allow drivers whose licenses had been suspended for refusing to take blood alcohol tests under the implied consent law to allow them to drive in connection with their work. Evans, however, vetoed that section, but failed to veto an accompanying section repealing the basic law authorizing such licenses.

### Proposed Rules of Criminal Procedure

West Publishing Co., as a service to the Bench and Bar, has distributed to them the 159-page pamphlet on the Washington Proposed Rules of Criminal Procedure.

The rules were prepared by a task force of judges and attorneys appointed by the Washington Judicial Council. Public hearings on the proposed rules will be held by the Judicial Council early in 1972. Following Judicial Council approval, the rules will be submitted to the Supreme Court for possible promulgation.

Any comments on the proposed rules should be submitted in writing to the Washington Judicial Council, Temple of Justice, Olympia, Washington.

Under Rule 3.1(a)(1), the right to counsel would be extended to all criminal proceedings for offenses punishable by loss of liberty regardless of their denomination as felonies, misdemeanors, or otherwise.

Under Rule 3.2, money bail would be the trial court's last resort in setting conditions for ensuring the accused's appearance at trial. Preventive detention is rejected as being in violation of Washington Constitution, Art. I, §20, which grants an absolute right to bail.

Under Rule 4.2, provision is made for a plea of *nolo contendere*. The plea has not been used under the current statutory scheme.

The adoption of Rule 4.6 would liberalize the use of depositions in pretrial discovery. Rule 4.7 adopts the liberal proposed rule of the ABA committee, but does qualify the rule with a set of narrow exceptions.

## State Bar Asked to Investigate MacDonald's Remarks

The SKCBA Board of Trustees has asked the State Bar's Disciplinary Board to investigate remarks made by Seattle's **Kenneth A. MacDonald** to Judge **Donald L. Gaines** on August 6, 1971, during a pretrial hearing on the Alioto-O'Connell-Faler fee-splitting lawsuit.

SKCBA President Jack P. Scholfield said that in referring the matter the SKCBA Board of Trustees was not "prejudging it in any way."

MacDonald stated the following to Judge Gaines:

"I believe, your Honor, that you have no comprehension of this case. I believe that you have no maturity nor ability to handle this case, nor an emotional tune to handle it. I have been astonished day after day. I have been met by your condescension, sarcasm, endless cliches, endless facing up of the law that I and people in my office have tried to present to you and, if your Honor please, I and the young people in my office who have come before this Court regard you, sir, as a judge in this case as a joke.

"I join with George Faler and ask that you disqualify yourself from this case. I am very sorry to say this, your Honor, because you have demonstrated a lack of comprehension and a lack of emotional judgment and maturity to give my client and me, I wish to say, nor to give Joseph Alioto and John O'Connell a fair trial. And what I have seen here, and it was demonstrated perfectly just now, is a travesty on justice.

"And if you wish to do anything that you want to do me for saying this, that's fine. I stand here courteously but directly to state to you, your Honor, a gross inadequacy on your part to handle this case.

"This means a lack of a fair trial to my client and, finally, it means, and I have mentioned it several times, that not only is this city in a spin with indictments, this city is or may be in a spin because of a lack of confidence in the judiciary.

"You, your Honor, at least as far as every person in my firm, and I am not including the other people because that's up to them, every person in my firm has come away appalled, embarrassed for your conduct, embarrassed in this case — I do not say in any other case, your Honor — embarrassed at the position that you hold and you are asserting as a representative of the people." Judge Gaines replied:

"Well, that's about as good a tirade as I have had against me in the course of my experience on the bench. I would invite your attention to the proposition I have never denied you an opportunity to be heard, I didn't think I was discourteous to you, and thus far the Supreme Court has seemed to indicate that my decisions have been within normal limits, and I have been trying not to make any prejudgments on this case."

The exchange occurred on Friday. The next Monday, August 9, 1971, Mr. MacDonald wrote a letter to Judge Gaines which states in part:

"On Friday in open court I said very direct and regretfully some extreme things to you. I apologize for the extreme words. I am sorry that I in-

volved in my remarks other persons in this law firm.

"I do not apologize for my direct remarks of why my client George K. Faler and I believe that you have a bias and prejudice toward him and me. Counsel have a duty to speak up, and courts should listen to criticism and evaluate it, just as must attorneys, clients and other citizens."

## OEO Legal Services Created in Northwest Washington

Snohomish, Skagit, and Whatcom Counties are recipients of \$150,000 to establish an OEO legal services program. They join King, Spokane, Pierce and Clark Counties, which already have programs..

It was five years ago that the Snohomish Bar handily voted down a proposal for OEO legal services. It continued its program of volunteer legal aid where the hundred-plus county lawyers alphabetically served indigents on Tuesdays and Thursdays throughout the year. Originally divorces were not handled at no cost to indigents, being considered a "luxury." This policy was changed a couple of years ago to allow at the option of the legal aid lawyer the handling of divorces at no cost.

A year and a half ago, Representative **Lloyd Meeds** met with the Island, Skagit, Whatcom and Snohomish Bars. It was concluded by those present that legal services to the poor in those counties were inadequate.

A plan was then drafted which was submitted to the largest meeting of the Snohomish County Bar and it passed 50 to 1. Pros-

ecuting Attorney **Robert Schillberg** deserves a great deal of credit for the selling of the program.

Five attorneys will be hired for the three-county area. A spokesman stated: "We do have a relatively conservative bar in the three-county area so we do have a requirement that the director be from the northwestern area who is familiar with local practice." No such requirement exists as to the assistant director or three staff attorney positions.

The \$150,000 grant is expected to sustain the program for 15 months with an office to open in November or December. The lawyers will not handle criminal cases but will handle divorce cases. There will be a 15-member board of directors. Nine directors will be attorneys and six will represent the poor.

Bernice Jungroth, Director of the Clark County Bar Association Legal Assistance Office, reported at the state annual convention on the progress of that county's program of 245 applications for legal assistance received in the first six months of the program, 63% have been for divorce actions.

Two dollars per application was to have been charged, the theory being that people would want to pay something, however small. However, it has been found that 50% of the people cannot pay even the \$2 filing fee and this has been waived in those cases.

## Group Elects Justice Sharp

State Supreme Court Justice **Morell E. Sharp** has been elected a director of the American Judiciary Society.

## Beresford on "No-Fault" Insurance

*On June 3, 1971, State Bar President Robert Beresford wrote the letter which follows to editors of newspapers throughout the state. The Seattle Times of June 10, 1971 printed portions of the letter in an article with the headline "Bar denies it opposes no-fault automobile insurance". One might term it a misleading headline.*

*A special committee has been named by the State Bar to study the entire subject of auto accident reparations. Chairman is **Richard F. Broz**, a King County Superior Court judge until his resignation last January 1 to enter private law practice in Seattle.*

*Other members of the committee are **Stephen J. Bean**, Olympia; **Robert L. Fletcher**, Seattle; **Frank Hayes Johnson**, Spokane; **Bruce Maines**, Seattle; **Morris G. Shore**, Yakima; **Robert O. Wells, Jr.**, Seattle, **Ronald J. Bland**, Seattle, **George W. Dixon**, Tacoma, and **Leon L. Wolfstone**, Seattle.*

Dear Sir,

Automobile insurance is being increasingly discussed and written about these days and could become the subject of much controversy. And the chief source of that vital information the public will need as it studies changes likely to be proposed in the insurance system in our state is, of course, the newspapers.

Thus it is essential that newspaper editors have at hand and provide to the public complete and accurate information. This letter is an effort to provide such information concerning one small but frequently mentioned aspect

of the complex subject: The attitude of lawyers and the Washington State Bar Association toward automobile accident reparations and proposed "no-fault" insurance.

That attitude has been consistently misunderstood and misrepresented, possibly because of easy and casual assumptions by some writers. Those assumptions, though beguilingly logical, are in error and should not be perpetuated as fact.

### What System Does the State Bar Support?

The State Bar Association, as a matter of official policy as well as in the centuries-old tradition of the legal profession, will vigorously support any system, in automobile accident reparations as in all other legal areas, that can be shown to be for the greatest good for all our state's 3¼ million citizens. The Bar does not consider itself as having any vested interest in any system for the sake of that system alone.

An estimated 50 to 100 variations of the no-fault concept have been put forth since it was originated almost 40 years ago at Columbia University. Thus far none has come to be regarded generally, either by society or by the Bar, as demonstrably better for society than the present system of personal accountability, despite the real and purported shortcomings in that system.

Therefore the association's Board of Governors now is selecting a special committee to study the entire subject of automobile accident reparations. In its selections of members the Board is seeking to achieve complete fairness and balance in the committee's views; the committee will be charged with the responsibility of recommending any changes it feels should be made in the best interest of society generally, and

not those which might tend to favor only special segments of society, including lawyers and the insurance industry.

Individual lawyers, of course, vary greatly in their views. Lawyers themselves devised most of the no-fault proposals. Other lawyers have opposed them. Perhaps most lawyers who disfavor the no-fault plans do so because they perceive the enormous legal, economic and social potential consequences of the plans so far advanced and do not feel they are in society's best interest.

### **Importance of Legal Fees Grossly Exaggerated**

The importance of Lawyers' legal fees in the total automobile insurance situation has been grossly exaggerated and this could misdirect the public's attention from consideration of the relative merits of the various no-fault proposals.

It could be noted, first, that Department of Transportation studies show that of 4.4 million personal injury cases in 1968, 220,000 resulted in the filing of lawsuits; of these, only about 15,400 nationally went to trial and verdict (and the defendant prevailed in about 30 per cent of these cases). And a DOT report says that 25,000 personal-injury claims were paid in 19 states in a 10-day survey period, and in Washington, one of the survey states, fewer than 30 per cent of the cases involved lawyer representation. And it should be observed that there is no certain indication that the public's need for legal services will be less under a no-fault system than under the present responsibility system.

