Volume 26, Number 7
July 1972

WASHINGTON STATE BAR NEWS

THE BAR'S DUTY TO THE PUBLIC AND THE PROFESSION

Washington State Bar News

Published by
WASHINGTON STATE BAR ASSOCIATION
505 Madison Street Seattle, Washington 98104
EDMUND B. RAFTIS, *Editor*

Published monthly, except August-September combined. Subscription price is $5.00 a year, 50¢ a copy. Subscription included with active membership. Back issues $7.50 per volume, $1 per issue.

United Graphics

Credits

- Cover
  Kristin Nelson
- 4, 5, 7, 8, 9, 11, 15, 24, 27
  John D. McLauchlan

MOVED? MOVING?

Please: Let the State Bar Office (505 Madison, Seattle 98104) know your new office address — in *advance* of your move, if at all possible. Then you will be sure to receive your *Bar News* and other Bar mail.

LEAD ARTICLES

IN THE NEWS

DEPARTMENTS

Letters

Off the Cover

Editor:

As were apparently other lawyers in King County, I was astonished by the front cover of the May *Bar News*. In reading the reply of the Trustees of the Young Lawyers Section, although I am not in total agreement with them, I understand their position. Their position, and your role as Editor of the *Bar News*, do not meet the problem in my mind of whether or not the resolution should have been used as a cover of the issue in question. I am extremely critical of you as the Editor of the *Bar News*, and the Trustees as well if they knew and authorized the use of that resolution for a cover.

ROGER L. DECKER
Bellevue

150 Lawyers and Judges Involved at UW

Editor:

Here at the University of Washington Law School, we rely upon the voluntary involvement of judges and practicing lawyers in the conduct of our educational program to a much greater degree than is commonly realized. During the past year, well over 150 different judges and lawyers have participated in a wide variety of activities and courses at the Law School, some of them being involved in two or more separate programs.

A brief run-down on these programs will emphasize the range and value of the extensive opportunities for useful educational contact with the legal community generally that the involvement of these many people creates for our students.

A group of superior court and district court judges, coordinated by Judge **Charles Z. Smith** with Professor **Robert Fletcher,** conducted a most successful course entitled "Judicial Administration Workshop." This is the second year in which this course has been offered.

Seventeen specialists in maritime and admiralty law, organized by **Jacob A. Mikkelborg,** created and presented a new course in Contemporary Maritime Law Problems that attracted a substantial and enthusiastic student enrollment.

Several lawyers and judges participated in the Foundations Program with which our entering first-year students begin their studies here.

The course in Law and Psychiatry could not have been presented without a large measure of assistance from a team composed of a commissioner and two judges of the Superior Court, a prosecuting attorney and three lawyers. The assistance of lawyers in the Indian Law course, the Seattle City Council Legal Clinic, and the Legislative Clinic was essential to the operation of each program.

In other areas, lawyers and judges performed essential services. The LAMP aid-to-prisoners program worked in close cooperation with the Committee on Corrections of the State Bar Association as well as a team of volunteer lawyers; three lawyer-specialists assisted in Asian Law instruction; another 30 lawyers assisted in the day-to-day operations of our Legal Aid Society legal assistance program in the University district.

Of all of the activities of the Law School program requiring outside assistance, none requires more than the moot court program. This year, as has been true each year for the past quarter of a century, 13 King County Superior Court judges presided over the trial-court portion of the Trial and Appellate Practice course. During the period of this service, 65 lawyers acted as judges for the first-year moot court program — which program culminated in final rounds of argument before a panel composed of two justices of the Supreme Court, three judges of the Court of Appeals and three judges of the King County Superior Court.

This is quite an array, and I have not attempted to mention all areas of activity that might have been included. Moreover, many others have been involved with us in continuing legal education presentations, in recruiting panels for minority students and women students, as speakers at the School, and in our alumni activities.

All of these people have contributed generously of their time and their talents without compensation other than satisfaction of their spirit of public and professional service. I want by this letter to express the awareness of those of us in the Law School of the importance of the contribution that these many individuals make to our total program.

RICHARD S.L. RODDIS
Dean
Seattle

Committee Structure

Mr. President:

In response to your comments in the June *Bar News*, regarding WSBA committees, may I make the following observations:

1. The purpose or function of the committee should be carried out efficiently and expeditiously.

2. A larger number of the

The President's Corner

memberships of the Bar should participate.

3. The expenses to the Bar for the conduct of the business of the committee should not be increased and, preferably, should be decreased.

Having served on one committee or another for the Washington State Bar Association over the past years, I have come to the conclusion that the larger the number of members on a committee, the less work is accomplished, or in any event less work per hour is accomplished. If this is true, and I firmly believe it is, it would seem at first blush that we are presented with the dilemma. However, I would propose that the present system of committees be drastically changed.

The regular membership of each of the standing committees could be reduced to say three to five members. These members would all receive the standard expenses heretofore paid to committee members. Each standing committee could have sub-committees meeting at the request of or in conjunction with the standing committee and report to the standing committee prior to its meeting, at which time reports from all sub-committees would be considered. Sub-committee members could serve without reimbursement of any expense or, perhaps, with reduced expenses, i.e., no room or meal expense, but mileage, or a reduced mileage reimbursement. In any event, expenses of the sub-committees would be less, simply because of the distances and travel time required. Sub-committees of course, would meet at some location within their particular geographical limits.

BRUCE P. HANSON
Yakima

As I am gliding on the downhill side of my year in office, I have been contemplating the wonderful association I have been having with the seven members of the Board of Governors. All seven are highly successful and respectable lawyers. Yet there has been a diversity of philosophy, opinion and belief that is far beyond expectation.

The Board has been accused of being a rubber stamp for the entrenched "staid old lawyers." Nothing could be further from the truth.

I looked over the Minutes of our last meeting and of 37 motions (these included many housekeeping matters) 21 were unanimous. Of the balance of 16, the same were passed or defeated by the following votes: six issues were 4-3; four were 6-1; four were 5-2; one was 4-2 and one was 3-2.

No Board member has ever missed a meeting. One was delayed because of a court commitment, as a result of which I had the opportunity to break two tie votes, the only two times I have voted during the entire year.

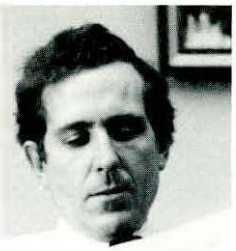
Each issue is fully and completely discussed, and though there may be heated divergence of opinion there has been no lingering bitterness, as all of the Board are men of stature and understanding.

Some Board members feel the first obligation of the Board of Governors is to the general public. Others believe it is to the members of the Bar who pay the dues, and that we must protect their rights as much as possible. As a result of this divergence, there is a compromise, and the public is protected by discipline, Client's Indemnity, Unauthorized Practice, and so forth. The lawyer, by the same token, is protected by discipline and Unauthorized Practice, as well as Continuing Legal Education, Legislation and so forth.

The philosophies get into many gray areas such as the purpose of malpractice insurance. Is this necessary to protect the lawyer from his mistakes or should there be compulsory malpractice on the theory that insurance should be carried to protect the public for the lawyer's mistakes? Also, to what extent do we put non-lawyers on our committees? One group feels they should be included as watchdogs and spokesmen to the public. The other side feels we should continue to operate our own house as we have done in the past. Some believe the only way we can improve our public image is to have the public participate in our decision making. We have operated this last year under the open meeting rule, and I cannot recall that anyone other than a lawyer has ever attended any of our meetings. Therefore, maybe the public is not interested in what we are doing.

These are changing times, but as one Board member said "We can't move the whole mountain at one time." However, we sure are shoveling a lot of that mountain back and forth, and though our decisions will not be acceptable to all persons rest assured you have a Board which gives due consideration and the greatest amount of effort in an attempt to reach the right results.

Editor's Note



The ink was hardly dry in last month's column when it was learned that the Board of Governors at its May 19th meeting had reversed itself, five to two, and was withdrawing its request to the Supreme Court to have three lay members added to the Disciplinary Board (page 15). Last month's accolade "It is commendable that such change is generated by the profession, rather than by the legislature, or the State Supreme Court" no longer holds true.

Of comparable surprise was the action of the Board, five to two, in further restricting the rights of State Bar members. Now it will take a majority vote of those members "eligible" to vote to override the Board (page 34). As The President's Corner pointed out last month the average vote runs about 60%. This latest amendment means that if 60% of those eligible to vote do so, it would take a 83.5% affirmative vote to override the Board.

Several candidates for the Board indicated that they oppose this most recent action to restrict the membership's voting rights. Perhaps, the new makeup of the Board in September will mark a restoration of the right of the membership to override the Board by a majority vote on a general referendum.

The Board's Work

Extracts from the minutes of the meeting of the Board of Governors, convened at the Eddie Mays Motel, East Wenatchee, Friday, May 19, and Saturday, May 20. The president and all board members were in attendance.

Inactive to Active

It was moved, seconded and carried that the application of **Vernon E. Bjorklund** and **Bertha R.S. Nussbaum** to be restored to active membership in the Washington State Bar Association be approved upon their compliance with the By-Laws.

Auto Reparations Committee

It was moved, seconded and carried that the chairman of the Auto Reparations Committee be authorized and instructed to be in touch with all interested parties, either individuals, organizations, or groups, in this field — including the Insurance Commissioner, the Trial Lawyers Associations, representatives of the insurance industry, consumer groups and otherwise, to effectively increase the chance of passage of legislation representing the best interests of all concerned.

Legislative Committee

It was moved, seconded and carried that the Board rescind its previous action in eliminating consideration of those members of the Association who were regularly registered as lobbyists, for membership on the Association's Legislative Committee. The vote on the motion was 4 to 3.

Use of Attorneys' Names in Political Campaigns

It was moved, seconded and carried that the question of the suggested possible conflict between the resolution of the Board of Governors on this subject and the Code of Professional Responsibility be referred to the Ethics Committee for study and recommendation.

Group Legal Services

A. Board Member **James P. Curran,** chairman of the Group Legal Services Committee **Thomas Malott,** and committee member **Lionel Wolff** led a discussion of the Group Legal Services program and reported on the recent Group Legal Services Conference held in Washington, D.C.

B. It was agreed by the Board that the Group Legal program should go forward as it has been on a sound, carefully considered basis, that a non-profit corporation should be formed in preparation for the ultimate implementation of the program and that in connection with this work **Thomas M. Smith** of Spokane be employed at a billing rate of $35.00 per hour for the preparation of the necessary legal documents and other research and documentation. It was agreed by the Board that at some

(Continued on page 33)

THE BAR'S DUTY TO THE PUBLIC

By James P. Curran

Our action to meet the one-man — one-vote demand was merely an effort to cut a revolt within the ranks off at the pass. A feeble effort to say the least. Now we must act to cut off a larger revolt without the ranks.

The WSBA Committee on Organization and Government of the Bar is currently reviewing the entire committee structure of the Bar. Robert O. Beresford and John W. Riley are Chairmen of the committee. This article is a letter written by WSBA Board member James P. Curran to the Chairmen calling for greater participation of laymen in WSBA affairs.

The reply of Mr. Beresford is printed on page seven.

Also printed is a letter of WSBA Board member John S. Lynch taking issue with Mr. Curran's "interference with the deliberations of the committee."

Mr. Robert O. Beresford
Mr. John W. Riley
Gentlemen:

Your April 21, 1972, minutes have been reviewed carefully. Upon reading, one area of the minutes gave me serious concern and caused me to spend some time thinking about the problem. Some of my concerns are expressed in your minutes, i.e., lack of correlation of committee activities and need for liaison between committees. But, I seem to have further concerns beyond those expressed in the minutes.

These further concerns grow out of my philosophy of the responsibility of the Bar. I believe the Bar organization exists primarily as a means of assuring the proper performance of our duty to the public. This is contrary to the popularly held belief of many in and out of the Bar that its sole purpose is to preserve, protect and upgrade the status of lawyers as a class.

Being fairly new in WBA activities, and also as a Board member, I may not know whereof I speak. Nevertheless, I believe that committee structure has been a "growing like topsy operation," i.e., each time a new need is observed, a committee is appointed and then continues on indefinitely. Thus, many committees do not do anything as their need has passed or the caliber of their personnel is such that they do not initiate

James P. Curran

and develop programs to cope with today's demands.

I conceive the Bar association as having three major areas of concern wherein it must channel its efforts hereafter expressed in the order of their importance:

1. A duty to supervise and control the supply of quality legal services to the public at a reasonable cost.

2. A duty to aid in the continued improvement, change, addition or elimination of the instruments of administration of justice.

3. A duty to propose new law, or the abrogation of existing law, through the legislative process to meet changing social demands.

Examination of our present committees as proposed by you convinces me that all of our committees in one way or another deal with these broad areas of responsibility. In order to set up a committee structure which will function efficiently in these major areas of responsibility and will have some coordination, bring to bear the thinking of a fair segment of the Bar, I feel that the old limitations of one committee member from each congressional district is outmoded, does not permit the utilization of the most talented and industrious members available and tends to seriously restrict the function of the committee system.

The appointment of committee members is haphazard, and the removal for nonperformance is minimal. The tendency to allow individuals to control committees for extended periods and to reappoint the old war horses back to committees, or to other related committees, contributes to an inbreeding of thought processes; thereby restricting the performance of the committees. Further, it tends to encourage the war horse who likes the social activity, is pleased to ride on the bar's meal ticket but has worn out his desire to really contribute in a meaningful way and with zeal. **This has contributed to the revolt of the younger lawyer.** The functioning of the committee system of the Bar has been so locked up by the oldtimers that there has been no place for him to participate and no reasonable way to have his ideas heard and implemented; **thus, the need for a young lawyer's section.**

In dealing with this problem I propose larger committees responsible for major areas of concern to the Bar. Although initial appointment may have to come from the Board of Governors, **ultimate appointment would depend upon recommenddations of the committee itself,** which would choose its new board from those members who have expressed an interest in serving. Each committee would also organize itself each year, rather than having a designated chairman from the Board, the committee would likewise recommend removal of a member for nonperformance. Continued absence or failure to participate for any reason for a set period of time would require automatic removal and replacement of the committee member. Subcommittees within its sphere would be established by the committees. Reports of all committees to the Board would be circulated to the other major committees for their review and recommendations, if thought necessary. Board action would follow such review and recommendations.

In the light of the foregoing and specifically considering our major areas of concern, I suggest that our committee structure be revised into areas of responsibility. In the first and most important major area 1 would suggest three major standing committees which would function and meet our changing demands.

I. *Availability (or Delivery) of Legal Services*
   1. Legal services to the indigent.
   2. Legal Services to minority groups.
   3. Legal services to the military personnel.
   4. Legal services to inmates of institutions.
   5. Legal services to the accused in criminal proceedings.
   6. Prepaid legal services (controls).
   7. Group legal services (controls).
   8. Lawyer referral services.

II. *Quality (or Standards) of Legal Services Available to Public.*
   1. Preparation of persons seeking to enter the profession. (law schools, law clerk, para professional).
   2. Admission to the profession, standards, examination, internship, para professionals, employment, (minorities).
   3. Continuing legal education of members of the profession to maintain standards.
   4. Protection of public (negligent performance, financial defalcations of members).
   5. Enforcement of standards, (code of Professional Responsibility, Discipline, Peer Review).
   6. Specialization in legal profession.

III. *Cost of Legal Services to Public*
   1. Standards for fixing charges for services between attorney and client.

(Continued on page 28)

THE BAR'S DUTY TO THE PROFESSION

By Robert O. Beresford

I violently disagree with any philosophy, the end result of which would be to deprive us of our intellectual independence and convert us into glorified civil servants devoted to providing cheap wholesale legal services under governmental supervision.

Mr. James P. Curran, Governor
Seventh Congressional District
Dear Jim:

I have your letter of May 23 addressed to John Riley and myself, and I have given it serious study. The views which I express in this answer are, of course, mine and mine alone, and not those of the committee.