### **Property Damage Not Covered**

Second, property damage (which is not included or covered in the most-talked-about no-fault proposals and would have to be

paid by a car owner or separately insured against) accounts for much more of the premium dollar than personal injury claims. One study shows that in 1967 property damage or loss claims totaled \$3.5 billion and personal-injury claims \$2.5 billion. American Mutual Insurance Alliance (AMIA) says that, nationally, two-thirds of the automobile insurance premium (and 62 per cent in Seattle, 68 per cent in Portland, Ore.) goes for vehicle damage coverages.

A news story published May 30, 1971, quotes Douglas Toms' testimony in Washington, D.C., that a mere car bumper capable of preventing car damage in 5-mile-per-hour collisions would save \$1 billion a year in repair costs—and that figure alone exceeds the most exaggerated estimate of all legal fees in personal-injury cases. AMIA says its research shows low-speed "fender-bender" crashes result in an average repair bill of \$652.

The Bar wholeheartedly will support the only program which certainly would reduce the public's legal costs—and also its enormously greater expense in property damage and loss, in human lives and suffering, in medical expense and other economic loss to accident victims. And that is a total effort to prevent traffic accidents and their often tragic consequences; society's concern should focus as much upon diminishing or eliminating the disease as upon compensating the victim.

### **Areas For Improvement**

There are many forms which possible improvements in the automobile accident reparations situation could take:

More crash-resistant cars; banning the careless, incompetent, provident and drinking drivers

from the road; streamlining of court, jury, trial and other legal procedures in accident cases; voluntary arbitration of small damage and injury claims; changes in the law concerning "comparative" vs. "contributory" negligence to achieve a more equitable distribution of compensation; broadening of present uninsured-motorist and medical-payment insurance coverages; group sales of auto insurance, as with health and life insurance; compulsory automobile insurance; advance insurance-claims payments without prejudice to insurance firms as to admissions of liability, and many others.

Without regard to whether they might adversely affect the practice of any individual lawyer, the Washington State Bar Association most certainly will advance and support all of the possible changes which it believes to be in the general public interest.

And it must continue to resent and resist implications that lawyers in general are more concerned with their own economic well-being than with helping achieve the best possible reparations system.

Very truly yours,  
Robert O. Beresord  
President  
Washington State  
Bar Association

### **Patent Lawyers**

The officers of the Washington State Patent Law Association for the 1971-72 years are President - **Patrick D. Coogan**, Tacoma; Vice President - **Robert J. Baynham**, Seattle; Secretary - **Bernard Donahue**, Seattle; and Treasurer - **Bruce E. O'Connor**, Seattle. Executive Committee members consist of **Ford E. Smith**, Seattle; **Robert B. Hughes**, Seattle; and **James R. Uhlir**, Seattle.




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## COWLITZ REPORT

By O. H. HUSEMOEN

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The firm of **Calbom, Walker, Cox & Andrews** has moved to its new offices in the Longview Fibre Credit Union Building at 822 Commerce, Suite F. The new offices are very spacious and apparently somewhat luxurious judging by the fireplace in one office, the large library, workout room and sauna. Exact details will not be known until the move is complete as most of this report is based upon rumors of various members of the firm.

Judge **Alan Hallowell** has recently returned from the National Trial Judges School at Reno, Nevada. He apparently escaped incarceration in the jail as it was reported in the newspaper but he does report that it was all taken quite seriously for a time and almost resulted in one judge losing his temper and committing a real crime.

**Richard L. Norman** and **Milton Cox** recently combined to win a non-scheduled non-official Bar Association tournament. It was reported that their score has not been matched by any other pair of attorneys in the county. **William Dowell** has apparently won the long putter throw contest by 4 yards.

Cowlitz County is experiencing one of the problems facing many small counties. That relates to the ever-growing need for a Legal Aid program to assist indigent civil clients. The Bar has in the past had a voluntary program somewhat casually administered by one member of the Bar Association and has largely depended on voluntary assistance from local counsel. The need for Legal Aid Services has increased to the point where the Bar Association has undertaken

a study to recommend more permanent action with better guidelines.

**Vernon J. Guinn**, 31, formerly practicing in Enumclaw and a 1966 graduate of the University of Washington, has joined the firm of Studley, Purcell & Spencer.

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## EAST KING REPORT

By CHARLES F. DIESEN

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**Saul D. Herman**, Bellevue, has retired from 30 years as house counsel for Weisfields, Inc. and opened a private practice with his son, Gerald Herman, Hartley Newsum and Joe Miller.

If you couldn't find Major **David Best**, of Johnson, Inslee, Best and Chapin, in July it was because he had gone to Reno, Nevada for a segment of his Command and General Staff Course for the Washington National Guard. In May Captain **Chuck Diesen**, U.S. Army Reserve, attended the 9th Civil Affairs Course at the Army Judge Advocate General's School, Charlottesville, Virginia.

Issaquah's **Dick Holt** organized the annual golf day and dinner for the East King County Bar Association on August 26 at the Mt. Si Golf Course.

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## ISLAND REPORT

By TED ZYLSTRA

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August 10 was a milestone for the Island County Bar. The robing ceremony for **Howard A. Patrick**, our new Superior Court Judge, also marked the beginning of the new Island — San Juan Judicial District. The ceremony was attended by Governor Evans; Justice **Stafford** of the Supreme Court; Justice **Swanson** of the Court of Appeals; **Al Bise**, the

Court Administrator; Judges **Follman** and **Deierlein** of the Skagit County Judicial District; retired Judge **A. H. Ward**; numerous members of the bar; and countless numbers of local dignitaries and well wishers. The ceremony was followed by the greatest party for all at the Captain Whidbey. Judge Patrick's regular law day for Island County will continue to be each Friday at 9:30 A.M., and his chambers are in the Island County Courthouse at Coupeville.

Judge Patrick was presented to the Court for the taking of the oath by the incomparable and indefatigable **Alfred McBea**.

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## PIERCE REPORT

By DAVID E. SCHWEINLER

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**Edward Greely Hudson**, J.D. University of Wisconsin, 1967, and recently released from active duty with the United States Army, has joined the firm of Tuell & Anderson as an associate . . . **Kenneth D. Beyer**, 1962 graduate of the University of Montana, practiced law there until 1965 when he went to work for the Legislature in the State of Washington. Recently he has gone into private practice at 1535 Tacoma Avenue South, Tacoma . . . The law firm of **Troup, Christnacht & Herron** have recently moved into their new office building at 26th and Bridgeport, University Place.

### Program

On May 7th the annual Physician-Lawyer Golf and Tennis Tournament was held at the Tacoma Country and Golf Club. The day's activities were well attended and an evening dinner and program followed.

Late spring meetings of the Tacoma-Pierce County Bar Association featured as speakers

Professor Robert Meisenholder from the University of Washington law school, whose topic was "Changes the Federal Amended Rules would make if adopted in Washington," and Legislators **Tom Swayze** and **Ted Bottiger**.

On June 8th a continuing legal educator seminar for both attorneys and judges was held at the Top of the Ocean in Tacoma. The program consisted of a discussion of the medical malpractice hearings by **Don McGavick**, **Mike Manza** and Dr. Wayne Zimmerman. Judge **Keith Callow**, King County Superior Court Bench, spoke regarding King County's short trial procedures, pre-trial procedures and proposed changes in the King County system. The continuing legal education committee, chaired by **Dick Jensen**, presented an excellent program and there were in excess of 90 lawyers and judges in attendance.

Tacoma-Pierce County meeting speakers in June were **Roger L. Kundert**, Regional Director of the American Arbitration Association, and Tacoma's favorite son on the Court of Criminal Appeals, **Vernon R. Pearson**.

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### SEATTLE-KING REPORT

By LLEWELYN G. PRITCHARD

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The American Civil Liberties Union of Washington has hired a new Legal Director, **Robert T. Czeisler**, to replace **Jan Peterson**, who has resigned, retired and now is domiciled in Paris. Czeisler graduated from Yale, University of Pennsylvania Law School (where he was a law review editor), clerked for Southern District of New York Federal District Court Judge Constance Baker Motley, and recently resigned as Assistant General

Counsel to the Environmental Protection Administration of the City of New York.

Seattle attorney **Michael Fox** has sued the Walla Walla County Sheriff, three of his deputies, and Rogers, Walla Walla, Inc., charging they violated his civil rights when they arrested him for trespassing in a migrant labor camp. Fox has filed the lawsuit in Federal Court in Spokane.

The Coalition for Open Government has begun a drive to gather information for initiative aimed at rolling back secrecy in government. The coalition represents a number of organizations, including the League of Women Voters of Washington, the American Association of University Women, Municipal League of Seattle and King County, the Washington Environmental Council, the Seattle Press Club and the Young Lawyers Section of the Seattle-King County Bar Association.

Hellsell, Paul, Fetterman, Todd & Hokanson have announced that **John E. Ederer** and **T. Dennis George** have become members of the firm.

Pros. **Christopher T. Bayley** revealed branch offices of the Prosecutor's Office are now functioning in Renton and Auburn city halls. Another office is about to be established in the Federal Way area.

**George S. Lundin**, **Landon R. Estep**, **Richard I. Sindell**, **Donald D. Haley** and **Joan E. Hansen** have announced the formation of a professional services corporation for the practice of law under the name of Lundin, Estep, Sindell & Haley, Inc., P.S.

**C. C. Chavelle**, president of Boys' Clubs of Seattle and King County, presided over a national meeting in New York City of that organization last month.

**Bruce G. Hanson** and **Wood-**

**ford B. Baldwin** have formed a partnership under the name of Hanson & Baldwin in association with the law firm of Dorsey, Haight & Shant at 804 Northern Life Tower.

**Lowell K. Halverson** and **Sidney J. Strong** have moved their offices to 505 Central Building (MA 4-0933).

**James S. Munn** has left Caplinger & Munn to join Rutherford, Kargianis & Austin. **James J. Caplinger** will continue to practice at 423 Central Building.

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### SOUTH KING REPORT

By STEPHEN L. JOHNSON

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Commencing in October and continuing through December, on the 1st and 3rd Thursdays, there will be a Superior Court calendar held at 1:30 p.m. at the Kent City Hall. Matters considered will include default divorce, divorce motions and show cause matters, supplemental proceedings where the judgment debtor resides within the geographical area, non-contested probate, motions and show cause, and change of name hearings. In order to appear on that calendar it will be required that the non-moving attorney be a member of or eligible for membership in the South King County Bar Association. A similar calendar is scheduled for the East King County Bar Association in Bellevue.

**Don Mirk**, Kent, is now the reigning champion of the South King County Golf Tournament held on July 30, 1971, at Enumclaw, where he walked away with low gross honors, longest drive, and all of the prizes. Chief Justice **Hamilton** was rewarded for his sterling play with a prize of 400 golf balls, all hand picked by Chairman **Biege**.

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## SPOKANE REPORT

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**David P. Roberts** has been named by Gov. Evans to the Board of Trustees of Community College District 17.

**Eldon H. Reiley** has taken a leave of absence from Myers, Reiley and Annis to accept a position as professor of law at the University of San Francisco. Reiley will remain of counsel to the firm, which has opened an additional office in the Spokane valley at East I 3005 Sprague Avenue (928-2345).

The officers of the Spokane County Bar Auxiliary this past year have been: President — Mrs. Victor J. Felice; 1st Vice President — Mrs. Grant L. Kimer; 2nd Vice President — Mrs. John P. Murray; Secretary — Mrs. William Symmes; Corresponding Secretary — Mrs. Ronald Mullin; and Treasurer — Mrs. Robert Winston.

The auxiliary continued many projects during the year. Among them were the Gonzaga Law School scholarship, the "It's the Law" newspaper article, and the clothing collection for the Juvenile Detention Home.

An annual "Dinner Dance" was held at the Spokane Club. The program was again written and directed by John E. Heath, Jr. and presented by the combined efforts of the Bar Association and Auxiliary.

One of the largest projects this year was the establishment of "Foster Care Week." The purpose of this program was to better acquaint the Spokane area with the great need for foster homes. The mayor set aside the week of Jan. 3 through 9th as "Foster Care Week." A bus tour of the participating agencies, including

the various juvenile care homes and youth departments, occurred at the beginning of the week's activities. A play entitled, "A Child is Waiting" was presented at the Spokane Civic Theater. The project was a big success and it is hoped that a similar program will be continued this coming year.

The year was concluded with a style show luncheon.

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## THURSTON-MASON REPORT

By **STEPHEN J. BEAN**

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**Ward J. Rathbone**, Chief Criminal Deputy for the Thurston County Prosecuting Attorney's Office, has left the Prosecutor's office and has joined the firm of Bean & Gentry.

**J. V. Lyman** has joined the Prosecutor's staff as have **Rick Strophy** and **Ed Schaller**.

**Clifford "Kip" Stilz** has become associated with the firm of Fristoe, Taylor & Schultz. Speaking of this firm, friends of **Bob Fristoe** might inquire of him as to certain front page publicity he received in the local newspaper for merely being a Notary Public.

**Thomas Henderson** of Pierce County has opened an office in Olympia.

**John Aiken** is now associated with **Don Miles**.

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## YAKIMA REPORT

By **RANDY MARQUIS**

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### Lawyers in the News:

**Roger K. Garrison**, Sunnyside, was recently named president of the Board of Trustees of the Sunnyside Valley Memorial Hospital. Roger serves as legal adviser to the board and has been a board

member for five years. Roger is past district chairman of the Boy Scouts of America, past Exalted Ruler of the Lower Valley Elks Club, past president of the Sunnyside Rotary Club and served on the United Good Neighbors board.

**Michael Schwab** was recently appointed as Interim Planning Director for future county anti-poverty programs. Mike was appointed by the County Commissioners upon the recommendation of United Community Action Inc., the local poverty board. His job will be to commence action toward making a poverty needs study for the Yakima Valley.

### Judges in the News:

**George H. Mullins**, Yakima District Justice Court Judge, has been named one of three persons in the United States to receive the Order of St. Sebastian medal, highest honor given to a Catholic War Veterans member. A World War II veteran, Judge Mullins was a lieutenant in the Pacific Theater of Operations from 1942 to 1946 and was recalled during the Korean conflict. In 1952 he retired as a lieutenant commander from the Navy. The judge's many community activities include presidency of Sundown M Ranch Corp., which operates an alcoholic rehabilitation center in the Lower Valley.

### Changes and Acquisitions:

**Mark R. Fortier** recently announced the association of **G. William Baker** at law offices located at 117 No. 3rd Street, suite 101, Yakima.

**Kevin S. Kirkevold** recently associated with the firm of Tunstall, Hettinger, Dohn & Hazel. Kevin is a graduate of the University of Washington with a major in political science. He graduated from Willamette Law School in May 1971. Kevin is one of those few rare natives of Yakima.



Pictured are Howard P. Pruzan (L) and George W. Martin (R), co-chairmen of WSBA's committee on the Code of Professional Responsibility. By an order dated August 26, 1971, the State Supreme Court approved the Code submitted by the Board of Governors, subject to the consideration of comments received from the Bench and Bar. The Code, when officially adopted on about January 1, 1972, will replace the Canons of Professional Ethics. The proposed Code appears at 79 Wn.2d 1108-67 (1971) and comments will be received by the Supreme Court Clerk until November 9, 1971.

## Municipal Attorneys

The following persons were elected to the offices indicated at the Fifteenth Annual Meeting of the Washington State Association of Municipal Attorneys (WSAMA) on June 25, 1971, at Spokane:

**John B. Bereiter**, President, City Attorney of Auburn; **G. Thomas Dohn**, First Vice President, City Attorney of Ellensburg; **A. Wesley Hodge**, Second Vice President, City Attorney of Tukwila; **Richard E. Johnson**, City Attorney of Okanogan, Representing cities under 2500 population; **Bruce E. Jones**, City Attorney of Everett, Representing cities over 2500 population; **James B. Mitchell**, City Attorney of Walla Walla, Representing cities having a population between 2500 and 50,000; and **Ernest H. Campbell**, Secretary, and Co-Director, Municipal Research and Services Center of Washington. **Larry M. Carlson** is immediate past President of ASAMA.

## CLE Cassettes Available

The newest wrinkle in continuing legal education — cassette tapes — is being added to the Washington State Bar's CLE program.

The Continuing Legal Education Committee has recommended and the Board of Governors has approved providing of cassette tapes to members of the Bar — at cost.

The committee will make available from time to time taped CLE seminar presentations, to run usually from an hour to two hours. The first offerings may be ordered by lawyers now (see advertisement on inside back cover of the *Bar News*).

Many lawyers and law offices throughout the state already are equipped with cassette players, which may be obtained at prices ranging from around \$20 to deluxe models at more than \$100. The tiny, foolproof tape cassettes will play perfectly on all of them.

## Governmental Lawyers Ass'n

**Robert F. Hauth**, a senior assistant attorney general, is the new president of the Governmental Lawyers' Association of Washington. Other new officers are **Philip Bork**, first vice president; **David Freeman**, second vice president; **Robert E. ("Skip") Patterson**, secretary, and **William Lowry**, treasurer. Formed a year ago to represent the particular concerns of public lawyers at the state, county and local level the group now has 87 members and is affiliated with the Washington State Bar Association. All five officers and most of the members live or work in Olympia, but the association is open to public attorneys throughout the state.

## Local Federal Rule on Disbarment and Discipline Amended

Rule 2(e) of the Local Rules of the Western District of Washington was amended on June 9, 1971. The principal change is the provision for a Committee on Discipline. Three members of the Bar of that court will be appointed by the court to serve on the committee. The committee is vested with all of the powers of a continuing grand jury.

## Lawyers Reference Service

A new information reference service is being provided for Washington State lawyers by Informax, 3425 S. 176th, Suite 268, Seattle 98188 (CH 3-3501). The new firm will provide research and reference information on all general, technical and scientific subjects other than purely legal areas.

## McLAUHLAN AT LARGE



Ivan E. Merrick Jr., and John F. Dore, Seattle



Herbert H. Davis, Prosser



John S. Moore, Yakima



John and Patricia Mucklestone, Seattle



John D. McLauchlan, Seattle



Victor D. Lawrence, Seattle

## COMING CHANGES IN WORKMEN'S COMPENSATION

The new workmen's compensation law, enacted by the 1971 Legislature, requires that virtually all employees in Washington be covered by industrial insurance beginning January 1, 1972. Attorneys, who until now have been exempt from mandatory coverage, will be among the estimated 450,000 brought into the program at that time.

Among the few employed persons for whom coverage will not be required are sole proprietors and partners, corporate officers and certain "casual" employees not connected with a trade, profession or business. Although coverage in these cases is not mandatory, any such working person may be covered voluntarily.

### *How to Apply for Workmen's Compensation Coverage*

The State agency which administers the workmen's compensation program is the Department of Labor and Industries. Beginning October 12, 1971, this Department will launch a pre-registration program in which employers new to the program may make application for coverage which will take effect January 1, 1972. An early application will allow the Department to communicate directly with the employer, will provide the employer with an advance estimate of his premium costs, and avoid any last-minute standing in line to apply.

To apply for coverage, an employer should contact the nearest service location of the Department of Labor and Industries. Pre-registration will begin October 12, and continue through December.

All subject employees must be covered by January 1, 1972. Failure of an employer to obtain coverage can result in severe penalties.

### *Premium Rates*

Employers new to the program will be classed according to the risk-level of their work. Correspondingly higher rates are assigned as work hazard increases. By October 12, the Department will have established rates for both the industrial insurance and medical aid premiums for all new employers.

The industrial insurance premium, paid entirely by the employer, pays compensation for time lost from work, permanent partial disability awards (amputations, for example), permanent total disability pensions and death benefits. The medical aid premium, shared equally by employer

and employee, pays for all medical expenses resulting from job injuries or illnesses.

### *Supplemental Pension Fund Assessment*

Since July 1, 1971, the new law has required the Department to make an assessment for each day or part day worked by an employee to create a Supplemental Pension Fund. This fund is used to increase the monthly payments made to injured workers or their survivors whose pension benefits were based upon older, thus lower, benefit schedules. The assessment for this fund has been set at five cents per day worked. This is shared equally by employer and employee, or 2.5 cents per day from each.