There is no question but that the Washington State Bar Association exists for a number of reasons, among which is the proper performance of our duties to the public. I am tired of the inference that we do not constantly seek, within the limits of human abilities, to accomplish this purpose. Further, I do not see anything wrong with having other objectives such as upgrading the status of lawyers as a class. I am very proud of being a lawyer and I violently disagree with any philosophy, the end result of which would be to deprive us of our intellectual independence and convert us into glorified civil servants devoted to providing cheap wholesale legal services under governmental supervision.

Your remarks with regard to upgrading the efficiency of committees would seem to assume that the existing Committee on Government is not seriously studying this problem. We do not, however, jump to the sophomoric conclusion that an individual who has spent many years working within the bar association is automatically relegated to the category of an old "war horse who likes the social activity" and "is pleased to ride on the bar's meal ticket." If you had taken the trouble to read the list of those who are on committees you would have found that the system has not been so locked in as to exclude the voice of youth. A serious conscientious attempt has been made in the past to balance the committee structures and a serious conscientious study is being made for additional improvement right now. I think, however, that if it is your desire to turn the committees in general over to the dominance of the young lawyers, probably the first step you should take is to replace the existing Committee on Government, because I am quite certain that its goal is to arrive at a balance between the various philosophies.

Robert O. Beresford

I do not quarrel with your nomenclature as far as your committee designations are concerned. **Speaking only for myself, I do violently quarrel with your philosophy of naming nonlawyers to the various committees. Lawyers are given a special status, not simply because they are lawyers, but because they are officers of one of the three correlative branches of government. They should not abdicate their responsibilities through mere fear of public criticism.**

I am sick and tired of the postulate that we do not already have high professional standards, and I am also sick and tired of the philosophy that we should apologize constantly for the profession. Certainly we can do better; we are attempting to do better. We are members of a profession which does work seriously at policing itself — probably the only profession which does so. I suggest that a little less criticism of our shortcomings and a little more praise for those who spend both time and money in the service of our ideals, is in order. For you, as a member of the Board of Governors, to publish a letter stating, "No effort has been made to take serious look at the validity of these attacks and the need for immediate and drastic reform within the Bar itself," is not only pure drivel, but I am sure that upon mature reflection you will admit that it does not represent the truth.

In due course you will receive from the committee suggestions which, among other things, we consider will make the committee structure more democratic and, at the same time, will make it more functional. If your statement on the last page of your letter that you urge upon us serious, concentrated and thoughtful reconsideration, and so forth, and so forth, carries with it your opinion that we have not approached these problems seriously and with concentration, and so forth, I would suggest that you promptly replace the members of the committee. I, for one, do not think that the time and effort which I have put in on these problems merit such an opinion, nor do I think that our efforts have been "feeble." You have been getting piecemeal reports because we have been hoping to obtain solutions as expeditiously as possible. You will be receiving a summary report very shortly.

In closing, I will leave you with the thought that in giving serious study to each problem, and in not moving too rapidly, we may, in the long run, be able to accomplish a much better bar reorganization.☐

WSBA Board Member John S. Lynch Comments

John S. Lynch

Mr. Robert O. Beresford
Mr. John W. Riley
Gentlemen:

I have read Jim Curran's letter of May 23. Frankly, Jim doesn't speak for me (to you or the rest of the committee).

It was my feeling at the time of the appointment of the committee that the Board of Governors should, so far as possible, not interfere with the deliberations of the committee (and await its report).

While I have some personal preferences on just how a committee should function, I feel that it is better that the matter be left in the hands of the COG Committee until the report is completed. At that time the Board of Governors will be able to evaluate it and in doing so I trust will seek advice and comments from other members of the Bar, including members of the committee affected in any manner by the COG recommendations.

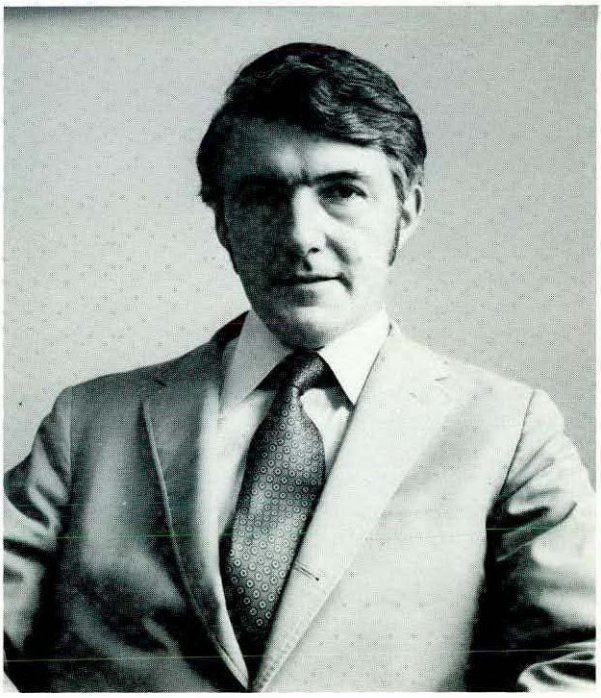
I find no fault in Jim's letter to you as an individual member of the Bar Association. I do find fault, however, that a member of the Board of Governors as such is making recommendations to a committee appointed by the Board and attempting to influence action by the committee prior to its final determinations. I think it ill-behooves the Board of Governors to appoint an impartial committee and then tell the committee how it should act.☐

THE CASE AGAINST COMPULSORY MALPRACTICE INSURANCE FOR LAWYERS

The Board of Governors decided on February 12, 1972 to have the WSBA Insurance Committee take a serious look at the possibilities of compulsory malpractice insurance for active membership of the bar. Committee chairman **John P. Lycette, Jr.,** and Committee members **George W. Clark, Robert Alan Felthous, Bruce Maines, Robert W. Skidmore** and **Martin G. Weber** issued the following report which opposed such a plan. The Board of Governors adopted the report by a vote of six to one (**James Curran,** dissenting) at its April meeting, thereby declining to make malpractice insurance compulsory for lawyers.

By way of background, the Board of Governors in 1971, after substantial investigation, decided to endorse a comprehensive professional liability (malpractice) insurance plan, coupled with an umbrella liability provision and a wide spread variety of other personal insurance. This was announced to the bar in the August-September 1971 issue of the *Bar News*. Briefly, the proposal (submitted by Dow-Laney) involved bar endorsement of The St. Paul Insurance Companies for underwriting malpractice for Washington lawyers in return for St. Paul's offering a three year guaranteed rate of $128 per attorney for $100,000 liability limits and $1,500 deductible. Because The St. Paul Insurance Companies already had insured several hundred Washington lawyers, no minimum number of additional lawyers were needed to sign up for this program in order to put it into effect. To date we have not been able to evaluate the program, however, the claims loss manager in the Seattle office has indicated to his knowledge there have been no substantial losses or unanticipated problems to date. It is the unanimous opinion of the WSBA Insurance Committee that compulsory malpractice insurance for the active members of the bar association is not necessary or in the best interests of the bar or the public. The feeling is extremely strong on these points by all members of the committee.

The committee looked into the constitutionality or the legality of the bar association requiring a compulsory malpractice liability insurance program financed by bar association dues. Investigation centered primarily on *Lathrop vs. Donahue*, 367 U.S. 820 (1961). That case involved an action by a member of the integrated Wisconsin bar against his own association challenging the right of the bar association to collect dues on a manda-



John P. Lycette

tory basis for political activity which the plaintiff opposed. The Wisconsin bar had sustained a demurrer and the United States Supreme Court affirmed it. He felt it was legally possible and constitutional to require compulsory malpractice insurance of a person who desired to practice.

The question of operating a self insurance fund financed by bar association dues was also considered, but it was felt that engaging in such an activity could be considered acting as an insurance company and consequently it probably would not be legal. It was further felt that it was not practical to approach malpractice insurance through a self insurance plan.

The Committee heretofore considered compulsory malpractice insurance in 1970. It was strongly believed at that time that the disadvantages outweighed by a very substantial margin any advantages.

Advantages:

1. To the extent of limits and coverage, it would assure that the public would always have a financially responsible attorney to sue for malpractice.

2. It would force intimate and extensive bar association involvement (and expense in money and lawyer time).

3. A mandatory program should involve less acquisition cost because of a lower agent's commission on a group mandatory program. However, the cost estimates do not indicate any significant expense saving in this respect.

Disadvantages:

1. There was no demand or substantial need for malpractice insurance to protect the general public. Any record of unreimbursed clients is poorly documented.

2. No state to our knowledge has yet required that a member of the bar carry malpractice insurance. All of the 50 states were circularized by the committee previously and we had over 40 responses to our inquiry on this particular subject.

3. It is not economically feasible to have compulsory malpractice insurance. If members were required to carry malpractice insurance and one company wrote the insurance (which probably would be the only way to bring the cost down to a reasonable proportion) all of the other insurance companies would then leave the scene. If the company writing the policy then decided not to continue writing, we would have no companies or markets. Presently, there is a good, strong, competitive market for malpractice insurance at reasonable cost for most active practitioners. CNA tells of a compulsory program being adopted in the state of Florida where an exclusive bar endorsement was given to a company that failed to make it a success and withdrew within a short time. In the meantime, other available markets had also withdrawn and malpractice coverage was almost impossible to obtain.

4. Force involuntary purchase of malpractice insurance coverage.

(a) Philosophical question of wisdom of forcing many careful and amply solvent attorneys to carry coverage which they neither need nor desire to protect the public.

(b) Very substantial group of attorneys such as judges, government attorneys, house counsel, etc. have little or no exposure and justifiably resent having their right to practice contingent upon subsidizing private practitioners' losses.

5. Very substantial expense (estimated currently at $115 to $120 per lawyer). The substantial expense of malpractice coverage distinguishes it from the modest charge required for the client's indemnity fund. Because the proposed charge of $120 applies whether the lawyer is a partner or an employee it would increase the total expense for malpractice coverage for most firms over their current cost.

6. Forced sharing of the worst risks.

7. No valuable or reliable statistics seem to exist. A general national trend seems apparent for worsening losses in lawyer malpractice. With a $25,000 limit and self insurance for that layer the bar itself would have whatever exposure exists up to a $25,000 per lawyer limit. In excess of that there appears to be a suggested $500,000 limit for the insured exposure. In a plan insured in a normal relationship those risks would be transferred to the insurance company.

8. Availability of volunteer lawyer time for administration of claims, etc.

9. One questions the adjusting and marketing capacity for a statewide mandatory program which would be handled out of a single office in Seattle.

10. Many lawyers and all insurance agents would vigorously object to the interference with the existing insurance relationships which they have with their present carriers.

The insurance committee recommends as follows:

1. That the board not adopt compulsory malpractice insurance program.

2. That the bar association actively encourage participation in the program sponsored by Dow-

(Continued on page 29)

OPEN ACCESS TO PUBLIC RECORDS

By William A. Gould

If it gets on the ballot and if it passes, Initiative 276 would impose limits on political campaign financing, regulate the operation of lobbyists, compel the reporting of the financial affairs of elected officials, and require open access to public records. The underlying theme which binds together these apparently disparate tasks is disclosure — that the public has a right to know and should know how and why particular governmental decisions are made.

Not only is disclosure proper for its own sake, but public confidence in government, critical to every government and apparently undermined in ours, can best be sustained by disclosure which assures the governed of the impartiality and honesty of officials and the legitimacy of the process by which they are selected and by which they govern. Additionally, disclosure will permit all people to deal more effectively with pervasive government and to participate in it more intelligently, and may encourage official honesty.

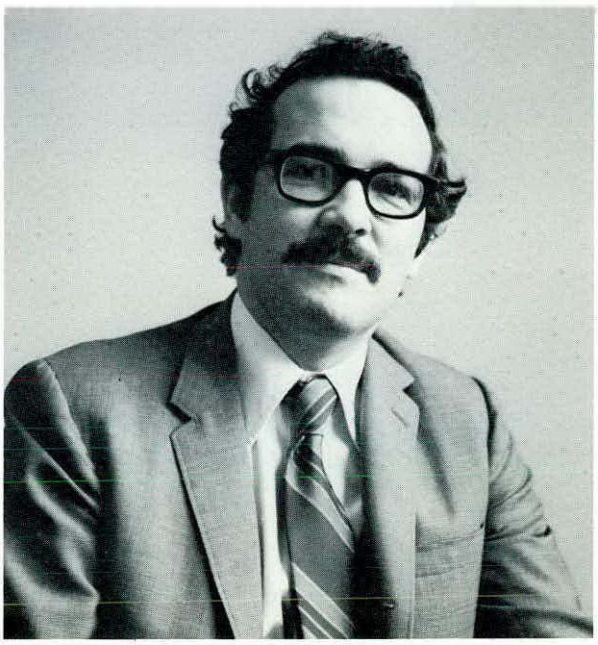
The Right To Inspect Records of Government

The public records provisions, Chapter IV, contribute to the Initiative goals by codifying and perhaps expanding the right to inspect records of government, a right only sketchily defined in our state. The draftsmen had two paramount objectives: (1) to write simple, broad and definitive legislation, as self-enforcing as possible, but imposing only a minimum burden on government agencies; and (2) to provide maximum consistent protection for individual privacy and for the integrity of government functions. (Chapter IV is patterned to a large degree on the Federal Freedom of Information Act of 1967. 5 USCA §552. Under the rules of statutory construction, the generally satisfactory federal case law construing that Act will be similarly adopted, and thus Chapter IV should be interpreted to some extent in light of the construction placed on the Act by federal courts.)

What is Available?

Section 26, the heart of the Chapter, provides: "Each agency, in accordance with published rules, shall make available for public inspection and copying all public records."

"Public record" for the purposes of the Initiative, ". . . includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or



William A. Gould

retained by any state or local agency regardless of physical form or characteristics."

"Agency" is defined to include,

". . . all state agencies and all local agencies. 'State agency' includes every state office, public official, department, division, bureau, board, commission or other state agency. 'Local agency' includes every county, city, city and county, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency."

These broad statements are elsewhere underpinned by directions that in the process of judicial review, "courts shall take into account the policy of this act that the free and open examination of public records is in the public interest," notwithstanding the possibility of some resultant embarrassment. These sections thus contain a clear statement of policy establishing as preferred the public's right to know.

The broad, basic right contained in section 26 is developed in other sections both by means of statement of the essential ministerial details and also through the establishment of procedural mechanics to promote the right and to preclude its frustration.

Cost

The details are simple. Agencies are to make identifiable records "promptly available." and to permit the use of available facilities for the copying of these records. A fee may be charged for copying records, but this must reflect actual cost to the agency, and not be used to burden unduly and discourage those who would copy public records. (It is intended that agencies not charge for copies at the exorbitant rate of some federal agencies.)

When

Section 28 requires that public records be available during all "customary office hours of the agency." (A schedule of minimum hours during which records must be available for inspection is established for agencies without "customary office hours.") This provision is designed to underscore the policy that responding to requests for records is a regular part of the agency business, to preclude the establishment of restrictive or inconvenient inspection schedules, and to make clear that agency need not stand ready to open its records at any time.

Self-Enforcing Mechanisms

It was presumed that some officials would resist, for any of a number of reasons or in any of a number of ways, the exercise of the rights set out in this Chapter. (The recent performance of the King County Assessor shows the presumption to be correct.) Accordingly, a series of self-enforcing mechanisms designed to encourage voluntary compliance and cooperation were included in the Chapter so that it and those seeking to use it might not be readily frustrated.

The first of these is in section 25, which requires publication of information concerning basic rules and policies of agencies. As well, it contains a provision which states that persons without notice "may not in any manner be required to resort to or be adversely affected by" matters not published as required.

Section 26 (2) requires that records be indexed, a necessary tool if the public is to find relevant information among the mass of documents kept by government. Maintenance of the index is encouraged by a companion provision precluding agencies from relying on records which are not properly indexed.

Judicial review is available on the petition of those who have been denied the inspection of certain records. This too is somewhat automatic, administrative remedies being deemed complete and final agency action deemed to have been taken for the purposes of review at the end of the second business day following the deniel of inspection. The purpose here is to provide the petitioner with a prompt and simple remedy, free of evasive and dilatory actions on the part of secretive agencies.

Another tack taken in order to make this Chapter less susceptible to frustration, was to reduce the role of custodial discretion. The broad definitions of "public records," and the absence of any requirement that the custodian assure himself as to the "proper purpose" of one requesting a record are examples of this effect.

The other primary goal of the drafters was to identify and protect preferred but competing values. Personal privacy and the integrity of governmental functions were identified as the values to be protected, and an attempt was made to locate the points of conflict between those values and open records and to accommodate the different interests.

(Continued on page 30)

LAYMEN PRACTICING BEFORE ADMINISTRATIVE AGENCIES

At its May 19th meeting, the State Board of Industrial Insurance Appeals approved a rule change to allow laymen to appear before it to represent both employers and employees. The new rule is not effective until 30 days after it has been filed with the Code Reviser. As of this writing, the new rule had not been filed.

The new rule was approved over the objection of the Board of Governors of the Washington State Bar Association, who sent **Charles Warner,** Seattle, as its representative to the hearing. Warner indicated that the Board of Governors had been unable to hold a formal meeting but that Mr. Velikanje had polled a majority of the members of the Board by telephone and they were opposed to the rule change.

Background

A general revision of the Rules of Practice and Procedure before the Board of Industrial Insurance Appeals was undertaken by that Board. The first draft of the Board's rules would have tightened the representation rule to permit only attorneys admitted to the Washington State Bar as representatives of workmen or employers.

In public meetings throughout the state during the month of March, 1972, it became abundantly clear that the Board did not have the support of industry or labor, who pay the entire expense of workmen's compensation in our state, and in fact demand was made that the Board broaden the rule on representation. After briefly researching the background of the Workmen's Compensation Act and the reasons for its enactment in 1911, the Board came to the conclusion that the people of the State of Washington, through the legislative process, intended to establish a system not requiring lawyers or courts in the initial stages of settling disagreements between injured workmen and their employers.

Members of the Workmen's Compensation Advisory Committee, representing employees and employers, unanimously recommended supporting the Board in the adoption of this rule broadening representation of parties.

The Bar's Position

Charles Warner, in speaking at the May 19th public hearing, stated on behalf ot the Bar:

Contrary to probably popular belief by Laymen, the bar association is not in a strict sense like a labor union; we are not a private organization It's a public organization set up by the legislature and amongst the duties of the Bar Association is to govern admission to the practice of law in this state, or to pass upon these in conjunction with the Supreme Court. Another one is to prevent what we call the unauthorized practice of law in the state. These are the legislative duties that have been delegated to the bar association under the auspices of the Supreme Court of the State of Washington. The Bar Association's primary duty and function is for the public, not just for lawyers. In other words, we are not here and I am not here just representing lawyers and I think that most of the people would say, well, we have a self-interest in this thing. Maybe we do and maybe we don't; but it's been our experience over the years that in trying to protect the public from what we call unauthorized practice that basically what we're trying to do is protect them from incompetence and we are concerned with that problem in this particular case.

Over the years the Bar's experience has been that most of the time the protection that they've tried to grant has been over the objection of the

people that they're trying to protect. For instance, the question of drawing simple wills. It's pretty hard to get a layman to understand why he can't get his friendly neighborhood real estate man to draw the will for five dollars and he has to pay a lawyer fifteen or something like that. Or he wants to draw a real estate contract and he gets again the real estate guy to do it or some friend of his, and he has to pay a lawyer $25 to do this type of thing. Of course, the Bar's experience has been over the years that this generates more legal business than it gets rid of because most of those cases will end up, or a lot of them, in complicated court cases, when something goes wrong with this simple will or real estate agreement. So actually it's not a question of protecting business, it's protecting the people that are involved with it.

Whether we like it or not these appeals are relatively complicated. If the record is incomplete or errors are made, then there is no case to be won on appeal to the courts.

This proposed amendment to your rules doesn't set up any rules for responsibility by these people. Let's assume that some business agent goes in; the man has a good case; he botches it up and the man loses because of that. What relief is that man entitled to against that person that botched up his case? Does he have responsibility to him like a lawyer would have? No. He might sue him but he wouldn't get anything. The Bar Association, for instance, has a special fund set up in case you had a lawyer who was financially not responsible. The Bar Association has a relief fund set up for that because of that type of situation. Or the same thing with the employer. What if the employer's representative botched up the case? What does the Board propose to do about those situations in which there is actual malpractice? You don't have anything set up for that and it seems to me that that would be a part of your rule if you're going to pass this rule to allow these people to practice law.

And I'm also aware, and I think you people are too, that your proposed rule here is against the advice of your own counsel. It seems to me that state agencies when they have an opinion of the attorney general (AGO 61-62 No. 6) directly contrary to what they are proposing to do that they wouldn't do it.

We believe that the Board by adopting this rule is attempting to allow a layman to practice law before the Board. We believe that you are without that authority to do so and in any event that you shouldn't do it because of the technical nature of these proceedings. You should leave the rule as it is, remembering one thing, that an injured person can always represent himself pro se; there is no rule against that; there never has been.

Position of a Union Representative

Ed Carrig, an international representative for the Machinists' Union, stated:

We understand this here to be the workers' industrial insurance compensation act and we want to maintain it in that manner and we don't want to make it the lawyers' compensation act, as it has been in the past.

Our organization historically has provided for our membership lay persons to represent them in proceedings before administrative agencies, whether they be state or federal agencies. My particular assignment in the Machinists' Union is to represent the machinists' interest from Colorado west including Alaska in all proceedings before the National Labor Relations Board and consistently I'm up against the employers' attorneys in these type of proceedings and I think the record will show that I do a pretty good journeyman's job in offsetting the attacks of management in this area.

Just recently congress passed the Industrial Occupational Safety and Health Act and I received the assignment to represent the Machinists' Union in these proceedings that affect the machinists' organization and membership and I respectfully submit that our representation and our members' interest in this area is equal to at least of the representation that they might expect and pay for had they hired attorneys.

Now, I will grant with Mr. Warner that there are places at times for attorneys to appear, and our business representatives how when an attorney is needed and when he is not and that's when they make the advice to the member and we think that this here should be the right of the injured worker because we think that the laws were designed by the people that designed those laws to provide compensation for the injured workers, to take care of that injury, and not pay a portion of that to an attorney when it's not called for.

Position of an Employer Representative

Robert McCallister, workmen's compensation claims manager for the Georgia Pacific Corp, stated: My only comment is that in the State of California we have such a rule as your proposed rule. They work very well. I speak only for Georgia Pacific Corporation. We use laymen to represent our interest at hearings. We take our chances. We

(Continued on page 22)

WASHINGTON STATE BAR NEWS

Group Legal Services Is WSBA Convention Highlight

Something old and something new (but nothing borrowed and certainly nothing blue) will highlight the legal-education seminars at the State Bar's annual meeting Spokane September 7-9.

The newest of the new will feature a comprehensive seminar at 10 a.m. Thursday, September 7, on **Group Prepaid Legal Services,** which hasn't happened yet but which is deep in the planning stages. The prepaid-services program is expected to be virtually ready to begin by September and no Washington lawyer will want to miss the seminar, which will key in on the program's operation and its vital importance to the Bar, to every lawyer and to the public.

Co-chairmen of the seminar are **Thomas M. Malott** of Spokane, chairman of the Bar's Group Legal Services Committee; **James P. Curran** of Kent, member of the Board of Governors who has attended two national seminars on the subject, and **Will L. Lorenz** of Spokane, chairman of the Continuing Legal Education Committee.

One of the headline speakers at the seminar will be David K. Robinson, president of the State Bar of California, which also is planning a statewide, open-panel prepaid legal services program.

That seminar will enjoy a rare "exclusive"; there will be no competing seminar scheduled at the same time, as is customary to provide choices in seminar subjects and to allow members of firms to attend different seminars.

Also in the "new" category are seminars on **Computers,** the Law and Your Practice, whose chairman is **Richard O. White** of Olympia, State Code Reviser, and on **Environmental Law for the General Practitioner,** chaired by **Norman L. Winn** of Seattle.

Members of the Environmental Law panel are **Harrison K. Dano,** Ellensburg; **William H. Wilson,** Everett; **Philip M. Best,** Bremerton; **J. Richard Aramburu,** Seattle, and **Charles B. Roe Jr.,** Olympia, an assistant attorney general.

Use of computers is expected to touch the everyday practices of every lawyer but those on the every eve of retirement, according to the experts. Computers in Olympia already have stored away, and can cough up on command, the state's organic acts and the full body of statute law and several volumes of the Supreme Court reports. Environmental law, of course, with its myriad and urgent complexities, already is a daily fact of life for many lawyers every place from the metropolis of Seattle to the

(Continued next page)

Election Results

The newly elected members of the Board of Governors, who will take office in September, are:

King County:
William H. Gates
Llewelyn G. Pritchard
Third District:
John J. Champagne
Sixth District:
Neil J. Hoff

WSBA Board Reverses Itself on Laymen on Disciplinary Board

DeWitt Williams

The Board of Governors at its May 19th meeting in Wenatchee by a vote of 5 (Messrs, Ripple, Lynch, Short, Day and Novack) to 2 (Messrs. Hoff and Curran) withdrew its proposal to the State Supreme Court to add three laymen to the WSBA Disciplinary Board.

Both **DeWitt Williams** and **Alfred McBee** had appeared before the Board of Governors urging such withdrawal. Some of the following arguments were made:

(1) So far as lawyer members are concerned, the present Disciplinary Board should not be reduced in order to have sufficient and proper geographical representation. Adding other members to the Board would add to the length of deliberations and tend to slow up the work of the Board rather than to expedite it, which is the goal of everyone.

(2) The Board members serve

(Continued next page)

WSBA Convention
(Continued from page 15)

state's smallest hamlets.

In the "old" category, but nonetheless of universal and economic importance to lawyers, are seminars on **1972 Estate Planning Update** and on **Construction Law: Representing the Owner, Contractor, Subcontractor, Architect-Engineer and Supplier.**

The Estate Planning Update chairman is **Malcolm A. Moore** of Seattle; on the panel are Professor John Price of the University of Washington Law School faculty, and **Scott B. Lukins** of Spokane. This panel and the program on Environmental Law will be at 2 p.m. Thursday, September 7.

Construction Law seminar chairman is **Leslie L. Woods** of Spokane. Panel members will include **Douglas J. Smith** of Seattle and **Robert J. McNichols** and **Patrick A. Sullivan** of Spokane. This seminar and the program on computers will be at 2 p.m. Friday, September 8.

The association's annual business meeting, which of late has become of lively interest, will be conducted by President **E. Frederick Velikanje** of Yakima at 10 a.m. Friday, September 8. He will be succeeded during the convention by **Charles I. Stone** of Seattle. The Board of Governors will have a regular meeting all day Wednesday, before the start of the convention.

The convention also will feature a goodly number of extracurricular highlights:

An **art exhibit** throughout the meeting in the headquarters Ridpath Hotel will show off the artistic talents of lawyers, judges and members of their families.

There will be a **no-host reception** for all convention-goers from 6 to 7:30 p.m. Thursday, and at 6:30 that evening the Washington law classes of 1932 and 1958 will have **receptions and dinners.**

Breakfast meetings have been scheduled at 7:30 a.m. Friday by alumni of the law schools of Gonzaga, Willamette, Washington, Michigan, Harvard and Yale.

And started at 6:30 Friday will be the gala traditional **cocktail party, buffet dinner and dance.**

A smashing climax to the convention is guaranteed on Saturday morning, September 9. The ever-popular John N. Rupp again will moderate the **Teach-In-Speak-Out** panel of a variety of talented lawyers who have ten minutes each to speak their minds, no holds barred. Panelists are **Robert O. Beresford,** Seattle; **Neil J. Hoff,** Tacoma; **Judge Willard J. Roe,** Spokane; **Jack E. Tanner,** Tacoma; **Charles S. Burdell,** Seattle; **Bradford M. Gierke,** Tacoma; **Susan F. French,** Seattle; **Jack P. Scholfield,** Seattle, and **Gregory R. Dallaire,** Seattle.

Winding up the annual meeting will be the traditional **Young Lawyers luncheon,** with all lawyers and their ladies invited to attend.

No Laymen on Disciplinary Board
(Continued from page 15)

as chairmen of the hearing panels and appropriately they should do so in view of their responsibilities. While these are somewhat informal, they have traditionally been conducted along lines which lawyers are used to in their work before courts and lay members would not be qualified by experience, or perhaps temperament, to conduct these hearings.

(3) Apparently the reason for adding the lay members is simply to create better public relations and yet this connotes considerable breakdown of the confidential nature of the proceedings, which would undoubtedly result in less cooperation by attorneys in matters in which they would feel left open to question whether the proceedings would remain confidential.

(4) Associated with the foregoing is a lack of control of the Bar Association and the courts over any improper conduct so far as the Disciplinary Board members are concerned, which control has heretofore been possible through the status of the members as lawyers subject to ethical principles and rules of court.

It is not at all clear that the lawyer members would vary from the decisions which they would reach if the Board were constituted as it is at present, and any lack of unanimity between the law and lay members would create, if publicized, poor relations rather than improved public relations.

(5) Many of the issues involved in discipline proceedings grow out of ethical principles and principles of the practice of law which are unknown to laymen and as to which they would have to be continuously advised (thus increasing the work of the Board) if they are to bring to their judgment a proper basis for it.

(6) The Disciplinary Board also feels that the Bar generally would resent being disciplined by lay persons resulting in lack of cooperation in the working of the discipline process.

In Memoriam

Alf M. Jacobsen, Goldendale, 48, died May 27 of a heart attack. A graduate of Gonzaga University Law School, he began practice in 1949, serving as prosecuting attorney of Wahkiakum County and later of Klickitat County. He was City Attorney of Goldendale for eight years.

Justice Department Asked to Look at Minimum Fee Schedules

The Justice Department has been asked to investigate the anti-trust aspects of minimum fee schedules by the Department of Housing and Urban Development.

HUD's request, ordered by Secretary George Romney, was in the form of a letter from HUD General Counsel David O. Maxwell to Walker B. Comegys, acting assistant attorney general. Maxwell said the schedules "may turn out to be obligatory" despite an ABA ethics opinion which ruled that they "are only advisory." He cited data from the HUD-VA study which indicates that title-related costs, such as attorney's fees, tend to be significantly higher for the average priced home in areas where they are assessed as a percentage of the price of the house or mortgage.

Maxwell concluded: "As it appears that the manner in which these attorneys' minimum fee schedules are applied in real estate settlements may violate the Sherman Antitrust Act, I am bringing the matter to your attention for such action as you may deem appropriate."

A hint of the Justice Department's possible view on the issue was given by Bruce B. Wilson, deputy assistant attorney general for the antitrust division, the day following the release of Maxwell's letter.

Speaking at a Pennsylvania Bar Association conference for county bar officers, Wilson said, "many of these (minimum fee) schedules seem to go beyond the mere fact of suggestion" and "appear to threaten the lawyer who undercuts the schedule with disciplinary action for unethical conduct and solicitation."

"This practice," he added, "is fraught with antitrust dangers and should be abandoned or at least radically changed if it is to remain outside the forbidden zone."

Official Status of Minimum Bar Fee Schedules

Prior to the adoption of the Code of Professional Responsibility, the ABA strongly indicated in Formal Opinion 302 and Informal Opinion 585 that consistent "undercharging" by lawyers could result in disciplinary action. This was the same position taken by the Washington State Bar in Opinion No. 94 (1961).