### *The Benefits of Workmen's Compensation for Employers*

In addition to the benefits that workmen's compensation provides for the employee, the employer benefits from immunity to liability. Under mandatory coverage, an employee forfeits his right to bring suit against his employer in the event of a job injury.

The Department of Labor and Industries is able to make an unusually high return in benefits for each premium dollar. Pension reserves are invested. Interest on these investments more than pays the administrative costs of the workmen's compensation program. Thus, the Department has been able to return \$102.50 in benefits to injured workmen for every \$100 in premiums collected.

Another unusual feature of the State's industrial insurance program is its unlimited medical coverage. For example, an equipment operator injured in 1936 still receives benefits. His medical expenses alone have totaled nearly \$147,000, and will continue to be paid as long as the need exists.

### *The Possibility of Group Insurance*

The Department of Labor and Industries is studying the feasibility of establishing "group insurance plans" for associations of employers. Such group insurance could be obtained solely through the Department, as the law makes no provision for groups to self-insure. While there are no immediate plans for group insurance, an informal, six-man committee representing various employer associations has volunteered to study the subject and make recommendations to the Department. □

**WASHINGTON STATE BAR ASSOCIATION  
SUMMARY OF RECEIPTS AND DISBURSEMENTS AND  
STATEMENT OF COMPOSITION OF FUND BALANCES**

Year Ended December 31, 1970

	General Fund	Admission To The Bar Fund	Legislative Fund	Continuing Legal Education Fund	Clients Indemnity Fund	Washington State Bar Foundation Fund	Insurance Fund	Total
FUND BALANCES, DECEMBER 31, 1969	\$215,608.27	\$22,239.83	\$28,397.67	\$27,206.03	\$55,697.30	\$ 2,371.47	\$35,199.01	\$386,719.58
RECEIPTS	272,811.86	40,803.60	22,820.20	20,783.95	45,908.79	120.80	1,924.93	405,174.13
DISBURSEMENTS	301,942.42	50,100.94	7,052.16	23,794.86	2,227.29	—	—	385,117.67
FUND BALANCES, DECEMBER 31, 1970	<u>\$186,477.71</u>	<u>\$12,942.49</u>	<u>\$44,165.71</u>	<u>\$24,195.12</u>	<u>\$99,378.80</u>	<u>\$ 2,492.27</u>	<u>\$37,123.94</u>	<u>\$406,776.04</u>

**COMBINED STATEMENT OF RECEIPTS AND DISBURSEMENTS  
AFTER ELIMINATING INTER-FUND TRANSFERS**

	1970	1969	INCREASE (DECREASE)
<b>RECEIPTS</b>			
Dues	\$189,696.00	\$184,700.00	\$ 4,996.00
Examination fees	40,500.00	37,700.00	2,800.00
Interest	31,431.02	20,537.99	10,893.03
State Bar convention	16,442.43	18,781.26	(2,338.83)
Legislative donations	12,733.41	13,095.25	(361.84)
Registrations	12,215.85	35,372.55	(23,156.70)
Other miscellaneous receipts	6,581.41	6,029.74	551.67
Reimbursed discipline costs	4,525.33	707.63	3,817.70
State Bar news	2,858.50	1,867.50	991.00
Insurance dividend	—	11,345.15	(11,345.15)
<b>TOTALS</b>	<b>\$316,983.95</b>	<b>\$330,137.07</b>	<b>\$(13,153.12)</b>
<b>DISBURSEMENTS</b>			
Committee expenses	\$ 40,700.25	\$ 25,756.67	\$ 14,943.58
Salaries, Payroll taxes and Employee benefits	48,798.36	44,754.22	4,044.14
Office and administrative expenses	47,111.02	34,950.60	12,160.42
Discipline and disbarment	29,961.33	29,765.70	195.63
Examination expenses	29,380.57	18,472.89	10,907.68
Continuing legal education	28,330.94	31,496.19	(3,165.25)
State Bar news	26,489.71	20,872.02	5,617.69
State Bar Convention	15,405.69	15,205.79	199.90
Expense of the Board of Governors	11,341.70	6,151.33	5,190.37
National Conference of Bar Examiners	7,400.00	5,200.00	2,200.00
Conferences	6,278.04	3,642.34	2,635.70
Miscellaneous disbursements	3,925.88	13,831.49	(9,905.61)
Claims paid — Clients Indemnity Fund	1,804.00	4,062.94	(2,258.94)
<b>TOTALS</b>	<b>\$296,927.49</b>	<b>\$254,162.18</b>	<b>\$ 42,765.31</b>

**RECEIPTS — GENERAL FUND**  
Year Ended December 31, 1970

Dues		
Active Members @ \$50.00 .....	\$160,800.00	
Active Members @ \$25.00 .....	27,450.00	
Inactive Members @ \$2.00 .....	<u>1,446.00</u>	\$ 189,696.00
Reimbursed Expenses		
Overhead from the Admission to the Bar Fund .....	\$ 11,983.32	
Administrator Salary, Reimbursed from the Continuing Legal Education Fund .....	7,395.87	
Discipline Costs .....	4,525.33	
Other Expenses from the Continuing Legal Education Fund .....	<u>2,420.52</u>	26,325.04
Interest		20,954.46
State Bar Convention .....		16,442.43
Legislative Donations .....		12,733.41
Other Miscellaneous Receipts		
Reinstatements and Changes .....	\$ 975.00	
Public Relations — Pamphlets, Racks, Schools .....	1,204.88	
Board of Governors .....	338.02	
Redeposits — Net .....	330.00	
Office Supplies and Postage .....	223.13	
Addressograph .....	208.50	
Law Day .....	150.00	
Refundable Reinstatement Fees .....	150.00	
Directories .....	64.09	
Dues Paid in Error .....	58.00	
Committee Expense .....	54.25	
Miscellaneous .....	<u>46.15</u>	3,802.02
State Bar News .....		2,858.50
TOTAL RECEIPTS .....		<u>\$272,811.86</u>

**DISBURSEMENTS — GENERAL FUND**  
Year Ended December 31, 1970

Discipline and Disbarment		
Compensation of Counsel .....	\$ 18,500.00	
Expense of Hearings, etc. ....	9,394.39	
Discipline Board .....	<u>2,066.94</u>	\$ 29,961.33
Expense of the Board of Governors		11,341.70
Continuing Legal Education .....		<u>17,127.53</u>
Committee Expense		
Public Relations .....	\$ 6,303.10	
History of the Bar .....	4,000.00	
Young Lawyers .....	3,311.98	
Family Law .....	2,013.54	
Revision of Judicial Article .....	1,787.54	
Subversive Activities .....	1,439.20	
Internship .....	968.89	
Minimum Fee .....	904.22	
Legal Ethics .....	778.72	
Local Administration .....	618.70	
American Citizenship .....	579.04	
Legal Aid .....	576.14	
Unauthorized Practice of Law .....	574.92	
Special Committee of Discipline Procedure .....	558.10	
Professional Responsibility .....	476.97	
Lawyer Referral .....	434.77	
Legal Education Liaison .....	406.98	
Real Property, Probates, and Trusts .....	385.96	
Law Office Management .....	339.99	
Jury Instruction .....	311.34	
Civil Rights .....	230.80	
Judicial Plebiscite .....	210.06	
Federal Rules .....	206.91	
Bar Bench News Media .....	183.52	
Insurance .....	155.12	
Justice Court .....	146.39	
Corporation Law .....	137.92	
Crime and Delinquency .....	129.40	
World Peace .....	79.00	
Travel .....	69.47	
International Law .....	61.60	
Internal Revenue Liaison .....	56.40	
Medical — Legal Liaison .....	52.20	
Industrial Insurance .....	<u>50.89</u>	28,539.78

<b>Labor Costs</b>			
Salaries .....	\$ 43,805.51		
Social Security Taxes .....	2,149.70		
Washington State Employee's Retirement .....	3,509.82		
			<u>49,465.03</u>
<b>Office and Administrative Expenses</b>			
Office Rent .....	\$ 16,324.00		
Office Supplies and Expense .....	13,048.99		
Postage .....	5,983.27		
Office Survey, H. J. Prior & Associates .....	4,897.00		
Telephone and Telegraph .....	3,045.15		
Trustee Fec, Seattle-First National Bank .....	996.64		
Audit .....	750.00		
Miscellaneous .....	555.54		
Office Equipment .....	787.22		
Parking Expense .....	420.00		
Insurance .....	372.00		
News Service .....	146.28		
Pickup and Delivery .....	59.52		
Gifts and Memorials .....	25.41		
			<u>47,111.02</u>
State Bar News .....	26,489.71		
State Bar Convention .....	15,405.69		
<b>Conferences</b>			
American Bar Association, Western States Conference and Regional Meetings .....	\$ 3,988.08		
Bar Presidents' Meetings .....	1,770.96		
9th Circuit Judicial Conference .....	519.00		
			<u>6,278.04</u>
<b>Miscellaneous Disbursements</b>			
Library .....	\$ 427.76		
Public Relations, School and the Law .....	273.20		
Conspiracy Trial .....	217.40		
Inactive to Active .....	200.00		
Refunds of Dues .....	112.00		
Contribution, National Conference of Bar Executives and Presidents .....	100.00		
			<u>1,330.36</u>
Total Operating Disbursements .....			<u>\$233,050.19</u>
<b>Transfers to Other Funds</b>			
Clients Indemnity Fund .....	\$ 41,700.00		
Legislative Fund .....	20,462.41		
Continuing Legal Education Fund .....	6,729.82		
			<u>68,892.23</u>
<b>TOTAL DISBURSEMENTS</b> .....			<u>\$301,942.42</u>

## ADMISSION TO THE BAR FUND

Year Ended December 31, 1970

### RECEIPTS

<b>Examination Fees</b>			
At \$225.00 .....	\$ 1,125.00		
At \$150.00 and \$125.00 .....	13,575.00		
At \$75.00 .....	25,800.00		
			<u>\$40,500.00</u>
<b>Other Miscellaneous Receipts</b>			
Telegrams .....	\$ 228.60		
Miscellaneous .....	75.00		
			<u>303.60</u>
<b>TOTAL RECEIPTS</b> .....			<u>\$40,803.60</u>