This position has been abandoned by both the ABA and the WSBA as being *clearly wrong*. The strongest evidence of this 180 degree swing in position is in EC 2-18.

> The determination of the reasonableness of a fee requires consideration of all relevant circumstances, including those stated in the Disciplinary Rules. The fees of a lawyer will vary according to many factors, including the time required, his *experience, ability* and *reputation,* the nature of his employment, the responsibility involved and the results obtained. Suggested fee schedules and economic reports of state and local bar associations provide some guidance on the subject of reasonable fees. [Emphasis added]

Disciplinary Rule 2-106 of the Code, paragraph B, presents eight factors to be used as guides in determining a reasonable fee. Perhaps the most important part of Rule 2-106 is the giving of reasonable consideration to a lawyer's experience, reputation and ability to perform the services along with the fee to be that which is customarily charged in the locality for similar legal services. Prior to this the ABA's Opinions gave little if any weight to these factors.

Although the language of the ABA in its Code is clear, the ABA Ethics Committee was not satisfied. They felt an attempt should be made to repair the unfortunate consequences of their prior opinions. This end was sought through the wide circulation of Formal Opinion 323 (Letter issued by the ABA Standing Committee on Ethics and Professional Responsibility, August 9, 1970):

> Considerable confusion still appears to exist in the minds of many members of the Bar in regard to the effect to be given minimum fee schedules. This Committee has heretofore attempted to clarify this situation in its Formal Opinion 302 and Informal Opinion 585; but these opinions continue to be misinterpreted and even misquoted, with results which tend to negate the actual holdings of the opinions.
>
> When the customary minimum charge is reflected in a fee schedule, clearly it is proper for a lawyer to take this into account along with other elements in fixing his fee . . . In the light of this, the Committee has no hesitancy in holding that mere failure to follow a minimum fee schedule, even when habitual, cannot, standing alone and absent evidence of misconduct, afford a basis for disciplinary action.

Remember to make contributions to the WASHINGTON STATE BAR FOUNDATION.

Announcement of Policy by WSBA Disciplinary Board

Most lawyers who are not engaged in some part of the disciplinary procedure of the Washington State Bar Association cannot possibly know of the many hours spent by members of the Local Administrative Committees in their work of investigating complaints referred to them by the Association and making recommendations with respect thereto. When lawyers against whom complaints are made fail to cooperate with LAC members, their work and the work of the Disciplinary Board is greatly increased. Unfortunately, a number of lawyers against whom complaints are made fail to cooperate with the LAC with respect to complaints made against such lawyers and the Board therefore finds it necessary to call to the attention of the Bar generally the rules relating to such cooperation and announce their policy with respect to non-cooperation. The Rules for Discipline of Attorneys provide in part as follows:

"1. *Grounds for Disciplinary Action*
Rule 1.1 Grounds
An attorney at law may be censured, reprimanded, suspended or disbarred for any of the following causes, hereinafter sometimes referred to as violations of the rules of professional conduct:

* * * * *

"(1) Willful violation of Rule 2.6 or willful disregard of the subpoena or notice of the Local Administrative Committee, Hearing Panel, Disciplinary Board, or Board of Governors of the Washington State Bar Association.

* * * * *

"Rule 2.6 Respondent Attorney
(a) *Responsibility.* It shall be the duty and the obligation of an attorney against whom a complaint has been made and who is being investigated by the Local Administrative Committee to cooperate with the Committee as requested by it by:
(a) furnishing any papers or documents,
(2) furnishing in writing a full and complete explanation covering the matter contained in such complaint,
(3) appearing before the Committee at the time and place designated."

Regardless of the action taken on the substance of any complaint, if there is a violation of Rule 2.6 which the Board deems willful, it will in accordance with the Rules for Discipline direct that disciplinary proceedings be instigated on that violation even though for some reason the complaint out of which such lack of cooperation has occurred is dismissed.

The Board sincerely hopes that such action will not be necessary and urges all attorneys to fulfill their responsibilities under Rule 2.6, especially as this will greatly lessen the heavy burden on their brother lawyers who are members of Local Administrative Committees.

Complaints Filed and Discipline Imposed
From October 1970 to May 1972

Number of complaints filed	772
Complaints dismissed	557
Complaints pending	177
Number of complaints referred to the Disciplinary Board	145

Dismissals	35
Admonitions	16
Referred for Hearing	82
Referred for Investigation	12

Of the 82 referred for hearing, the results are

Reprimands	11
Censures	6
Dismissals	19
Inactive	3
Pending	36
Disbarment	3
Suspension	2
Sup. Ct. Pending	2

Note: The last set of statistics, which covered July 1969 to September 1970, appeared in the November 1970 *Bar News*, p. 11. The average number of complaints filed has risen from 34 to 41 per month or a 21% increase. The membership of the Bar, of course, has also increased during that period.

ABA Proposal Disturbs Law Schools

On April 26 and 27, 1972, ABA President Leon Jaworski circulated a "Report on the feasibility of reviewing the character and fitness of entering law students" to the Deans of approved Law Schools and the members of the National Conference of Bar Presidents respectively.

The report emanated from a special ABA committee of the Section of Legal Education and Admissions to the Bar. The report has been approved "in principle" by the Council of the Section of Legal Education.

The controversial section of the report proposes that a test be developed which could be given to every first-year law student in the country "to identify those significant elements of character that may predictably give rise to misconduct in violation of professional responsibilities."

This test or questionnaire would be given by the law school, but graded or interpreted by the state bar admission committee.

Prior to its release by ABA President Jaworski, the report had been unanimously condemned by the Board of Governors of the ABA Law Student Division on April 16.

The April 16 *New York Times* quoted Michael Sovern, dean of the Columbia Law School, as saying "My reaction to this report is so extraordinary that I want to check to see if it is genuine."

Dean Abraham Goldstein of Yale Law School, according to the *Times*, called the proposed uniform test "an absolutely terrible idea," adding that "Talking about devising a test for this purpose when you're dealing with as diverse a constituency as the law school population — I think it's ridiculous."

The proposal cites as a reason for these measures the growing number of applicants to law schools. An early screening procedure would allow scarce law school places to be given only to those both morally and intellectually suitable for admission to the bar. A student of "deficient" character would find out during his first year or before he entered that he would be ineligible for admission to the bar and thus saved two or three years of wasted efforts.

The May 25, 1972 edition of the *University of Washington Law School Newspaper* reported:

"The proposal was brought to the attention of the Board of Governors of the Young Lawyers section of the Seattle/King Co. Bar Association by the President of the Student Bar Association, Mark Aronchick. The Board decided that they were strongly opposed to the proposal and conveyed their opposition to John Clark, who is the Young Lawyer member on the ABA Board of Governors. Clark, who also opposes the proposal, plans to try to get it sent to a committee where he hopes it will die an early death.

"Dean Richard Roddis sent a copy of the proposal to the faculty with a cover letter suggesting his apprehensions about it. The Dean also wrote to Prof. Michael Cardozo, Executive Director of the Association of American Law Schools. Roddis' letter informed the AALS that he was most concerned over paragraph 6, that he was apprehensive about restricting admission on the basis of such a test, and that he questioned the ability of such a test to measure character, and was concerned about the law schools becoming an arm of the Bar Societies for such a purpose."

Ladies' Convention Activities Bared

Ahaaa. . . . What is more fair than a September morn in Spokane?

And the lawyers' ladies will be able to enjoy it at its fullest as they luxuriate outdoors on the Ridpath Motor Inn's Pool Terrace for a champagne breakfast September 8 during the State Bar Convention.

The champagne breakfast, complete with fascinating prizes, is only one of the exciting events being arranged for the ladies by the Spokane County Bar Auxiliary under the chairmanship of Mrs. Richard F. (Joan) Wrenn, president.

Among those events also will be an "exotic luncheon" and fashion show, featuring what are described as "elegant new designs," plus prizes plus Pikaki leis.

The ladies also are welcome to attend the convention's two big luncheon events, which will feature top-flight speakers, and they again will enjoy the big dinner-dance-show September 8, Friday evening.

And a continuing highlight throughout the convention will be the Art Exhibit of works by lawyers, judges and their wives. The showing in a special salon is being arranged by a group headed by Mrs. Scott B. Lukins and her assistant chairwoman, Mrs. John Huneke.

State Bar Convention

September 7-9, 1972

Ridpath Hotel

Spokane, Washington

WSBA Bar Exam Procedures Questioned

John Bookston, Seattle, a recent admittee to the State Bar, in a letter to President Velikanje, has questioned WSBA Bar Exam Procedures. His letter, which follows, has been referred to the Board of Law Examiners for consideration and recommendation:

Please accept this letter as a formal request for changes in the Bar examination procedure.

I strongly protest:

1. The lack of any meaningful feedback to examinees regarding their performance;

2. The pre-determination of a passing score — (this presumes that the examiners can discern a passing book, 252 points, from a failing book, 251 points, a difference of less than one-third of one percent of the total 360 possible points);

3. The heavy emphasis placed on a few subjects;

4. The exclusive participation of practicing Washington lawyers in judging those who might be allowed to pursue their profession;

5. The non-disclosure of past examination questions and answers;

6. The failure to provide an appeal procedure.

Therefore, I petition for the following changes in the examination procedure:

1. That those persons responsible for grading the examination be available for appointments to discuss the grade assigned to a specific answer;

2. That no "passing score" be decided upon until all papers have been graded and that only a large break in the crowding of scores be considered for the critical point;

3. That the areas of constitutional law, poverty law, criminal law, administrative law, and other legitimate legal fields be given equal weight in the examination to that of contracts and other business subjects;

4. That judges, professors, retired practitioners, out-of-state lawyers, and legal services lawyers be sought out to help grade examinations;

5. That past exam questions be published and that the examinee be allowed to decide whether his paper will be kept secret or opened to the public;

6. That an appeal procedure be established through which a dissatisfied examinee will have access to review, eventually by a court.

The decision made by bar examiners is very important to the examinee. The examiners perform an administrative, licensing function. It is imperative that the procedure be fair on its face, and open to inspection.

Seattle Young Lawyers Prevalent in ABA

The Seattle-King County Young Lawyers Section has more members present at the mid-year and annual meetings than any other city in the nation. The SKCBA Young Lawyers Section has won an ABA Award of Achievement in each of the last five years, a record unmatched by any other city or state.

The committee roster for the 1972-73 year shows that the SKCBA Young Lawyers Section holds eight of the 31 committee chairmanships: **David D. Hoff,** Co-chairman, and **David Mac Shelton,** Vice Chairman of the Committee on Administration of Criminal Law and Prison Reform; **G. Theodore Ressler,** Chairman of Consumer Affairs Committee; **Roger M. Leed, Co-chairman** of the Environmental Quality Committee; **Gregory R. Dallaire,** Co-chairman of the Extension of Legal Services Committee; **Llewelyn G. Pritchard,** Co-chairman of the Liaison With Other ABA Sections Committee; **John Willard,** Co-chairman of the Military Service Lawyer Committee; **William H. Neukom,** Chairman of the Protection of Civil Liberties and Civil Rights Committee; and **Robert L. Burnham,** Chairman of the Young Lawyers in Public Service Committee. No other city matches this record.

In addition, **Robert C. Musschl** is one of two administrative assistants to the ABA Young Lawyers Section Chairman. **Christopher T. Bayley** is a member of the executive council.

Only Six Man Juries in Federal Civil Cases

The Judges for the U.S. District Court for the Western District of Washington have adopted Local Rule 39, effective July 1, 1972, which provides:

"A jury for the trial of civil cases shall consist of six jurors plus such alternate jurors as may be impaneled."

One-Third of State's Lawyers Are Insured

An estimated 1500 of Washington State's approximately 4,600 active lawyers have purchased professional liability insurance.

The estimate is that of Erwin E. Dow, of Dow-Laney Company, Seattle broker firm officially authorized by the Board of Governors to offer lawyers a package of insurance coverages, including professional liability.

"Today the law profession is having the same problem regarding professional liability as doctors have had for the past 10

years," Dow said. "If the trend continues, professional liability suits will reach the same magnitude as physicians' malpractice suits."

He said he has learned of at least a dozen cases in which Seattle attorneys, uninsured, have paid sizeable claims out of their own pockets.

Chief cause of losses, he said, is in the area of docket control. Other leading causes nationally are errors in title searches, incorrect or inadequate advice and mistakes in rendering opinions.

"The social status of today's attorney also makes him a target for litigation," Dow observed.

He said the number of insurance companies willing to provide liability coverage for lawyers has greatly diminished; today only two or three companies aggressively seek to provide such coverage.

Cost of coverage now is about $145 to $160 a year for $100,000 limits with a $1,000 deductible.

State Court System Annual Report Warns of Deterioration of Justice

It took $13.6 million to operate the Superior Courts, juvenile-rehabilitation system, the State Court of Appeals and the State Supreme Court during 1970, but officials say it was a bargain compared with other government services.

The statistics are included in the 15th annual report relating to state judicial administration.

"It frequently is stated that courts are costly operations, and for those who become litigants, this can be true," said **Albert C. Bise,** administrator for the courts of the state.

"Depositions, expert testimony, attorney fees and court costs can indeed become burdensome to a party to a lawsuit, particularly if he does not prevail, but the cost of the court to the taxpayer is insignificant when compared to many other governmental services," Bise said.

The total per-capita cost during 1970 was $4. Comparison per-capita costs for other services included: education, $336; highways, $101; public welfare, $68; police, $19; and local fire protection, $10.

Statistics of court costs were not available for last year, but other statistics in the annual report relate to 1971. Among the other findings:

Superior Court judges have made substantial increases in their workload. Last year the judges averaged 17 more cases each than in previous years. The 92 jurists averaged 104.8 cases each.

In King County the average was 129.3.

There was only 1 per cent increase in appeals filed last year, from 1,056 to 1,067. But dispositions of cases for the year increased 13 per cent, from 1,125 to 1,274 cases.

The appellate-case volume increased from 535 in 1962 to 1,067 last year. The report concluded that continued caseload growth will result in a deterioration in the administration of justice unless there is an increase in the capability of the system.

"The deterioration will manifest itself in increasing delay and, more subtly, in an erosion of decisional quality as the burden of the mounting backlog reduces the time available for adequate research and consideration in opinion writing," the report concludes.

The state average for distribution of lawyers is 42 lawyers to each judge. King County, with 57 per cent of all the lawyers in the state, has an average of 87 lawyers a judge. Spokane County averages 51 lawyers to each judge, and all other judicial districts are under the statewide average.

As of the end of last year there were 235 municipal courts in the state. There were 30 jurisdictions that reported no activity and 61 courts reported less than 100 cases during the year.

There are 58 municipalities that contract with district courts for trials of city-ordinance violations. During the year about 79 per cent of all municipal-court cases were tried in district courts or municipal courts with full-time judges.

"This fact alone is justification for considering further consolidation of the courts of limited jurisdiction," the report states.

Of the total judges, justices of the peace and court commissioners, 116 are lawyers and 140 are not.

The report states that there is an increasing need, especially in the larger counties, for court administrators, persons who can assist in improving procedures and business practices.

There are administrators in only three judicial districts — King, Yakima and Benton-Franklin.

Larry Brown
The Seattle Times
June 11, 1972

A.B.A. to Hold Convention in Seattle

The American Bar Association will hold its mid-year meeting in Seattle in 1977, the Seattle-King County Convention and Visitors Bureau has announced.

Hartly Kruger, bureau general manager, said that an estimated 3,500 delegates are expected for the February 10-13 meeting.

Laymen Practicing Before Administrative Agencies
(Continued from page 14)

think we take very little chance because our lay representation in workmen's compensation hearings in the State of California is in my opinion a cut above any representation that we would receive by a member of the California Bar.

Position of the Employer's Board Member

Board member Robert M. Gilmore stated: When the act creating this Board was passed in 1949, the procedure before the Board was very much more informal than it is now. I was permitted to come and represent the company I worked for at that time, and there were others. Now, this was done sparingly; it didn't appear at that time to be the practice of law, as so many say it is. There was one very eloquent and effective union representative in the Woodworkers who was very effective. I see Mr. Warner smiling. But I simply want to make the comment that it wasn't always this way. It started out in 1949 to be a much more informal, much more summary method of gathering evidence. But someplace along the line we switched gears and I think what we're attempting to do most sincerely here is to roll back the curtain just a little bit.

Mr. Warner's Reply

Charles Warner then directed his remarks to the various statements made:

I don't think maybe my position was crystal clear on one point. I don't question the ability of these gentlemen. I think you could do a better job at an NLRB hearing than I could. I admit it. And I think you could pass the bar exam if you wanted to take it. But that's not the point. This Board is concerned with the minimum really. Mr. Gilmore brought up the example of the union representative for the Woodworkers. I remember him very well. I've been through this whole span and I used to get some of his cases after he went down there and represented these people. Maybe you didn't see these, but I did. Some of them were all botched up and I know a couple of situations where he traded off one case to dismiss it and settle another one, which isn't right. You're not supposed to do that. I'm not talking about the ability of these people, but I am talking about what I consider a minimum. You don't have any screening. Theoretically some unions could have a highly incompetent person be doing this. You may have to admit it. It could happen. And you've got no redress against him at all and I think this is what the Bar Association is concerned with.

Position of the Union's Board Member

Richard H. Powell, Union Board member, had these remarks in closing:

I have personally two concerns that motivate me toward favoring this change. I am concerned, one, with the cost to the workman under the present procedure in time. I lay much of this time to the legal, technical obstacles and procedures and vices which have been slowly strangling this procedure over these many years and which has encumbered the workman with a cost in time that I think he can well not afford to bear.

I'm also concerned about the cost to workman of this process and I've expressed this to many people before and it gets no less. When we have cases where the fund of the Department which is there for the benefit of injured workmen is assessed in costs of upward of $2800, in a case I saw the other day, and the injured workman gets $682 of that $2800 and the balance goes to the lawyer and to the witnesses I say to you there is something wrong with the system and I would defy you to say there is not.

Now, hopefully, if this rule is adopted, labor organizations will furnish their members who have appeals with more assistance than they have in the past and hopefully it will be good assistance, reasonable assistance. I will advise them to this end. I will advise them not to appear and attempt to represent workmen in complicated cases. But I say to you there are lots of cases that are not that complicated. There are cases where workmen have paid an attorney $3000 for one appearance at a conference lasting 15 minutes that any layman in this room could have performed the same services and I will encourage participation in that to a greater and greater extent among the labor organizations of this state. If this rule becomes a rule of the Board I will encourage the State Labor Council to conduct seminars throughout the state for labor representatives for the purposes of schooling them in this Act and in the procedures before the Board.

Finally, I assure you, that the hearing examiners of this Board, so far as we are able, will render all possible assistance to workmen who appear with lay representatives to see that their cases are

(Continued on page 29)

CHELAN-DOUGLAS REPORT

By JOE R. WOOLETT

On May 15, 1972 the Chelan-Douglas County Bar Association chose as their officers for the 1972-1973 term **David J. Whitmore**-President, **Jim Danielson**-Vice President, and **Joe R. Woolett**-Secretary-Treasurer. The new officers were installed May 19, 1972 by **Earl Foster,** outgoing President of the Chelan-Douglas County Bar Association at the Annual Spring Bar Association Banquet.

Present at the banquet were the Board of Governors who were in Wenatchee for a regular business meeting. Also in attendance at the banquet were representatives of the Young Lawyers' Section who were in Wenatchee auditing the meetings of the Board of Governors.

Conspicuously absent from the annual banquet were **Garfield Jeffers, Peter Young** and **Larry Carlson** who were ostensibly on a fishing trip to Canada. Reliable sources inform us *no* fish were caught.

GOVERNMENTAL LAWYERS ASSOCIATION

By SAM P. LOCKARD

The Governmental Lawyers and the Thurston-Mason Bar Association met jointly in May. Governor Evans was the featured speaker, discussing the state's programs for prisoner rehabilitation. The Governor explained that a truly successful rehabilitation program would require a substantial increase in funding as well as an acceptance of innovative ideas, notwithstanding mistakes resulting from initial imperfections.

The Legal Services Association Office of Thurston-Mason Counties is functioning with the full cooperation of local attorneys. As reported in the June issue of the *Bar News,* this is another joint project of the Governmental Lawyers and the Thurston-Mason County Bar Association. The time and effort of all concerned in organizing and staffing this needed public service are highly appreciated. We are especially fortunate that retired Supreme Court Justice **Frank Weaver** and **Elmer Johnston,** former hearing examiner and legislator, have agreed to donate substnatial time to the office.

The June meeting will be taken up with the election of new officers.

GRAYS HARBOR REPORT

By JOHN L. FARRA

It is again time for all interested attorneys in the State of Washington to notify **Ted Zelasko** of the Firm of Ingram, Zelasko & Goodwin, Becker Building in Aberdeen, Washington, of their intent to go to the 15th Annual Grays Harbor Bar Association Salmon Derby.

Thanks to the committee of Ted Zelasko, **Robert Charette, Jerry Hallam,** and **Warner Poyhonen,** this year's event promises to be the best yet. It is urged, due to the arrangements necessary to put on this event, that all interested parties notify Ted Zelasko as soon as possible. The accommodations for this year's event will be limited to 100 persons. This is a first come — first served basis. If any further information is desired, it is suggested that you contact Mr. Zelasko as soon as possible.

The Grays Harbor Prosecutor's office has entered into the legal intern program. John Schumacher of Aberdeen will be working for the Prosecutor's office for the summer months. During this time he will be trying cases in the two District Courts in the county. When not busy doing this, he will be doing briefing.

As I am gliding on the downhill side of my year in office, I have been contemplating the wonderful association I have been having with the seven members of the Board of Governors. All seven are highly successful and respectable lawyers. Yet there has been a diversity of philosophy, opinion and belief that is far beyond expectation.

The Board has been accused of being a rubber stamp for the entrenched "staid old lawyers." Nothing could be further from the truth.

KITSAP REPORT

By HELEN GRAHAM GREEAR

Summertime . . . and the livin' is easy? **Jack Evans,** deputy prosecuting attorney, does not make it sound that way when he describes his forthcoming Alaska vacation (July): A wilderness river trip on the Skwentna River, six people being flown in by a bush pilot, who will drop them off at a given point on the river and will pick them up six days later. They will float down the river on rafts, camping at night. Jack is taking the inside passage ferry trip to Alaska, and flying back to the Lower Forty-eight. Ah me. . . .

Most of the summer plans of the judiciary are clothed in mystery, except that they will be away. Judge **Oluf Johnsen** will

attend the American Bar Association convention in San Francisco in August, and will spend part of his vacation enjoying the superb Hood Canal and Olympic Mountains view afforded by his lovely home. We always know Judge **Robert J. Bryan** will spend considerable time fishing.

Among courthouse improvements, the law library is nearing completion. Also, the footings for the new jail are being laid.

AROUND THE COURTHOUSE:

At last I have met **A'Lan Hutchinson,** the Invisible Man of Belfair. He lives with his wife and six children and practices law in Tacoma, but summers and weekends at the North Shore of Hood Canal, and for years has been listed in the local yellow pages under Attorneys, but was never seen. He says it is going to be different now.

The news about Arthur and Hanley (**James O. Arthur** and **Terence Hanley**) is that world traveller Arthur is NOT making a Mediterranean cruise this summer; as partner Hanley said blandly: "You may mention as news that Mr. Arthur will be in the office for the next several months."

Further affiant knoweth not.

LEWIS REPORT
By **DONALD F. PIETIG**

We are pleased to note that **William F. Lemke** is now associated in practice with **J. Dorman Searle,** Chehalis.

Bill and his wife, JoAnne, are originally from Evanston, Illinois. After graduation from the University of Illinois School of Law in 1969, Bill and JoAnne moved to Washington and for the past three years Bill had been working in the Attorney General's Office, Department of Fisheries. An active member of the Thurston-Mason County Bar Association, Bill was instrumental in organizing the Young Lawyers' Section of that bar association. A sincere and warm welcome is extended to this newest member of the Lewis County Bar Association and his wife, JoAnne.

PIERCE REPORT
By **DAVID E. SCHWEINLER**

Leonard W. Moen, University of Montana, 1971, has become an associate in the law firm of Mann, Copeland, King, Anderson, Bingham & Scraggin.

Hollis H. Barnett, formerly of the Pierce County Prosecuting Attorney's Office, is now an associate in the firm of Campbell, Engerson & Dille.

The firm of Murray, Scott, McGavick, Graves, Lane & Lowry, and the firm of Gagliardi and Gagliardi and Thomas A. Swayze, Jr. have formed a new partnership under the name of Murray, Scott, McGavick, Gagliardi, Graves, Lane & Lowry.

Programs

The Tacoma-Pierce County Bar Association on May 18 had as speaker **Robert O. Beresford,** past president of the Bar Association, and **Charles I. Stone,** the president-elect of the Washington State Bar Association. Their topics were: a. The minimum fee schedule relating to anti-trust matters; b. Progress, or lack thereof, regarding no-fault; c. Judicial reorganization; d. Bar discipline; e. Influx of new lawyers.

SEATTLE-KING REPORT
By **GERALD G. TUTTLE**

Pres. Betty Fletcher and Prof. Robert Fletcher

The annual dinner meeting of the Seattle-King County Bar Association will take place on Tuesday evening, June 27, 1972, at the Washington Plaza Hotel.

The business meeting will commence in the Concord Room at 5:30 p.m., no host cocktails will be served beginning at 6:30 p.m. and dinner will be served at 7:30 p.m. This year's honored guest speaker will be United States Supreme Justice William O. Douglas. The business meeting will feature the installation of officers and trustees to serve the Association for the 1972-73 year.

Safeco Corporation announces that **Willard Pedersen, S. Frederic Bruhn** and **William R. Lanthorn** have been named as Associate General Counsel for the corporation and **Leo A. Anderson** has been named Chief Attorney, Home Office legal trial staff.

Mike Liles, Jr. has become a partner in the firm of Bogle, Gates, Dobrin, Wakefield & Long

and **Bettina B. Plevan, Stevan D. Phillips, Richard M. Clinton, Michael S. Courtnage, James C. Falconer** and **J. Carl Mundt** have become associates affective April 1, 1972.

James Caplinger has become a member of Carroll, Rindal, Caplinger & Schulman.

After extended debate, the SKCBA Board of Trustees at its May 24th meeting voted ten to two (**Burroughs B. Anderson** and **Brian L. Comstock,** dissenting) to contribute $1,000 to help defray the costs in connection with Initiative 276, the Coalition for an Open Government's initiative regarding disclosure, campaign finances, lobbying and public records. The Board specifically noted that one of its three primary projects this year was reform in this area. Burr Anderson in voting against the contribution, stating that it was "highly questionable" whether such a contribution fell within the powers of the Board. **DeWitt Williams,** the SKCBA ABA Delegate, commented that he thought an amendment to the purpose section of the articles was in order to give notice to lawyers that the Board would be engaging in such activities.

Clark Eckart, who joined the legal staff of Great Northern Railway as a trial attorney in 1942, has retired as executive-department vice president of the Burlington Northern. Mr. Eckart became general attorney of Lines West in 1968 prior to being appointed vice president of the executive-department of Burlington Northern.

David Pearson has become associated with Siderius, Lonergan & Crowley.

The Young Men's Republican Club of King County has named **Russell A. Austin, Jr.,** its man of the year for 1972. Austin was recently elected Republican state committeeman for King County. **James S. Munn** has been succeeded as president of the Young Men's Republican Club of King County by Ken Rogstad. **Charles C. Haugland** has been elected secretary of the organization and its trustees include **Russell A. Austin, Jr., Richard Derham, Richard Sanders** and **Clay Nixon.**

Ferguson & Burdell announce that **William B. Moore** has become a partner of the firm and that **Patrick W. Biggs** has become an associate.

Miles McAtee has joined the staff of Skeel, McKelvy, Henke, Evenson & Betts.

George Nickell and **Dick Mah** announce the establishment of the partnership of Nickell and Mah at the Commons, Suite 121, 1200 112th N.E., Bellevue, Washington, phone GL 4-7277, effective July 1, 1972.

DeWitt Williams has been elected president of the Western Washington Chapter of the Arthritis Foundation. **Chester C. Adair** was named secretary and Moritz Milburn, counsel.

Ben J. Gantt, Jr., has been elected president of the Municipal League of Seattle and King County, while **Richard R. Albrecht** was elected 1st vice-president. **Walter B. Williams** and **Bennett Feigenbaum** were among those elected to the Board.

John Lackland has left the AG's staff at the U of W to become house counsel and vice president of corporate protection of the Western Farmers' Association in Seattle. . . . **P. Cameron DeVore,** a Seattle Community College District trustee, has been elected president of the state's Trustees Association of Community Colleges.

James G. Leach, a staff official of the State Law and Justice Planning Office, has been named project director of the newly created King County Criminal Justice Coordinating Council. . . . **Barry D. Ernstoff** has become an associate in Ziontz, Pirtle & Morisset.

Thomas W. Huber has been elected the new president of the Zoological Society.

WHITMAN REPORT
By **CLAUDE K. IRWIN**

The Bar Association of Whitman County welcomed its newest member, **Ron Jarman,** by electing him Vice-President of the Whitman County Bar Association. The other officers elected are **Albert J. Schauble,** President, and **Wallis W. Friel,** Secretary-Treasurer.

Judge **John A. Denoo** announced recently that he would retire at the end of his current term and would not be running for re-election this year. At the annual banquet he was presented with a Certificate of Award from the members of the Bar Association.

A number of lawyers have indicated that they desire to run for election as Superior Court Judge of Whitman County and the Bar Association has been conducting a poll of the members in order to secure the most qualified candidate for the position.

YAKIMA REPORT
By **RANDY MARQUIS**

New Officers: In an unusual display of unanimity **Howard Hettinger** of the firm of Tunstall, Hettinger & Dohn was elected as President of the Yakima Bar for the coming year. Other distinguished officers are as follows: Vice President, **Bruce Hanson;** Secretary, **Tim Weaver;** Treasurer, **Jerry Talbott.**

Briefly Noted

Bar Group In Prison Study

Eleven attorneys representing the corrections committee of the Washington State Bar Association toured the penitentiary on May 13th and met with Supt. B.J. Rhay.

"Its purpose really was to get first hand data and first hand impressions of a major institution," said Chairman John Piper, Seattle.

"We were given a lot of freedom to roam and ramble and great cooperation."

Accompanied by members of the prisoners' President Governmental Council, the group inspected the area inside the walls including cells and segregation units.

They talked with a correctional sergeant, prisoners and various employes in addition to holding a briefing session with Rhay, Piper said.

"We were looking for relevance, to determine if the bar has any role to play," he stated.

Washington is one of eight states selected for a pilot parole aid project under the American Bar Association Commission on correctional facilities and services.

Goal of the Parole Aid Project is to match 120 volunteer lawyers with an equal number of parolees on a one-to-one basis to provide each parolee with a friend and advisor.

The corrections committee has also begun planning a comprehensive statewide survey of local and county jails.

Pint of Vodka Fails to Faze Legal Secretary

The Washington Association of Legal Secretaries 8th Annual Convention in Pasco May 19-21 was hostessed by the Benton-Franklin Counties Chapter of the Association. New officers were elected; Shirley Billingsley was elected to her second term as President.

One of the highlights of the convention was a demonstration of the Breatholyzer upon one of the secretaries after she had consumed almost a pint of vodka; however, much to everybody's surprise, her reading was only .06.