### DISBURSEMENTS

<b>Examination Expenses</b>			
Examiners Salaries .....	\$19,450.00		
Printing and Stationery .....	5,851.53		
Examiners Expenses .....	2,637.06		
Room Rentals .....	1,036.98		
Proctors Salaries .....	405.00		
			<u>\$29,380.57</u>
Expenses Reimbursed to General Fund .....			11,983.32
National Conference of Bar Examiners .....			7,400.00
<b>Miscellaneous Disbursements</b>			
Refunds .....	\$ 1,025.00		
Telegrams .....	302.05		
Miscellaneous .....	10.00		
			<u>1,337.05</u>
<b>TOTAL DISBURSEMENTS</b> .....			<u>\$50,100.94</u>

## LEGISLATIVE FUND

Year Ended December 31, 1970

### RECEIPTS

Transfers from other Funds		
General Fund		
Contributions	\$12,659.00	
Erroneous Transfer from 1969 Returned	7,599.70	
Continuing Legal Education Fund	21.53	
	\$20,280.23	
Interest, Net		2,539.97
<b>TOTAL RECEIPTS</b>		<b>\$22,820.20</b>

### DISBURSEMENTS

Committee Expense		
Representative Expense	\$ 4,231.68	
Representative Retainer	2,290.00	
Committee Expense	225.36	
	\$ 6,747.04	
Miscellaneous Disbursements		
Office Expense and Postage	\$ 157.08	
Telephone and Telegraph	47.10	
		204.18
<b>TOTAL OPERATING DISBURSEMENTS</b>		<b>\$ 6,951.22</b>
Transfers to other Funds		
General Fund	\$ 79.41	
Continuing Legal Education Fund	21.53	
		100.94
<b>TOTAL DISBURSEMENTS</b>		<b>\$ 7,052.16</b>

## CONTINUING LEGAL EDUCATION FUND

Year Ended December 31, 1970

### RECEIPTS

Registrations		\$12,215.85
Other Miscellaneous Receipts		
Book Sales	\$ 2,261.36	
Miscellaneous	41.84	
		2,303.20
Interest		1,682.07
Transfers from other Funds		
General Fund — Erroneous Transfer from 1969 Returned	\$ 4,561.30	
Legislative Fund	21.53	
		4,582.83
<b>TOTAL RECEIPTS</b>		<b>\$20,783.95</b>

### DISBURSEMENTS

Books and Printing		\$11,203.41
Committee Expenses		
Panel Participants and Speakers Expense	\$ 4,363.95	
Committee Members Expenses	812.95	
		5,176.90
Salary, Administrator		6,729.20
Miscellaneous Disbursements		
Supplies	\$ 435.71	
Miscellaneous	164.07	
Postage and Delivery	64.04	
		663.82
<b>TOTAL OPERATING DISBURSEMENTS</b>		<b>\$23,773.33</b>
Transfers to other Funds		
Legislative Fund		21.53
<b>TOTAL DISBURSEMENTS</b>		<b>\$23,794.86</b>

## CLIENTS INDEMNITY FUND

Year Ended December 31, 1970

### RECEIPTS

Transfer from General Fund		\$41,700.00
Interest		4,208.79
<b>TOTAL RECEIPTS</b>		<b>\$45,908.79</b>

### DISBURSEMENTS

Claims Paid		\$ 1,804.00
Committee Expense		236.53
Trustee Fee		186.76
<b>TOTAL DISBURSEMENTS</b>		<b>\$ 2,227.29</b>



A new group disability insurance plan to replace the one now in effect for State Bar members has been approved by the Board of Governors.

The group plan, applicable to both lawyers and their employees, was proposed by Pacific Underwriters Corporation, which also administers the present plan. The firm said the present insuring company wished to change the premium arrangement, but the "rates proposed to us did not seem reasonable."

The new plan was to go into effect in September, with those in the present plan automatically converted to the new plan at the June 14, 1972, renewal date.

Total disability benefits to the insured's 65th birthday are provided in the new plan. If the disability occurs after his 63rd birthday, he would be paid a maximum of two years, or to age 70, whichever occurs first. Benefits for members will be available from \$50 to \$300 per week, with additional benefit up to \$500 per week subject to individual underwriting but still at group rates. Benefit for employees is either \$50 or \$100.

At its August meeting the Board of Governors also authorized the Legislative Committee, at the committee's request, to draft **landlord-tenant reform legislation**. New landlord-tenant laws proposed in the 1970 and 1971 legislatures were opposed by the Bar but at the same time the Legislative Committee had recognized that the ancient laws were out of date, the Board was informed.

In other business the Board:

✓ Appointed **William H. Gates** of Seattle, former president of the Seattle-King County Bar, to the committee arranging the national convention of Chief Justices to be held in Seattle next August.

✓ Authorized necessary expenses up to \$2500 for the **Automobile Reparations Committee**, which is seeking to determine any changes which should be made in this state's present reparations system in the best interest of the public.

✓ In response to a request of the Washington Association of Community College Student Governments for appointment of lawyers as impartial fact-finders and quasi-arbitrators in event of **campus disturbances**, decided to ask local bars to provide volunteer local lawyers to serve in each of the state's 22 community college districts.

✓ Decided to investigate further any procedural changes that may be needed in cases involving Supreme Court **suspension of lawyers for non-payment of dues**.

✓ Voted to ask the **Disciplinary Board** to "take cognizance" of publicized cases involving charges against lawyers.

✓ Voted to retain **Richard F. Broz** of Seattle as an additional Bar counsel.

✓ Decided to pursue further the matter of some divorce cases handled by the **Seattle Legal Services Office**.

At its September 7-8 meeting, the Board of Governors:

✓ Changed the name of the Committee on Committees, because of its broadened function, to the **Committee on Organization and Government of the Bar Association**, enlarged the membership, named outgoing State Bar president Robert O. Beresford and John W. Riley, both of Seattle, as co-chairmen, and approved a research and data-gathering budget of up to \$3000 for the committee.

✓ Further discussed possible employment of a Bar staff **discipline investigator**, and asked Board member James P. Curran of Kent and Bar staff member G. Edward Friar to investigate and report to the Board at its October meeting.

✓ Named Storrs B. Clough of Monroe and John S. Moore of Yakima as additional Bar members of the **Judicial Council**.

✓ Voted to conduct a **questionnaire poll** of the Bar evaluating the performance of Superior Court judges and including related subjects, in line with similar projects in other states.

✓ Asked Charles I. Stone of Seattle to prepare a proposed method to correlate procedures between the Bar Association and the Supreme Court concerning **suspensions of members** for nonpayment of dues.

✓ In response to a recommendation from the Legal Education Liaison Committee that a study be made concerning the need for **additional legal-education facilities** in this state, asked more information from the committee concerning specific recommendations and possible cost of such a study.

✓ Adopted a 1971-72 **State Bar budget**.

✓ Decided to appoint a committee to consult with State Code Reviser Richard O. White on the project under way by White's office in developing **computerization of the law**.

✓ Approved the Okanogan County Bar's **judicial selection** recommendations.

✓ Selected the **membership of State Bar committees** for the coming year. □



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## SUPREME COURT PRACTICE

By WILLIAM M. LOWRY

Supreme Court Clerk

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Cases raising issues which may be of interest to members of the Bar and which will be argued before the Supreme Court during the fall 1971 Session are summarized below:

### ORIGINAL:

42058 - *Otis Reese, Administrator of the Estate of Robert L. Reese, Deceased v. City of Seattle, Seattle Police Dept., Frank Ramon, Chief of Police, Harold G. Larsen et ux* - **Criminal law**

Whether an instruction on excusable homicide by a police officer to the effect that the law permits a police officer to shoot and kill any human being if the police officer had honestly formed the opinion that a felony had been committed based on the circumstances as they appeared to him and if the circumstances were such that a reasonable mind could have formed such an opinion was proper where it is alleged that the evidence would not support more than a charge of third degree assault.

41965 - *John M. Lansiger et ux. v. Local Improvement District No. 6368* - **Constitutional law**

Whether RCW 35.44.210 is violative of the due process clause in that it requires the filing of a notice of appeal within ten days after the adoption of the ordinance confirming an assessment but does not provide notice to the protesting property owners of the adoption of the ordinance?

42055 - *Jane Doe et al. v. Sidney E. Smith et al.* - **Constitutional law**

Are the provisions of WAC 388-38-340 which requires the putative father of illegitimate children to be considered as a source of income potentially available to meet the child's needs unconstitutional in that: (1) it is an arbitrary discrimination against needy and dependent children (2) the disclosure required would violate the fifth amendment's prohibition of compulsory self-incrimination and (3) it violates the appellant's personal dignity and privacy?

42059 - *Munoz v. Monoz* - **Divorce - custody**

Is it within the province of the courts to direct and/or prohibit the particular religious training of children?

41128 - *In the matter of the application for writ of mandate of Anthony Ellsworth Dearinger v. Slade Gorton et al.* - **Administrative law - Constitutional law**

(1) To what extent does a court have jurisdiction to review the rules and practices governing the preparation of legal challenges to incarceration by inmates of a state correctional institution?

(2) Is a denial of reasonable access to the court, where inmates of a state correctional institute may research legal authorities and prepare legal challenges to their incarceration only within the confines of a room maintained for such purposes, and where inmates have access to such room subject to the space available there and the demands for such use of such space?

41958 - *Iverson v. Marine Bancorporation* - **Constitutional law**

Whether the failure to provide an indigent appellant in a civil action a transcript and a statement of facts at public expense and or waive the requirement of an appeal bond is a denial of equal protection of the laws and a deprivation of due process of law?

42068 - *Jesse W. Fisher et ux. et al. v. Donald L. Spencer, Principal, Hoquiam High School* - **Constitutional law**

Whether a regulation governing the length of hair and prohibiting beards constitutes an arbitrary and unreasonable classification in violation of the equal protection as well as the due process clauses of the constitution?