Any legal secretary interested in joining a local chapter of Legal Secretaries may contact Rose Murdza, at West 3827 Longfellow, Spokane, for information.

Bar Keeps Pace With Population

The increase in the number of lawyers in Washington State has almost exactly matched the growth in the state's population in the last four decades.

Noting the 39th anniversary of the Washington State Bar Association's establishment as a state agency on June 7, 1933, **E. Frederick Velikanje** of Yakima, Bar president, said a little more than 4,600 lawyers today are active members of the association. That is about double the 2,300 lawyers on the rolls in 1933. The state's population in that time also slightly more than doubled, from about 1,600,000 to more than 3,300,000.

"It is interesting to observe from records in the Bar's Seattle office that over 35 years of our state's settlement, from 1854 to statehood in 1889, a total of about 450 attorneys practiced at one time or another," Velikanje said.

The association originated in the late 1800s as a voluntary organization of lawyers. By a legislative act in 1933 the association was established as a state agency and all lawyers now must be members. The first meeting of the association's temporary Board of Commissioners was held June 10, 1933.

"Three of those first five directors who sat down for that first landmark meeting still are active members," Velikanje said. "They are **Alfred J. Schweppe** and **Charles H. Paul** of Seattle and **George McCush** of Bellingham. All later became presidents of the association and all still are active in the Bar's affairs."

Christian Fellowship Weekend

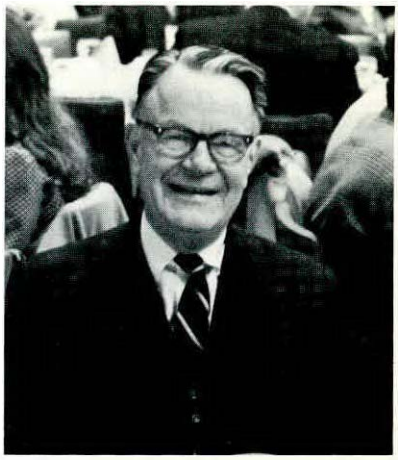
Over 65 lawyers, wives and families from the entire state enjoyed the warmth of the eastern Washington sun and Christian fellowship the week end of May 19, 20, and 21st when the Christian Legal Society met at the Lazy F Ranch in Ellensburg, to share a theme of "Priorities in Professional and Family Life."

Interspaced between times of volleyball, hiking, basketball, relaxing and an old fashioned steak pit-barbeque, the lawyers and their wives participated in a panel discussion led by Reverend Lynn Buzzard and featuring speakers Supreme Court Judge **Robert Utter**, Mr. **Ivan Merrick** Seattle attorney, Mr. William Robinson, a University of Washington Law Student, and Dean **Richard Roddis** of the University of Washington Law School. Other highlights of the week end were two addresses by Mr. Glenn Winters of Chicago, Illinois, Executive Director of the American Judicature Society, who spoke on the changing Court systems in the United States and the State of Washington.

More and bigger events are scheduled for the Christian Legal Society and any attorney wishing information may contact **Kay Dennis Jones,** 17832 40th N.E., Seattle, Washington 98155.

McLAUCHLAN AT LARGE

Walter J. Robinson, Yakima



Albert E. Stephan, Seattle

WSBA Board member Edward J. Novack, Everett

Burroughs B. Anderson (L) and J. Paul Coie (R), Seattle

Gordon Byrholdt, San Francisco

U.S. Atty Stan Pitkin, Seattle

The Bar's Duty to the Public
(Continued from page 6)

2. Standards for fixing charges between organizations and clients.
3. Standards for fixing charges for nonprofessional time.
4. Improvement of internal operations of the law office.

Since all of the foregoing have a direct bearing upon the public acceptance of our services and our performance at a reasonable cost, **I believe, and therefore propose, that lay people be appointed to each of these major committees so that the consumer's voice is heard in determining what we are doing to maintain our professional standards,** but also why our costs must be what they are. We are so concerned about the image of a lawyer and the profession — this is the meat of the coconut. High quality legal service at reasonable cost and readily available to all classes of people will create the desired image without tooting our horns.

Three other major committees would be necessary to meet our responsibility to the courts, the legislature, and to supply knowledge of all to the public. I suggest these other major committees be as follows.

IV. *Change of Law and Courts Committee*
1. Availability of adequate facilities.
2. Availability and selection of adequate personnel.
3. Compensation of personnel.
4. Protection of the adequate judge and removal of inadequate judges (tenure) (discipline).
5. Court rules and procedures.
6. Change of law in public interest through Court.

V. *Change of the Law and Legislation Committee (all levels)*
1. Laws affecting profession as a class.
2. Protection of civil rights.
3. Consumer protection.
4. Environmental law.
5. Labor and the working man.
6. Inmates of institutions.
7. Creditors and debtors.
8. International law and world peace.
9. Lawyers in the political arena (campaign disclosure, retainer disclosure).
10. Automobile reparations.

VI. *Image of the Legal Profession*
1. Publications.
2. Bench-Bar-press.
3. Inter-professional relations (accountant, physicians, etc.).
4. Public relations.

Although public members are not essential to the three major committees, they could be included and thereby aid in selling our programs outside the profession. All major committees would be large. The entire committee would only meet infrequently to review the products of its subcommittees. A staff employee would be available to each major committee to aid it in producing its work. All typing, dictation, and reproduction would be prepared in the Bar office through this employee.

As a Board member, I feel we as a profession are facing major attacks and criticism. The federal government, state and local public officials are attacking our fixed fee structures, our monopoly, our violation of anti trust statutes. Numerous powerful private interests are also telling us the public is not being adequately served by our profession. **These include union officials, consumer organizations; even our own Attorney General has attacked us on the basis of our costs and quality of service,** as have similar attorneys in other states. Our reaction, as usual, is shock, immediate defense of all our practices by leading members of the Bar and self righteous statements that we are adequately performing.

No effort has been made to take a serious look at the validity of these attacks and the need for immediate and drastic reform within the Bar itself. We as a Bar are presently not capable of reacting in an effective manner because of our antiquated and unresponsive and uncoordinated committee system designed to meet various needs of the past. At our most recent Board meeting we were faced with a motion to abandon the fee schedule because of an article on the front page of the *Seattle Post-Intelligencer* indicating legal action against architects for their fixed fees. What a demeaning way to react to that attack.

As a Board member, I feel somewhat frustrated. All these problems are before me. I am asked to act to quell repeated brush fires, but they continue to arise in other areas, and we do not seem to have the resources to respond; we are being enveloped in a conflagration. Our response now cannot be piecemeal change of a mound here and there. As my friend Bob Day so pointedly observed, "We cannot move the mountain." But, gentlemen, we must do just that if we wish to retain the prerogative we now enjoy.

Change of the committee structure to make it more democratic, to better coordinate its activities in the fields where attack is now serious, to make us more able to fit the demands into the proper committees and to align it in such a manner that changing needs and demands by the public and within the profession will always find a ready place for investigation, study, solution and recommendations for action by a group competent, willing and eager to meet these demands. I believe the proposed structure has merit. I am sure it can be refined and improved by better and more experienced minds.

But, certainly we must not end up trying to revitalize an antiquated unresponsive structure. I urge on you serious, concentrated, controlled thoughtful reconsideration of the committee structure and a more overall report which will cure the whole broad reorganization of the Bar rather than piecemeal reporting from time to time. **Our action to meet the one man-one vote demand was merely an effort to cut a revolt within the ranks off at the pass. A feeble effort to say the least.**

Now we must act to cut off a larger revolt without the ranks. It must not be feeble; it must place us in a position to lead and propose change and improvement rather than just meet the attack with a suggested solution. (No fault automobile legislation as an example.)

I see radical change of the committee structure as a first major step in Bar reorganization. □

The Case Against Compulsory Malpractice Insurance

(Continued from page 10)

Laney Co. and written through The St. Paul Insurance Companies.

3. That a program be worked out whereby the claims for malpractice be looked at by the disciplinary committee.

4. That the bar follow the claims for malpractice to see if there is any trend or type of loss that the bar association could help stop, and in line therewith, attempt to educate members of the bar or censure them.

5. Review this matter in another two or three years after some meaningful statistics and experience can be obtained. The St. Paul Insurance Companies and CNA are both large writers of malpractice insurance for attorneys in this state and they are developing meaningful statistics which would help in this area. □

Laymen Practicing Before Administrative Agencies

(Continued from page 22)

presented properly and without defect as we now do for claimants who appear pro se before our Board. I might say that we have a record of pro se claimants succeeding before the Board which is just as good as the record of claimants succeeding before the Board who are represented by legal counsel.

If this is the unauthorized practice of law, someone will have to tell us that, and I would regard that as a sad day for the interests of the injured workmen and the concept of industrial insurance in the State of Washington.

Conclusion

The Attorney General's office has received a formal request to update the 1961 AG Opinion. The WSBA Unauthorized Practice Committee, Orville Mills, Chairman, has been asked to review the matter.

It is estimated that 75 lawyers in this state practice heavily before the State Board of Industrial Insurance Appeals. About another 200 appear with some frequency before the Board.

There is more than mild interest in the matter. □

Open Access to Public Records
(Continued from page 12)

Deletions

Regard for privacy prompted exemption from inspection of many records (section 31), and, in addition, section 26 (1) contains direction to agencies to delete "identifying details" from records before they are published as necessary to prevent unreasonable evasion of personal privacy. Such exemptions and deletions appear necessary, but without more these provisions offer an easy evasion for cutodians antagonistic to this Chapter. The process of accommodating privacy and open records is one of careful balancing and then devising provisions which yield appropriate safeguards for each so that there can be broad disclosure of governmental activity without undue impairment of necessary functions or unnecessary disclosure of personal information.

Accommodation is achieved in this instance by requiring that the deletion of any material be explained fully in writing, and that agencies provide "a statement of the specific exemption authorizing the withholding of the record (or part) and a brief statement of how the exemption applies to the record withheld," whenever inspection of a record is refused. The necessity for an articulation of such justification may prompt custodians to act responsibly, and it will contribute as well to the making of a record for appeal in any event.

Exemptions

Section 31 establishes certain exemptions to the general rule that all public records be open. This section effectively repeals the many statutes closing certain classes of records to public inspection. The exemptions should be consistent with the letter and spirit of the Chapter, a goal unattainable if exemptions reflecting a bias foreign to that motivating the Initiative were retained.

The exemptions listed in section 31 preclude the disclosure of personal information in the files of government clients (e.g. students, patients in public facilities, prisoners, etc.) or government employees, and of personal information provided tax collectors. These exemptions are not applicable, however, to the extent that this personal information can be deleted, and there is no exemption for "statistical information not descriptive of any readily identifiable person or persons" notwithstanding the fact that the information is derived from exempt records. To do otherwise would be to serve secrecy alone and not privacy.

Because of the untold variety of personal information held by governmental agencies, section 31 contains only general descriptions of exempt records and types of information. There are also, here and elsewhere, references to an undefined "right to privacy." Public sensitivity to privacy issues is increasing, and court decisions have reflected and are expected to continue reflecting this sensitivity. Thus, the Chapter was written in anticipation of and so as not to impede the judicially guided evolution of this right to privacy.

The integrity of the governmental function was also respected. Attempts were made to minimize the burdens placed on agencies, and to protect their ability to perform other tasks. Points of conflict between this value and open records were identified and reconciled.

Agency maintenance of indexes as required by this Chapter may impose a severe and unjustifiable burden in some circumstances. Recognizing this, section 26 (3) was written to contain an exemption from the indexing requirement in these circumstances; however, the public must be given access to all indexes maintained for agency use in the event this exemption is relied upon.

Other provisions recognize the needs of custodial agencies by regulating, but not unreasonably, the times of inspections and the use of office space and equipment by those who would inspect and copy records, and by granting agencies rule making authority exercisable to protect the physical integrity of the records and to accommodate the rights of persons to inspect records and the need for agencies to perform other tasks. These rules and regulations must of course be "reasonable . . . consonant with the intent of this act to provide full public access to official records . . . [and] shall provide for the fullest assistance to inquirers and the most timely possible actions on requests for information." (Section 29) This provision reflects the purpose of the act: to promote and protect the right of the public to inspect records, while respecting other values, in this case the need of the custodial agencies to both protect valuable records and also to perform their other functions.

Secret and Sensitive Data

Many of the section 31 exemptions concern records the secrecy of which is essential for the accomplishment of important government asks. These exemptions, meant to be narrow and well qualified, are designed to protect certain legitimate interests but to preclude custodians from using them as excuses to deny legitimate inspection.

Subparagraph (d) presents a good example, exempting:

> ". . . specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy."

The exemption is not to be applied automatically to intelligence information and investigative files, but only when to do so is essential to effective law enforcement or essential for the protection of any person's right to privacy. Unless one of these conditions can be shown to exist, the exemption is inapplicable to any particular file or record.

Other exemptions provide some protection for the identity of persons who file complaints with agencies; licensing, employment and academic testing materials; internal memoranda; and valuable research and other data the disclosure of which would "produce private gain and public loss."

Section 31 (j), of unique concern to lawyers, recognizes the possible conflict between this Chapter and the rules of discovery. Simply stated, its effect is to subordinate this Chapter to those rules, at least in those instances in which a controversy is pending in Superior Courts and to which an agency is a party. Thus a litigant unable to satisfy the "good cause" requirement for production of government documents under Rule 34 would be denied inspection of those documents by virtue of this exemption.

Judicial Review

In addition to the built-in sanctions referred to above, Chapter IV contains a relatively elaborate scheme of judicial review. These provisions deviate significantly from the pattern of the Initiative, for the other Chapters are enforced by a "Public Disclosure Commission" established and described in Chapter V. It was felt that more traditional forms of review were appropriate to this Chapter and, accordingly, they have been employed.

De novo judicial review is available for all agency actions under this Chapter. There are three likely occasions for it. The most common will probably be upon the denial of an opportunity to inspect or copy a record. In that event, an agency can be called upon by a show cause order to justify its action. In this circumstance, the burden of proof that the challenged action was proper will be on the agency.

Under certain circumstances, an exemption may be inappropriate and a record otherwise exempt should be made open; while in other circumstances, inspection may be inappropriate and an open record should be closed to inspection. While it can be argued that courts with equitable powers could in the appropriate circumstances open or close records notwithstanding contrary statutory language, clear provision is made for those cases and a standard consistent with the Chapter is prescribed for the exercise of that equitable power.

Under section 31 (3) inspection of an otherwise exempt record is permitted so long as the court is satisfied that in the particular case the exemption is "clearly unnecessary to protect any individual's right of privacy or vital governmental functions." These exemptions are mandatory and custodians have no discretion to permit inspection of exempt records without court order. Section 33, on the other hand, precludes the exemption of an otherwise open record but only if the court is satisfied that examination "would clearly not be in the public interest" *and* either "would substantially and irreparably damage any person, *or* "would substantially and irreparably damage governmental functions." Both of these sections reflect attempts to accommodate open records with the legitimate claims of competing values in contexts not foreseen at this time. In each instances, the burden of proof would be on the person seeking judicial intervention to reverse the statutory pattern.

Finally, the Chapter directs that persons who successfully reverse agency action denying inspection shall be awarded their costs including reasonable attorneys' fees. In addition, there is a grant of discretion to the courts to award any such persons an amount not to exceed $25 for each day in which he was denied the right to inspect or copy any record. These provisions reflect an awareness that the value of information is often temporal, and that there is a need for an incentive to insure judicial supervision of agency performance. Finally, the possibility of an award of some additional amount beyond costs may have an *in terroram* effect on recalcitrant custodians, and might be used in the appropriate case to compensate an individual who has been particularly damaged by an improper refusal to permit inspection or copying of records. □

Quotes Quoted

The State Bar's 'Closed Shop'

When the legal profession's critics raise questions on the bar's jealously guarded monopoly control of legal affairs, the customary response is that the public fails to understand that the State Bar Association is "theirs."