42052 - *Mutual of Omaha Insurance Co. v. John P. Lundmark*

42056 - *Mary Jane Barber v. Bankers Life & Casualty Co.*

42071 - *Fay L. Brow v. Mutual of Omaha Insurance Co.* - **Insurance**

These three cases will be considered on the same day. They cover the entire area of insurance negotiations and the question of the agent's authority, the insured's duties and the bargaining position of the parties.

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## THE COURT OF APPEALS

By **ROBERT F. UTTER, Judge**

*Division 1*

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*Efficient Appellate Court Administration* was the topic of a talk given to the judges of the Supreme Court and the Court of Appeals by Judge Griffin Bell, at their annual judicial conference held in Vancouver, Washington, September 8 and 9. Judge Bell has served on the Fifth Circuit since 1961 and is a recognized leader in both federal and state efforts for an efficient appellate judiciary. He commented he is also known in some circles as the School Superintendent for Mississippi.

The Fifth Circuit has developed a screening procedure based on the premise that oral argument is not necessary in every case and that in many others, only limited argument is indicated. Each case is pre-screened by judges on the court for two purposes: To eliminate frivolous appeals and to determine whether full or limited argument is needed.

The screening used by the Fifth Circuit judges places cases in one of four categories: Class One is the frivolous case; Class Two is the case of substance, but where oral argument is deemed unnecessary; Class Three is the case where limited argument is indicated; and Class Four is the full argument case. The increase in productivity of judges under this system enabled the circuit to increase its production by almost one-third.

\* \* \* \*

Interesting trends were shown by a review of the statistics for the first six months of 1971 compared with the first six months of 1970. All writs filed with the Court of Appeals increased 50% over 1970. There was a 79% rise in writs of certiorari. All filings for both the Court of Appeals and the Supreme Court showed an increase of 13%, with an average filing in both courts of over 100 cases per month.

An unexplained decrease in criminal appeals in Division I from 146 in the first six months of 1970 to 57 in the similar period from 1971 almost offset an increase in civil appeals from 98 to 144 cases in the same period of time in Division I.

The only factor immediately apparent to explain the dramatic decrease in criminal appeals in Division I, not reflected in the other two divisions with regard to criminal appeals, is the presence in Seattle of a full-time public defender's office.

Applications from interested attorneys are requested for the position of Administrative and Research Assistant for Division I. Particulars may be obtained by writing Chief Judge Charles Horowitz, Pacific Building, Seattle, Washington 98104.

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At the time the Court of Appeals was created in 1969, the lapse of time from the date a case was ready to date of oral argument was 22 months in Division I and 23 months in Divisions II and III. At the present time, the time lapse has been reduced to 8 months in Division I; 7 months in Division II and 5 months in Division III.

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## SUPERIOR COURT NEWS

By **ROBERT M. ELSTON, Judge**

*King County Superior Court*

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The state's superior court judges met September 8-10 in Vancouver, Washington. The following officers of the Washington State Superior Court Judges Association were elected for 1971-1972: President, Judge **Story Birdseye** (King); Vice-President, Judge **Edward M. Nollmeyer** (Snohomish); Secretary-Treasurer, Judge **Donald L. Gaines** (King — re-elected); Trustees; Judges **William H. Williams** (Spokane), **William F. LeVeque** (Pierce) and **Bert C. Kale** (Whatcom). Hold-over Trustees are Judges **James W. Mifflin** and **Solie M. Ringold** (King), **John C. Tuttle** (Walla Walla) and **Ross R. Rakow** (Klickitat-Skamania).

\* \* \* \*

A Friday breakfast meeting at the Judicial Conference honored judges who have assumed superior court positions since last year's meeting. They are Judges **Alan R. Hallowell** (Cowlitz), **James A. Noe** (King), **Robert J. Doran** (Thurston-Mason), **Byron L. Swedberg** (Whatcom); **James V. Ramsdell** (Pierce), **Howard A. Patrick** (Island-San Juan), **John N. Skimas** (Clark), and **Daniel T. Kershner** (Snohomish).

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The Conference program included: a visit to Portland for a joint luncheon with the State Bar and a joint session on "The Bar Views the Bench and Vice Versa"; a short glimpse of the Proposed New Criminal Rules; a discussion of prison reform; a gloomy look at the Proposed Judicial Article; a proposal for a State-Federal Judicial Council (favorable resolution passed); a primer on Grand



Juries; some less than racy committee reports and consideration of business matters. Judge **J. Guthrie Langsdorf** (Clark) was General Conference Chairman and Judge **Story Birdseye** (King) was General Program Chairman. District Judges **Gary N. Utigard** (King) **Gerard N. Fisher** (Kitsap) and **Al Yencopal** (Richland) were invited guests of the Conference. District Judges **Waldo F. Stone** (Pierce) and Utigard also participated in the program.

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### NEWS OF COURTS OF LIMITED JURISDICTION

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

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**W. Lawrence Wilson** has been appointed as District Court Judge, Alderwood District Court, Lynnwood.

Galen Willis, Deputy Administrator for the Courts recently announced that the newly published **Washington Justice Court Manual** has been an unqualified success, and over 700 copies have been distributed, free of cost, to the various courts and governmental agencies engaged in practice or association in those courts. This manual was mainly funded through a federal grant with the bulk of the workload falling on the District Judges for authorship and Mrs. Mary A. Norman, for editing and revision. The committee under the tutelage of Judge **Carolyn Dimmick**, Redmond, King County, was responsible, in the main, for this effort, and to them congratulations on their success.

A new municipal court has been created at Ocean Shores. Judge **Paul Stritmatter**, has been appointed to fill this new position, with Mrs. Helga Romero as chief clerk. Should any member of the bench or bar have business in, or would wish to contact this court, they may do so by writing to Ocean Shores Municipal Court, P.O. Box 317, Ocean Shores, Washington 98531.

It is with sorrow that we report the recent death of Judge **Frank Van Eaton** of the Eatonville Municipal Court. Judge Eaton passed away after an illness in July. He has been replaced by Judge **David J. Steiner**, the District Court judge for Pierce County District Court number 3.

Judge **Lee Church**, of the Cosmopolis Municipal Court has been extremely ill and is now recovering from hospitalization and surgery. During his absence, Mrs. **Marguerite Church** has been appointed to serve as Judge Pro-Tem.

#### Gonzaga:

Dean **Lewis H. Orland** expects enrollment at Gonzaga Law School in September will be about 415, up around 193 from last year's registration. He said 280 freshmen will be admitted to the law school this fall. More than 600 applied. "Every seat is taken," he added. "This is about in line with the national trend in which there are two applicants for every seat in the nation's law schools."

#### University of Washington:

An honor student who twice was denied admission to the University of Washington Law School filed a lawsuit in King County Superior Court seeking admission or damages of at least \$50,000. Marco DeFunis, Jr., 22, contended that taxpayers and residents of the state are entitled to preference for admission to the state university and the students admitted under the special minority programs were given discriminatory preference over him.

Judge Lloyd Shorett agreed with the latter contention and ordered that De Funis be admitted.

The suit, filed by DeFunis and his parents and prepared by **Josef Diamond**, a lawyer, stated that many of the students accepted in law school have lesser qualifications and come from out of state. DeFunis graduated magna cum laude from the university last year. After he was placed on a waiting list, his application for law school was denied. He entered graduate school and got straight A's in his classes.

Although his law-school aptitude-test score was within the top 7 per cent of applicants who have taken the test in recent years, he was denied admission again this year, the suit states. DeFunis said he has been accepted by law schools at the University of Oregon, the University of Idaho, Gonzaga University and Willamette University, but he wanted to go to the University of Washington.

He further contended that of the 275 law students admitted by the school, 180 had a lower grade point average than his. Of the 275 admitted, 150 are out-of-state students. He scored in the top 7% of the school's applicants on the Law School Aptitude Test the third time he took it.

**Jim Wilson**, U. W. Counsel, told the court that the admissions procedure is "harsh although fair" in view of the fact that the law school received 1,600 applications for the current year, almost doubling the rate within two years.



Time saving in the office has been a recurrent theme, for by increased efficiency the lawyer can give better service to the public.

Time saving in that part of practice which takes place outside the office is, however, equally important.



Consider that aspect of practice which involves the lawyer with the courts. Often a lawyer's time is poorly utilized by the judiciary with seeming indifference to the cost to the lawyer and ultimately to the client.

By way of illustration, think of the countless man-hours wasted by lawyers and clients alike in the Department of the Presiding Judge or on call while awaiting the start of a trial.

Spending a morning on the motion calendar in order to argue a ten minute motion is another typical situation.

Why should lawyers be obliged to be present for case setting when a well-informed calendar clerk could represent and speak for the lawyer in working out trial dates?

Snohomish County has a local practice which requires that both attorneys be present in court in a non-contested divorce hearing where findings of fact, conclusions of law and decree, and the property settlement agreement, have been approved in writing by both counsel!

In ex parte probate matters, why should formal testimony be required on matters that are set forth in writing under oath in the petition?

Consider the waste of the lawyer's time when counsel appears for the motion calendar at 9:30 A.M., no opposition appears, but no relief will be granted until after 10:30 A.M. or on the second calendar call.

While there are many other archaic rules and practices which waste the lawyer's time, there have been numerous enlightened changes which

conserve the time of both the lawyers and the courts.

King County Local Rule No. 77, which permits ex parte and agreed matters to be sent by mail for court approval, is an excellent example of a move for increased efficiency.

RCW 11.20.020, which permits a will to be proved without the attendance of attesting witnesses, saves many hours of locating the witnesses, arranging for their attendance, and then waiting in court until their testimony can be heard.

The setting of trial dates by stipulation, dealing only with a court calendar clerk, saves time, but could be improved if a legal assistant could represent the law firm.

Rule 9, Admission to Practice Rules, which permits legal interns to handle ex parte and certain specified matters, conserves the time of the attorneys, permits the handling of routine or small matters at a lesser cost, yet permits control of the legal business within the framework of the legal profession, while at the same time affording the law student excellent on-the-job training.