In this state, says the association's public-relations committee, "the association was formed — legislatively — by the people" and its supervision of admissions to the bar is intended only to serve the public interest.

Despite their legislative origins, the powers of the Bar Association to determine who can and cannot practice are "independent of legislative direction."

So said the State Supreme Court in a 6-to-2 ruling last week against a California law-school graduate who had sought unsuccessfully to take a bar examination to practice in this state.

The Bar Association had held the Californian's diploma was from a school without proper accreditation.

Acting in the area of admissions and disbarments, said the court majority, the association's board of governors "is an arm of the court independent of legislative direction."

Thus, as far as the public is concerned, the State Bar Association is not exclusively "theirs," but a professional closed shop with a high-court opinion to prove it.

Editorial
The Seattle Times
May 15, 1972

The President's Reply

The Editor
The Seattle Times:

The Times editorial, "The state bar's closed shop" (May 15, 1972), is disappointing and a surprising departure from the newspaper's usual thoughtful and well-informed opinions.

The point of The Times' editorial is not entirely clear; it seems to strive to support the conclusion expressed in the last paragraph — that the bar association is a closed shop, since the Supreme Court had upheld the bar's refusal to permit a graduate of a non-accredited law school in California to take the bar exam here.

The facts:

Graduates of 147 accredited law schools, including *13* in California, may take the Washington State bar exam. In addition, Washington is one of only eight states which allow law clerks, who do not even go to a formal law school but study four years in a law office, to take the exam. By no stretch of the imagination does our state's bar exam front for a closed shop.

Accreditation of a law school, like accreditation of all our state's high schools and undergraduate colleges and universities, involves high standards affecting faculty, facilities, library, salaries and curricula. Accreditation is a chief tool in combatting fast-buck "diploma mills" which once plagued all the professions and still exist in some states.

The bar association indeed was established in 1933 by the people — the legislature — as a state agency; its authority to regulate the areas of admissions and disbarments was expressly granted "subject to the approval of the supreme court," legislative recognition of the fact that the highest court in a state historically has had inherent power to regulate the qualifications and conduct of those who practice at the bar before it. Both bar and court exercise their responsibilities with utmost seriousness and totally in the public interest. The rules governing admissions and discipline are the supreme court's rules; they are administered by the bar association as an "arm" of the court.

It is unfortunate that the editorial writer apparently had to rely upon only a brief news story as his source material, apparently had not read the court's well-reasoned opinion (enclosed herewith) and had no opportunity to research the large and important subject. Such top-of-the-head, opinion-shaping editorials in the state's leading newspaper can seriously misinform the public.

E. Frederick Velikanje
President
Washington State Bar Association

The Board's Work
(Continued from page 4)

appropriate time soon a general mailing on the subject of Group Legal Services be sent to familiarize the entire Association membership with this activity, including the problems, alternatives and proposed solutions.

C. It was moved, seconded and carried that an additional sum of $5,000 be appropriated for the work of the Group Legal Services Committee. It was further agreed that any billings from special counsel employed to work on this project be submitted monthly and that a report be made to the Board of all expenditures on a monthly basis. It was further made a part of the motion that all monies advanced to this project were to be made in the form of a loan to the operating non-profit corporation and that as soon as the corporation is organized and activated its officers and trustees will be asked to execute the proper legal documentation evidencing the loan and its terms for repayment.

D. It was agreed by the Board that the members of the Group Legal Services Committee will constitute the organizers of the proposed non-profit corporation.

E. It was agreed by the Board that the Group Legal Services Committee would investigate the possibilities of receiving funding for the implementation of this program from the Ford Foundation and other such sources interested in the problem of making legal services available to the mass consumer.

Judicial Selection Committee

A. It was agreed by the Board that the Judicial Selection Committee should submit to the Board the names of all those persons available and qualified for appointment on the basis of the investigation made by the committee.

B. It was agreed by the Board that the Judicial Selection Committee should pursue any available means by which the Bar Association might be helpful in the selection of appointees for the Federal Judiciary. Pursuant thereto, the Board suggested that the Committee establish contact with the ABA Selection Committee dealing with appointments to the Federal Judiciary, and with other professional and political organizations or individuals dealing with these matters, so that all interested parties would know that the Bar Association is interested in being of help.

C. It was moved, seconded and carried that the establishment of one Committee on Judicial Selection for all appellate positions would be in the best interest of quality and efficiency and that therefore that the three committees presently existing for the selection of candidates for the Appeals Court Divisions be merged into the Judicial Selection, Tenure and Compensation Committee as subcommittees for the present time, and that it is the ultimate aim of the Board to have the work of these committees done by one committee.

D. It was moved, seconded and carried that the list of candidates available for appointment to the Supreme Court as submitted in the May 16 report of the Judicial Selection Committee be approved and it was agreed by the Board that a final decision would be made as to the names from this list to be submitted to the Governor depending to some degree on the wishes of the Governor relative to the number of names he preferred to have submitted.

Disciplinary Board

A. It was agreed by the Board that the language concerning the switchover from the Canons of Ethics to the Code of Professional Responsibility as suggested by the Supreme Court satisfactorily meets the objectives of the Board in its original request and recommendation to the Supreme Court and therefore no further change is necessary.

B. It was moved, seconded and carried that the Board rescind its previous action in recommending to the Supreme Court that lay members be appointed to the Disciplinary Board. The vote on this motion was 5 to 2, with Mr. Curran and Mr. Hoff voting "no." (See article, p. 15)

Board of Governors Election

A. It was moved, seconded and carried that the By-Laws of the Association be amended to provide for the election of two (2) at-large members of the Board of Governors from King County and that the two members to be elected in the regular election in 1972 be elected for full three (3) year terms to expire in 1975 and that those two candidates receiving the greatest number of votes from the ballots cast be declared elected.

B. It was moved, seconded and carried that the By-Laws of the Association be amended so as to eliminate "second choice" voting in the elections for the members of the Board of Governors and that effective with the election in June, 1972, only "first choice" votes be cast and counted and that in the election of the King County at-large members each member of the Association could cast two "first choice" votes since there were two vacancies to be filled.

Amendments to the By-Laws

A. It was moved, seconded and carried that the By-Laws be amended in Article VIII, Section 4, to provide that a quorum for a meeting of the Board of Governors shall be six (6) rather than the previous four (4).

B. It was moved, seconded and carried that Article IX, Section 8, of the By-Laws be amended to require a majority vote of "those eligible to vote" in order to rescind, modify or overthrow any action of the Board of Governors by the membership. The vote on this motion was 5 to 2, with Messrs. Curran and Short voting "no."

C. It was moved, seconded and carried that the members of the Disciplinary Board and Clients Security Fund Committee should be appointed and should serve for three year terms, but members of other committees and boards should serve at the will of the Board of Governors. The vote on this motion was 5 to 2.

Minimum Fee Committee

It was moved, seconded and carried that this committee be requested to have a report and recommendation concerning its function and future in time for the Board's consideration at its meeting in June at Alderbrook. It was further agreed by the Board that the chairman of this committee be invited to attend the June meeting to assist the Board in its discussions.

Annual Meeting 1973

It was moved, seconded and carried that the Regency Hyatt House, Vancouver, B.C., be the site of the 1973 Annual Meeting of the Bar Association September 6, 7 and 8, 1973. The vote on the motion was 4 to 3.

Headquarters Proposal

It was moved, seconded and carried that a committee be appointed by the President to explore the possibilities of the purchase of a building to be shared with the Seattle-King County Bar Association as outlined in a proposal submitted to the Board by the Administrative Committee of the Seattle-King County Bar Association.

Criminal Law Committee

It was moved, seconded and carried that a Board committee be appointed to study the proposed Rules of Criminal Procedure as submitted by the Criminal Law Committee. The President designated Messrs. Day, Hoff and Lynch as members of the Board committee. It was further agreed that each member of the Board of Governors would study the material and submit suggestions he may have.

THE COURT OF APPEALS

By JOSEPH A. THIBODEAU, *Clerk*

When this article is read, the Court of Appeals will have been in existence approximately three years. During this period, the court has experienced marked growth. As of May 31, 1972, gross filings of appeals have reached 3,128, with dispositions of 2,195 of which 1,131 were by written opinions.

The court has made substantial inroads into the backlog of cases which this court inherited from the Supreme Court in 1969. At that time, the Supreme Court was approximately 23 months behind. In terms of delay, this would mean that from the filing of the appellant's opening brief, it would then be 23 months before argument could be heard. With the creation of the court, this time has been reduced to four months in Division I, three months in Division II, and Division III is now current. The reason that Divisions I and II are not current is that each of these Divisions has experienced a larger number of filings per Division and, while the judges of each of the Divisions are responsible for the same number of assignments, the increased filings in Divisions I and II have accounted for the increased backlog.

On January 1, 1972, the Supreme Court amended CAROA 33 and 34 to provide in part:

CAROA 33

"In civil actions appealable to the court of appeals, in order for the court of appeals to obtain jurisdiction of the cause, a written notice of appeal, together with a copy of the same, must be filed with, and filing fees paid to, the clerk of the superior court within thirty days after entry of the order . . . The clerk of the superior court shall forthwith file the copy of the notice of appeal with the clerk of the court of appeals, and transmit therewith the filing fee . . ."

CAROA 34

"Unless the chief judge shall previously order otherwise, the appellant must, within 45 days after filing notice of appeal, make arrangements with the court reporter to transcribe any statement of facts necessary for the appeal, and for the payment thereof, and also make arrangements with the clerk of the superior court for the transcript which is to be filed with the court of appeals pursuant to CAROA 44. Evidence that

these arrangements have been made shall be in the form of a statement signed by the attorney for appellant or by the court reporter if there be no counsel of record. The above statement shall be filed with the clerk of the court of appeals within 55 days after the filing of the notice of appeal."

Prior to this amendment, the clerk of the superior court was not required to forward the copy of the notice of appeal with the filing fee and, as a result, the Court of Appeals was unable to determine the actual number of cases being appealed to the appellate level.

In view of this amendment, the court for the first time knows the actual number of appeals being filed in each of its Divisions. Until further experience shows the impact of the new rules, the court is unable to determine the number of cases that will ultimately be heard, experience showing that some of the cases filed will be voluntarily or involuntarily dismissed without reaching the merits.

SUPREME COURT PRACTICE

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

During the May, 1972, Session only 20% of the cases argued before the Supreme Court involved a review of a decision of the Court of Appeals. Half of the remaining 80% were cases filed originally in the Supreme Court and half were cases filed originally in the Court of Appeals and called up by the Supreme Court prior to consideration by the Court of Appeals. This article describes the procedure by which the Supreme Court determined to review the 80%.

Cases filed originally in the Supreme Court

Pursuant to RCW 2.06.030, ROA 1-14 describes five categories of cases of which the Supreme Court has exclusive jurisdiction. Whether the issues raised in a case bring it within one of these categories is often a matter of judgment, particularly in the case of the category designated ROA 1-14(e) which forms the basis for most original filings in the Supreme Court:

> Cases involving fundamental and urgent issues of broad public import requiring prompt and ultimate determination.

After an appellant's opening brief is filed, a department of the Court reviews the issues and determines whether the cause ought to be retained or transferred to the Court of Appeals. Of the cases filed in the Supreme Court since January, 1971, 51% have been retained and 49% transferred.

Cases filed originally in the Court of Appeals

By the end of the January, 1971 Session, the Supreme Court was current with cases filed originally in the Supreme Court and retained. Fifteen additional appeals were required to fill the Court's May, 1971 Session. The Court of Appeals was directed to transfer to the Supreme Court the fifteen cases which had been ready for the longest period and not set. Experience with these cases led to the conclusion that administration of justice could better be served by prescreening of the cases to be called up to reduce the likelihood of a double review. A continuing review process was commenced of cases pending in the Court of Appeals. Based on such review, the Court has called up since the May, 1971 Session the number of cases indicated:

Session	Cases
Sept. 1971	24
Jan. 1972	27
May 1972	16

The review for the purpose of determing jurisdiction

Both the review of cases filed in the Supreme Court and pending cases in the Court of Appeals is accomplished by department without oral argument by counsel. In the event of a disagreement in the membership of the department, the consideration is set en banc. Each month two departmental, one by each department, and a later en bane review are scheduled.

Criteria used in review

The criteria for determining which appellate court should have jurisdiction is the same both for cases filed originally in the Supreme Court and for those filed originally in Court of Appeals. The first question, of course, is whether the cause comes within the exclusive appellate jurisdiction of the Supreme Court defined by ROA 1-14. The Court has not announced the basis on which cases are selected which do not meet the first criterion. However, the objective of avoiding the double review suggests that the Court is concerned with selecting issues having aspects of first impression, broad effect, public concern, and/or requiring a prompt decision of wide interest. If counsel have good reason for recommending review by the Supreme Court or Court of Appeals, they may set forth their reasons in a letter addressed to the clerk. A copy of the letter will be appended to appellant's opening brief at the time it is considered by the Court.

SUPERIOR COURT NEWS

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

Judge **Horton Smith** (King) has been awarded the Boy Scouts' "Silver Beaver" honor for "distinguished service in the Inner City as Chairman of the Seattle University-Central Area Boy Scout central area program for disadvantaged boys." Judge **Story Birdseye** (King) is a previous recipient of the award.

* * *

Because of the increased emphasis in criminal trial activity following establishment of the Criminal Department in the King County Superior Court, the time from arraignment to trial has been reduced to 20 days, which is less than attorneys feel is acceptable. An effort will be to maintain a period of 30 to 35 days between arraignment and trial. With the backlog of criminal cases virtually eliminated, the Criminal Department will concentrate on reducing the time lag involved in District and Municipal Court appeals.

* * *

Judge **J.A. Walterskirchen** (King) has announced that he will not seek re-election this fall. He said he was making his intention known early so that lawyers interested in a judicial career will know the position is available. Judge Walterskirchen will not reach the mandatory retirement age of 75 for eight years, but he said he desires to pursue other interests. He has served on the King County Superior Court for 16 years and will be available for judge pro tem service after his retirement. Judge Walterskirchen is presently a representative of the State Superior Court Judges Association on the Judicial Council and is a member of the King County Superior Court executive committee.

NEWS FROM THE COURTS OF LIMITED JURISDICTION

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

Several moves and changes have been made recently which should be brought to the attention of the members of the State Bar. Judge **James Cook,** Shoreline District Court, King County, has announced removal of the court into new quarters across the street at Midvale and 183rd North in Seattle. The new quarters are much larger and a long-sought-after improvement made to give the court and its staff a little elbow room to grow. Congratulations, Jim, on your fine new shop (witness a personal tour by your humble writer).

* * *

Judge **Loma L. Forest** has been appointed Judge of the Royal City Municipal Court, effective May, 1972, and Judge **Marvin L. Farver** was appointed to replace **Benjamin White** as the Nespelem Municipal Court Judge.

* * *

The last issue of the article revealed that the East Wenatchee Municipal Court was disbanded and the matters now will be held in the new Douglas County District Court. Judge **Cora Lake** has resigned as municipal judge of the court and WSMA wishes to extend to Judge Lake our congratulations on her faithful and devoted service to the administration of justice in the State of Washington.

* * *

Judge **Bob Graham** of Wenatchee and his Conference Committee have announced that the site for the 1972 Washington State Magistrates Association Conference will be Spokane, September 27, 28 and 29. The exact place of the conference has not as yet been announced but arrangements are being made and announcement will be forthcoming in the next issue of the *Bar News*.

* * *

WSMA also wishes to announce the co-sponsorship of a conference for judges of courts of limited jurisdiction to be held in Boise, Idaho, July 12-14, 1972. This conference is a joint effort between the WSMA and the National College of the State Judiciary to host regional conferences for judges of courts of limited or special jurisdiction. Among the many topics to be covered will be sentencing procedures; sentencing in alcohol and other drug cases; evidence, and Traffic Court problems and court administration.