Attorneys in general, and members of local bar associations in particular, should work constantly with the judiciary to improve court rules and thereby to minimize wasted time for lawyers.

Interestingly enough, most of the practices which conserve the lawyer's time also conserve the time of the judiciary. Where there is a mutual saving of time by Bench and Bar, the result will be less cost to the taxpayer and client, and more efficient administration of the judicial process.

**Richard C. Reed**

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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.



## Committee Reports

### **Legal Education Liaison:**

Did not believe it had sufficient information to warrant recommending an additional law school in the state but recommended the Board make funds available for immediate study of present and future needs of legal education in this state . . . Recommended that subsequent to bar exams, questions be published for assistance of those later taking bar exams. Publication of the questions should be distributed to law schools in this state and to local bar associations requesting the same.

### **Study of Federal Rules:**

Studied the 1970 amendments to the federal discovery rules and forwarded a report to the Judicial Council . . . Studied the revised draft of proposed rules of evidence for the federal courts . . . Submitted comments on proposed Federal Rule of Criminal Procedure, Rule 45 (f) . . . Submitted comments on S.B. 1876, a far-reaching proposal of the ALI to make many changes in the jurisdiction of the federal courts in civil suits.

### **International Law:**

Planning of an international law conference to be held in late 1971 or in the spring of 1972 in Seattle dealing with U.S.-Japan legal problems . . . Assisted the U. of W. Law School in its Asian Law Program, including meeting with visiting Japanese, Korean and Taiwan scholars and students.

### **Legal Aid:**

Held public hearings in Seattle, Vancouver, Yakima and Spokane on provision of legal services to the poor . . . Reviewing the matter of the provision of an annual scholarship program at the law schools at the U. of W. and Gonzaga . . . Reviewed the operation of Rule 9 relating to legal interns and suggested certain modifications to the rule which were subsequently adopted in a modified form.

### **Probate and Trust Subcommittee:**

Reviewed legislative proposals to amend Title 11 . . . Drafted a proposed amendment to Title 83 allowing debts owed by the decedent at the time of his death to be taken as deductions in a "non-probate" situation . . . Discussed a "non-vesting" statute which would clarify the gift tax situation upon disclaimers of gifts or devises.

### **Real Property Subcommittee:**

Reviewed various proposals for revision of the state landlord-tenant laws . . . Received for review a draft of the Model Airspace Act from its counterpart in the ABA.

### **Medical-Legal Liaison:**

Drafting an Inter-Professional Code for physicians and attorneys to cover "ground rules" for procedures to minimize causes of friction and disagreements between attorneys and physicians, medical examinations, written medical reports, depositions, relationship of the physician and attorney prior to trial, appearance at trial, compensation for reports, depositions and court appearances, and other problem areas.

### **Public Relations:**

Wrote, published and circulated during April 1971, to everyone of the state's 55,000 high school graduates, a 16-page booklet, "The Law in Your Life" . . . Continues to participate in the ABA pilot project, Law and Society . . . Wrote, published and circulated a PR manual utilized by local Bar presidents and PR chairmen throughout the state.

### **Unauthorized Practice:**

Worked in the Workmen's Compensation field where lay-firms are soliciting employers to represent them at preliminary hearings . . . Dealt with certain justice courts asking state patrolmen to act as prosecuting attorneys in traffic cases.

### **Young Lawyers:**

Presented lawyer placement programs at both law schools in the state . . . Investigating the issue of the hiring of women lawyers and the employment of attorneys of minority races . . . Drafting a set of uniform local superior court rules for statewide use . . . Reviewing the Oath of Admission set forth in the Washington State Bar Act with an eye to amendment . . . Distributed "Youth and the Law" bulletin statewide for use in schools . . . Development and support of programs involving reform and modernization of the legal profession, including group legal services, prepaid legal insurance, no-fault insurance and specialization . . . Meet with Warden J. J. Parker at McNeil Island on prisoners' alleged grievances.



## Opinion 148 - August 1971

*Part-time City Prosecutor  
Acting as Defense Counsel*

Inquiry has been directed to the Legal Ethics Committee for its opinion as to whether or not a special assistant corporation counsel, hired to handle city prosecutions on Saturday mornings only, should be precluded from representing defendants in the Seattle Municipal Courts or other courts. The inquiry more directly asks whether or not the partners of such special assistants would be precluded from representing defendants in criminal actions.

It is the opinion of the Committee that a lawyer hired as a special assistant corporation counsel, his partners or any lawyer employed by the partnership is prohibited from representing any defendant in a criminal case in municipal, state or federal courts. This applies to misdemeanors, gross misdemeanors or felonies.

Regardless of the ethical sensitivities of the individual lawyer involved, the "appearance" of the lawyer, and by implication his partners or his associates, in dual roles, is bad. A special assistant corporation counsel has access to the files and records of the city police department including information exchanged with other law enforcement agencies and to the files and records of the corporation counsel of the city. Whether or not he takes advantage of that access is immaterial. It is the fact that he finds himself in a position of conflicting pressures that is controlling.

Canon No. 6 of the Canons of Professional Ethics provides in part:

" . . . Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with *undivided fidelity* and not to divulge his secrets and confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client *with respect to which confidence has been reposed.*" (emphasis added)

These are but summaries. The full text of the opinions are available at the State Bar Office.

## Opinion 149 — October 1971

*Lawyer Serving as Prosecuting Attorney and  
City Councilman Simultaneously*

The question has been presented to the Legal Ethics Committee as to whether a lawyer is in violation of ethics by serving as prosecuting attorney and as a city councilman simultaneously. It is the opinion of the committee that such dual public service does not violate the Canons of

While it is true that the Canons of Professional Ethics, particularly No. 6, prohibit a lawyer from accepting other employment which would interfere with the high degree of fidelity and confidence the lawyer owes his client, in this case the public, it does not follow necessarily that the lawyer employed by a governmental subdivision is precluded from other employment simply because a conflict of interests could possibly arise.

Involved in an opinion of this nature is of course the philosophical issue of how strict should the canons be interpreted in conflict of interest situations. Should a lawyer be precluded from another activity because of the *possibility* that a conflict could arise, or because a conflict appears *probable*. In most instances of ethical interpretation, lawyers have been precluded only where the other activity creates a likelihood of conflict or would appear so in the eyes of the public. This Committee is of the opinion that a conflict of interests between the positions of prosecuting attorney and city councilman is not of sufficient likelihood that the lawyer can be said to be in violation of his ethics. Nor do we believe that the public's impression of a lawyer in such activities would be such as to bring disrepute to the profession as a whole.

This is not to say that the prosecuting attorney may freely represent the county in actual disputes or controversies involving the particular city of which he is a council member. He is bound, as any other attorney, to respect the confidences of his county client and to render the same degree of fidelity as any other attorney owes his client.

However, as indicated above and subject to the problem of whether the two public offices are "incompatible," it is the conclusion of this Committee that it is not unethical for a lawyer to serve as prosecuting attorney and city councilman simultaneously.



Since lawyers and bar associations in recent years began learning they have a "public image" — and that in some cases it was not exactly perfect — some of the best thinkers, researchers, poll-takers, etc., in the bar and public relations business have studied the problem.

The virtually unanimous conclusion: The public relations, good or bad, of the legal profession and bar associations is made chiefly by the individual lawyer himself in his client relationships.

If the profession's image right now is not as perfect as lawyers would like it to be, the chief reason is decades during which some — a substantial minority, according to the experts — lawyers have sadly neglected the basic requirements for good individual client relations.

Your State Bar and its Public Relations Committee are working in a variety of ways to improve the profession's public relations. One of those efforts is included in this issue of the *Bar News* — a compilation of expert suggestions about what an individual lawyer can do to improve his reputation and even his income.

The measures suggested are not especially spectacular or novel. And some of them already are in use to some degree by about 60 per cent of attorneys nationally, according to expert surveys. It's that other 40 per cent of Washington State lawyers the PR Committee hopes to be able to assist. Pessimists say the 40 per cent who most need the help also include those who do not attend Bar meetings or read Bar publications; the committee devoutly hopes that every lawyer will take the necessary 20 or 30 minutes to read the booklet, check his own practices and attitudes and put to work the ideas that could most help him.

And the committee could almost guarantee that a lawyer who is following the precepts contained in the booklet will, as the foreword notes, have more and happier clients, "fewer fee and collection problems, fewer discipline complaints, a better atmosphere for the basic professional job of providing competent legal services, and a substantially improved income."

### Public Relations Committee

Something new. **Eugene A. Wright** of Seattle, Chairman of the Public Service Committee, announced that radio stations across the state — KBKH, Pullman; KIMA, Yakima; KIRO, Seattle; and a Spokane station unnamed — had agreed to broadcast a series of programs with titles such as "You Can't Escape It." The stations would do this without charge as a public service.

### Births

**Collins & White** opened in the Professional Building, Soap Lake . . . **Bernard O. McVey** joined **George M. Martin** in Yakima . . . **Irwin Landerholm** joined Robinson and Morse, and **William Church** became associated with **Everal Carson** all in Vancouver . . . In Walla Walla, **Herbert H. Freise** became the new deputy prosecuting attorney. **William P. Roach** left that position to enter private practice in the Drumheller Building and also to act as police judge. He replaced **Matt J. Ennis** who joined the firm of Gose, Williams & Ennis. . . **Vaughn Hubbard** became part of the firm of Dyar and Hubbard, Waitsburg . . . **Frederick Barker** announced that he had practiced law for some time in the Dow Building, Redmond. . . **J. S. Kurtz** opened in the Seattle-First National Bank Building, Bellingham . . . **Frank H. Roberts, Jr.**, opened in the Frith Building, Lynden, as did **Ward V. Williams**, formerly of Bellingham.

### Crossed the Bar

**John E. Blair**, 76, Spokane. His lawyer son, Robert E., survived . . . **John Mills Day**, 85, Auburn, formerly of Seattle . . . **Tim Healy**, 55, Seattle and formerly City Attorney of Bellingham and Representative in the State Legislature from there; also, husband of lawyer Esther Healy. . . **Earl G. Rice**, 71, Bothell. Past National President of Phi Delta Phi . . . **Howard H. Startzman**, Kelso, killed in automobile accident. He was 71 years old and had practiced law in Kelso and Seattle for 50 years.

### New Lawyers

Ninety-six new faces joined the old, from all over the state. Many would learn the way from fame to fame and vice versa, that has ever been part of the practice of law. How he met these imposters (Kipling's "IF") would tell what he really was.

David J. Williams

## Wanted and Unwanted

**For Sale:** Complete ALR vols. 1-39, 3rd, including all indexes, blue books, etc. Excellent condition. \$1,500. Frank J. Eberharter, 504 Hoge Bldg., Seattle 98104 (MA 2-2254).

**For Sale:** Complete and current set of USCA. \$250. P. J. Sferra, 1010 Fourth & Pike Bldg., Seattle 98101 (MA 4-6960).

**For Sale:** Set of RCWA. Current to June 1971. Bob Jackson, Seattle (EA 9-1693).

**For Sale:** ALR 1st, 2nd and 3rd through Vol. 38, with metal shelving; Am. Jur.; Am. Jur. Legal Forms; Am. Jur. Pleading and Prac. Forms; Wash. Reports complete through 77 Wn. 2d; Wash. App. Rpts. Vols. 1-2; Wash. Dig.; Shepard's Wash. Cit.; Summers Oil & Gas, 13 vols.; Amer. Law of Mining vols. 1-5; Rocky Mt. Mineral Law Inst., vols. 1-10 and 14-16; Gordon-Modern Ann. Forms of Agreement (1945); Jones Legal Forms (1946); American Law of Veterans 3 vols.; misc. books on mining law. Mont Clair Spear, 1331 Third Ave., Seattle 98101 (MA 3-6119).

**For Sale:** RCW; Wash. Dig.; Am. Jur. Proof of Facts; Am. Jur. Pleading and Prac. Forms; and Research Inst. Tax Coordinator — all current to present date; also Fed. Rules Dec. vols. 1-51. John G. Bergmann, 1310 Dexter Horton Bldg., Seattle 98104 (MA 3-2369).

**For Sale:** ALR 2d, vols. 1-100, with supps; ALR 3d, vols. 1-14, plus Index; Am. Jur. Vols. 19-58 and index; Am. Jur. 2d, vols. 1-31; RCWA; Wash. Dig., 25 vols.; Contact: S. Neil Stevens, 2612 - 166th SE, Bellevue, SH 7-6742 or SH 7-9505.

## Five New Openings

Five attorneys are being sought to fill the positions in the OEO Legal Services program, which will soon get underway in Snohomish, Whatcom and Skagit Counties. There will be an Executive Director, an assistant thereto and three staff attorneys.

Contact Edward D. Hansen, 501 1st National Bank Bldg., Everett 98201 (259-4141).

## Will Information Sought

Evelyn P. Tannel, formerly of 3628 - 72nd Place, S.E., Mercer Island, Washington, died on June 14, 1971. It is believed that Mrs. Tannel had a will prepared in a Seattle law office sometime between 1961 and 1970. Anyone having any information is asked to contact Judson T. Klingberg, P. O. Box 250, Longview, Washington.

## Photo Directory

Publication of the New Photographic Directory of King County Lawyers is under way and should be available for distribution in late October at \$5.00 a copy, plus \$.25 sales tax. It will contain photographs of over 1900 lawyers and judges.

Copies may be ordered by sending money to: Seattle-King County Bar Association, 605 Arctic Building, Seattle 98104.

## Will Information Sought

Does anyone have information of a last will and testament of a Mr. Nick Relakis of McCleary, Washington? Mr. Relakis spent most of his lifetime in McCleary and owns property in that city. Anyone having such information should contact Mrs. Aristi E. Jikos, 914 W. Wishkah Street, Aberdeen, Washington 98520, Phone: 532-0345.

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## 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) 1969 Stanford Law graduate, currently Justice Department attorney in Washington D.C., has resume on file. Admitted in Washington state.

(2) Traffic and commerce consulting firm seeking additional man for house legal staff. Work covers I.C.C. regulations, tariff interpretation, loss and damage claims and representation of shippers.

(3) Deputy attorney-general seeking corporate staff counsel position in Western Washington community.

(4) Governmental association seeking counsel largely for research and drafting work relating to legislation. Salary \$10,000 to \$12,000.

(5) Long established insurance agency seeking attorney to join sales staff specializing in estate planning.

(6) As usual, there are a number of opportunities available for attorneys wanting to locate in small to medium-sized communities and counties. Types of positions include private practice, deputy prosecutor, municipal judge and combinations of the foregoing.

- Oct. 10-15 8th Annual Hawaii Tax Institute at the Princess Kaiulani Hotel in Waikiki.
- Oct. 21-3 Family Law Conference, sponsored by WSBA at Providence Heights Conference Center near Issaquah.
- Oct. 21-2 15th Annual Tax Forum co-sponsored by Tax Executives Institute and UPS at the University of Puget Sound in Tacoma.
- Oct. 29 16th Estate Planning Seminar on "Estate Planning for the Closely-Held Business Interest" sponsored by the U. of W. Office of Short Courses and Conferences, 336 Lewis Hall, DW-20, Seattle, to be held at Seattle Center from 9:00 A.M. to 4:00 P.M.
- Dec. 2-3 Medicine and the Law program, sponsored by the University of Washington School of Law and School of Medicine, Olympic Hotel, Seattle.
- Dec. 3 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.

## CPA Seminars Open to Lawyers

Specialized education seminars scheduled by the Washington Society of Certified Public Accountants and which interested lawyers are invited to attend include: Close Corporation from Conception to Dissolution, Oct. 21-22, Davenport, Spokane; Estate Planning for the Executive or Professional Person, Oct. 29, Seattle Airport Hilton; Workshop on Individual Tax Returns, Nov. 18-19, Seattle Downtown Hilton. The society office is at 347 Logan Building, Seattle.

Deadline for next issue of the *Bar News* is October 8, 1971.

## Monumental Family Law Conference Near

A statewide conference on review and possible reform of Washington's divorce and marriage laws will be sponsored by the Washington State Bar Association October 21-23 at Providence Heights, near Issaquah.

The conference will be conducted by the State Bar's Family Law Committee, which in two years of meetings has threshed out a 30-point agenda of policy proposals.

Attending the meeting will be up to 200 invited representatives from among judges, clergy, social workers, educators, psychiatrists, psychologists, medical doctors, probation officers, law-enforcement officers, school counselors, labor, parent-teacher groups and others concerned with the subject.

Keynote speaker at a banquet Thursday evening, October 21, will be Bernard Hellring of Newark, N.J., who as a member of the

Commission on Uniform State Laws worked on the model Marriage and Divorce Acts.

The two-day session will include general meetings of all participants and small-group discussions and hearings on the three basic areas of a proposed court department of domestic relations, marriage, and divorce. **Ivan Merrick Jr.** of Seattle, Family Law Committee chairman, said.

"Together with the great amount of work already done by the committee, we hope that the contributions of thought and opinion by the variety of experts at the conference will lead to some definitive conclusions and possible development of appropriate proposed legislation and court rules," Merrick said.

Conference agenda items include consideration of a so-called "no-fault" divorce law which could dissolve a marriage that is

found to be irretrievably broken, and a law by which marriages would be certified by the county auditor after mandatory counseling by a licensed counselor. Solennization after certification would be optional.

Also to be considered is the concept of a department of domestic relations (family court), which would have jurisdiction over all aspects of family problems, including juvenile cases, contested adoptions, relinquishments, deprivations, parental rights, custody, support, marriage and marriage waivers, divorce, modification, and all other civil or criminal areas that touch the family unit.

One of the other agenda items is consideration of a proposal for a mechanism for the administrative dissolution of marriage without representation by lawyers and without courts.

# A Helpful New Service for You: CLE PROGRAMS on Cassette tapes

The Continuing Legal Education Committee of your Washington State Bar Association, with the support of the Board of Governors, has entered the field of presenting educational programs on cassette tapes, the new teaching medium. Now available to you, and priced STRICTLY AT THE COST OF PRODUCING AND DISTRIBUTING THE TAPES, are cassettes containing four of the valuable seminars presented at the recent Washington State Bar Convention: How to Defend a Criminal Case; Land Use and Zoning; Real Estate Contracts, Mortgages and Deeds of Trust; Forfeiture and Foreclosure; and Law Office Records, Timekeeping and Billing.

## CLE — Anywhere, Anytime

Now, at the press of a button, you can have a front-row seat at these permanently useful seminars. With a portable, battery-operated cassette player, the tapes can be enjoyed whenever you have free time — over coffee at breakfast, while stuck in traffic or commuting, while relaxing in the back yard, or in your office conference room with your partners and associates or even on a golf cart!

All you need to do is to drop the foolproof cassette into the player, press the "start" button and listen. When one side is finished, you simply flip over the cassette to play the other side. Thus now you can schedule CLE programs for your own convenience, with repeat performances as often as you like. Costs are properly chargeable business expenses for the lawyer pursuing continuing legal education for professional responsibility.

## The Cost:

*Because this is a new program, the cost of producing the tapes has not been definitely established. The total estimated cost for each program (two one-hour tapes) is about \$5, far less than half the price for similar programs provided by some other state and national CLE groups. Tapes will be produced to your order; please order now and the State Bar Office will bill you when the precise price is set. Use the handy order form below.*

## Why Cassette Tapes?

Every lawyer wants to keep abreast of new developments, to increase his expertise and to benefit from the knowledge of experts in various areas of the law. But a busy legal practice sometimes places a heavy demand on a lawyer's time and energy and makes it difficult for him to continue his legal education the way he wants to and should. Cassette tapes make it possible for the lawyer to "study" without attending a course or reading a book. The cassette makes it easy and convenient for a lawyer to continue his professional growth.

## The Tape Player

If you do not already have one, on the market today are many brands of inexpensive standard cassette tape players. They are standardized on the cassette system first introduced in 1964 and there is no problem of compatibility of cassettes.

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