Office Practice Tips

TELEPHONE CONFERENCE CALLS

The telephone conference call is a very handy device and quite reasonable. Some years ago, a Spokane attorney had a matter involving a Judge in Wenatchee and opposing counsel in Yakima. A motion for a new trial was argued by conference call with the Judge sitting at his desk in Wenatchee and the lawyers sitting at their respective desks in Spokane and Yakima. A very substantial amount of time and travel was saved.

SPEAKER PHONES

Recently, I received a call from a law office some two hundred miles away and it was advised by the senior partner that they were having a partner's meeting and my remarks would be amplified by a speaker phone so that all could hear. We then proceeded with a five way discussion of some proposed changes that they had in mind for their office practice.

As of August 4, 1971, the Federal Communications Commission amended its rules to provide that the presiding officer may, upon written request of a party, approve the use of a speaker phone as a means of attendance at a prehearing conference, if such use is found to conduce to the proper dispatch of business and to the ends of justice. The party receiving permission to use a speaker phone is required to deal directly with the telephone company and assume responsibility for installation, operation and removal of the speaker phone and to bear consequent expense.

Harry E. Hennessey

CRYSTAL BALL DEPARTMENT

It is advantageous for law firms to be able to predict with some degree of certainty what their net income will be in the months just ahead. Information of this nature is useful in determining the need for additional employees, space or lawyer associates.

Many firms are now attempting to formulate a budget for the next following year and will make a monthly analysis as to whether they are over or under the budgeted items.

Last August, after an analysis of our partnership books for the three preceding years, I noted that we had an almost constant relationship each year between fees received by July 31 and the total fees received for the year. Using this ratio, I then projected anticipated fees for the remainder of the year, deducted actual expenses through July 31, plus anticipated overhead expenses for the balance of the year, to determine the anticipated net income for the year. At year's end, it was determined that the predicted net income for the year using this formula was within a few hundred dollars of the actual net income for the year.

I would be most interested in knowing whether other firms can establish any reliable relationship between the end of July figures and year end figures. Conceivably, the nature of our firm's practice or our geographical location might make this relationship applicable to our firm but not to others.

If it could be established that numerous firms followed the same pattern, we might be able to evolve a useful planning device in the fiscal control aspects of law office management.

Richard C. Reed

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

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

Law School News

University of Puget Sound:

The new School of Law has received a $25,000 grant from the Charles E. Merrill Trust, the first major gift to the school from a private foundation.

UPS president R. Franklin Thompson said the money may be used to establish the law library.

The School of Law opens Sept. 5 and will be the state's third law school.

The Merrill Trust was created under the will of Charles E. Merrill, who founded the stock brokerage firm which eventually became Merrill Lynch, Pierce, Fenner and Smith.

Notwithstanding the grant, the Law School has need for the following books and would appreciate their donation from members of the Bar. The University will offer its assistance in providing the necessary documentation for a gift to the donor so that the donor might receive a tax deduction to the full extent allowed by the law.

Wash. State Reports (sets of); Wash. Ann. Code and Session Laws; any textbooks or treatises (regardless of age); practice books; reports of ad. agencies; Fed. Reports or Reporters; Sup. Ct. Rep. and/or Law. Ed.; any Law Reviews or other periodicals; any State Bar Journals; encyclopedias, e.g., Corpus Juris (Secundum); selected law reports, e.g., American Law Reports; and any foreign law material. The person to contact is Dale Bailey, Vice President for University Relations, Tacoma 98416.

University of Washington:

The student members of the Admissions Committee, who resigned on March 16, have returned to the committee and have stated in the *Law School Newspaper:*

"Subsequent to our resignation, Dean Roddis decided to restore most of the committee's previous role. He announced that he would send upwards of 300 applicant files to the committee for 'advisory' opinions, but he also indicated that he would follow the 'advice' of the committee as to those applicants. . . . We were also aware that any student with an average of below 68 at the end of the year must come before the committee to be allowed to continue. Some of these people may need strong student support in order to stay in school. For these reasons we decided to accept our re-appointments to the admissions committee.".

Law students have appealed Judge Birdseye's dismissal of their open meetings lawsuit against the Law School.

AG Opinions

AGO 1972 No. 1:

A prosecuting attorney of a fourth through ninth class county, in his separate capacity as county coroner under RCW 36.16.030, may appoint one or more deputy coroners with the consent of his board of county commissioners.

AGO 1972 No. 2:

The Washington state parks and recreation commission has the authority, under RCW 43.51.680, to regulate the times and places where automobiles may be driven on and along the ocean beach highways designated and established under RCW 79.16.130, RCW 79.16.160 and RCW 79.16.170, but may not totally exclude vehicular traffic from all such beaches at all times.

AGO 1972 No. 3:

The provisions of chapter 46.61 RCW relating to the operation of motor vehicles in this state are applicable on roads located in national forests which are maintained and controlled by the United States forest service, including special service road, where these roads are not subject to conflicting federal regulations.

AGO 1972 No. 4:

A cemetery district created pursuant to chapter 68.16 RCW is thereby empowered to sell cemetery plots and render other customary cemetery services to persons who neither reside within nor own taxable property located within the district.

AGO 1972 No. 5:

RCW 28A.58.420, as amended by §2, chapter 269, Laws of 1971, 1st Ex. Sess., permits but does not require all school districts to make available to their employees an insurance program which would include medical or health care coverage entitling the beneficiaries to utilize the services of those practitioners who are licensed.

AGO 1972 No. 6:

It is not lawful for an "agency" as defined in RCW 74.15.020 to receive and care for a child found by a juvenile court to be delinquent or dependent without being licensed by the department of social and health services in accordance with chapter 172, Laws of 1967 (chapter 74.15 RCW), notwithstanding that the child is placed with such an unlicensed agency pursuant to an order of the court entered under RCW 13.04.095.

AGO 1972 No. 7:

The contents of political advertising as regulated by statute; the placement of campaign signs to be used in partisan political races; and participation by state or local governmental employees in both partisan and nonpartisan political campaigns, including the holding of political party offices.

Twenty Years Ago

Births

The firm members of Nelson, Ladd, Eggen, Wilkinson, Angelo, Hibbert & Cummings, Korea, said they were readers of the Bar News by reference through William M. Cummings' wife, the former Priscilla French, Washington Law School '47. Cummings stated their chief duties were trying general courts martial cases. "We carry carbines into court where they are checked at the door." In one trial "Commies were flipping in artillery rounds within a mile."

Walter F. Pitts opened in his home town Olympia. . . . **Joseph P. Lavin** resigned as Assistant Attorney General to open in Seattle. . . . **George LaBissoniere** resigned as Assistant Attorney General to join former Olympia attorney, **Jerome Kuykendall,** in the U.S. Department of Public Service. . . . The Walla Walla Bar elected **Carl L. Johnson,** president; **Matt Ennis,** vice president; and **Stephen Ringhoffer,** secretary. . . . **Milton (Mickey) Heiman,** Seattle, was recalled to the Army as a major.

Edward B. Hanley departed Seattle for Medford, Oregon, to form with Bruce J. Manley the firm of Hanley and Manley. Editor Rupp commented that it was a poetic name but his favorite was that of Chehalis firm, Ponder and Ponder with Kumm, Hatch & Cook, of Seattle, runner up.

Crossed the Bar

Tacoma: **Anthony M. (Tony) Arntson,** five years in Seattle, 45 years in Tacoma and won the famous Ashford vs. Reese case.

Seattle: **Austin E. Griffiths,** one time member of the Seattle School Board, City Councilman, and Superior Court judge from 1921-29.

Retired

W.L. Brickey, Superior Court judge, Skagit County, said he would not seek reelection.

Robert E. Cooper, William C. Goodloe, T.P. Gose, Robert B. Sherwood, Arthur Simon and **W.W. Clarke** closed their service as the state committee on the Uniform Commercial Code honestly stating they had done no work but received great honor. All the work had been done by the American Bar Committee.

It was said Charles O. Porter, Eugene, Oregon, an authority on lawyer public relations would speak about such at the September convention. We wonder if Mr. Porter's skill might be available and valuable NOW.

David J. Williams

Lawyer/Public

Want to add an easy $5000 to your annual income? Maybe this will help:

The latest law-office economic survey in the country is that in Tennessee; the results were published in May. The *Tennessee Bar Journal* reports, among other things:

"Leaders in the field of legal economics and public relations are continually striving to find new methods to improve the lawyer's service to the public as well as his economics. . . . One of these techniques, often urged upon the lawyer, has been to develop the habit of sending the client copies of all papers, documents, pleadings and correspondence used in the handling of his case.

"It has been the contention of the experts that this procedure contributed in good public relations — the client appreciates knowing that something is being done in regard to his problem, as well as what it is that is being done. It is further contended that it makes collection of fees less painful, as the client has been kept aware and made more appreciative of the efforts which the attorney has expended in his behalf.

"Unfortunately, the profile Tennessee lawyer does not send copies of documents to his client. Only 32 per cent of the practicing bar of Tennessee does so, while 68 per cent do not.

"The 32 per cent of the Tennessee lawyers who report that they do make it a habit to always send the client copes of papers, documents and correspondence have a median income of $30,000. The 68 per cent who do not send copies show a median income of $25,000 — $5000 or 17 per cent less median income.

"Having the secretary automatically make an extra copy of all papers and forward them to the client marked "For Your Information" or "For Your File" and forward them to the client seems a fairly simple and painless method for improving lawyer income. Such methods should be put to immediate use in every law office in the state."

(The booklet, "Your Income, Your Reputation and Your Clients," included in your *Bar News* of October 1971 already has reported that the difference in average incomes of copy-senders and non-senders is $5,900 in Oklahoma and $5,000 in Georgia. The accumulating evidence seems clear, cogent and convincing.)

Public Relations Committee

Books

Close Corporations: Partnerships In Corporate Clothing

Close Corporations. Professor F. Hodge O'Neal. Mundelein, Ill. Callaghan & Company, 1971. 2 Vols. **Reviewed by Carl G. Koch.**

Professor F. Hodge O'Neal has released a new edition of his excellent treatise on close corporations. The first general revision of the work since it was published in 1958, this new edition integrates the annual pocket parts into the text. This was essential because the pocket parts, containing textural revisions, additions, and new case citations, had become too cumbersome for convenient reference. The new two volume set is easier to use. Footnotes are now collected at the end of subsections instead of on each page, and each volume is packaged in an easy-opening, pull-apart binding to permit updating without the use of pocket parts.

The work is a well-indexed encyclopedic treatment of the subject of close corporations. The basic problem addressed by Professor O'Neal is that of the partnership or proprietorship which seeks certain advantages of incorporation, such as limited liability, while avoiding other characteristics of corporate form which do not suit its needs.

The typical close corporation has relatively few shareholders, all of whom are active in the management of the business, and who may even consider themselves to be partners *inter sese*. Their own employment in the business is typically the only reason for their participation; salary is the anticipated return on investment, not dividends. The corporate shares are not traded in securities markets, and for that reason are seldom sold to outsiders. The shareholders of a close corporation are concerned over the identity of and contribution which can be expected from each other shareholder. They demand protection against intrusion of outsiders. They are also concerned with management powers, and insist on participation in management decisions, regardless of their actual percentage of stock ownership.

Even so, the law persists in applying the traditional principle of corporate democracy to close corporations. Unless articles, bylaws, and collateral agreements are carefully drafted to avoid this result, the majority stockholders may lawfully ignore the wishes of the minority, or even oust them from employment in the business, leaving them the prospect of trying to sell their interest to an outsider, probably at a substantial loss because the buyer is assured of no greater rights or protection than the seller. Conversely, outsiders may freely buy in regardless of the objections of the remaining stockholders.

The essential problem is caused by failure of the law to respond to the particular needs of a corporate variant which has become increasingly common in the second half of the twentieth century. The traditional corporate legal principle of majority shareholder rule may be entirely reasonable in the context of a large publicly traded company, but when applied to closely held incorporated enterprises, it produces unacceptable results. Traditional legal principles pull in one direction while practice and necessity pull in another. Lawyers will be assisted greatly by Professor O'Neal's treatise in their effort to chart a course between the two.

The treatise deals with these problems in meticulous detail. Some representative chapter headings suggest the scope of the work:

"Stock clauses (with emphasis on variations and combinations that affect control)"

"Charter and bylaw provisions giving shareholders a veto power."

"Control distribution devices: Shareholders' agreements, voting trusts, irrevocable proxies and management contracts."

"Protecting the tenure and status of shareholder-employees and key personnel."

"Stock transfer restrictions; buy-out arrangements."

"Contractual arrangements and special charter and bylaw provisions as aids in removing dissention and resulting deadlocks."

"Specimen provisions for charters, bylaws, shareholders' agreements and other documents."

The treatise also provides general guidance with regard to tax considerations and compliance with federal securities laws.

There is little question that this work would be a valuable addition to the library of any lawyer who even occasionally puts together a close corporation. Its complete citation of current case law and review of current trends in statutory reform also makes it a useful tool for the practitioner experienced in this field. □

Notices

Beat Inflation Charter Flight — Europe

We have a few seats available for our members, their spouses, dependent children, and parents (who are living in the same home) on our deluxe flight from Vancouver to London on September 12th, with return from Amsterdam on October 8, 1972. Cost $250.

The time of year is the very best. Avail yourself of this splendid opportunity to beat inflation by *spending your money now!* Our flight will be deluxe, the company congenial and good looking.

See application form on page 25 of the May 1972 *Bar News.*

Deadline for the next issue of the *Bar News* is July 21, 1972.

Calendar

July 13-15	18th annual Institute of the Rocky Mountain Mineral Law Foundation, Missoula, Mont.; for information, write the foundation, University of Colorado, Boulder, 80302.
July 17-24	Seminar to Examine the Environmental Crisis . . . Ghost Ranch, Abiquiu, New Mexico . . . Family Vacation in gorgeous mountain setting . . . seminar several hours per day, vacation the rest . . . Reg. $100; adults — $7.50 per day, children under 10 — $3.75 per day. Contact: Marvin Durning, 1411 Fourth Avenue Bldg., Seattle (206-624-8901).
July 17-28	7th Program of Instruction for Lawyers at the Harvard Law School.
Aug. 20-26	National College of Advocacy, co-sponsored by Hastings College of Law and ATLA . . . Program on Civil Trial Advocacy . . . San Francisco.
Sept. 7-9	WSBA Convention at the Ridpath Hotel in Spokane.
Sept. 11-16	14th Biennial Conference of the International Bar Ass'n. in Monte Carlo. Contact: IBA, 501 Fifth Ave., N.Y., N.Y. 10017.
Oct. 3-6	9th Annual Hawaii Tax Institute at Princess Kaiulani Hotel in Waikiki. Contact: Director, Hawaii Tax Institute, 3140 Waialae Ave., Honolulu, Hawaii 96816.

Wanted and Unwanted

For Sale: ALR 1st, 2nd, 3rd and Federal complete; U.S. Law Edition 1st 94-100, 2nd 1-23; Shepard's Fed. Cit.; West's Modern Legal Forms; and Hillyer's Ann. Legal Forms. Raymond J. Peterson, 1103 Norton Bldg., Seattle 98104 (MU 2-0171).

For Sale: Complete set RCW — $150. Palmer, Willis, McArdle & Meyer, 506 Miller Bldg., Yakima 98901 (GL 3-9169).

Wanted: Law Library and furniture needed by two graduating "attorneys" of limited means. Will be in Seattle during June-July for Bar Refresher. C.J. Henderson, Stadium Dr. Tr. Ct., No. 3, Moscow, Idaho 83843. Leave messages at 208-882-0708 or 208-882-0169 anytime through summer.

For Sale: Complete set of Wash. Prac. and C.J.S., both current, excellent condition. Make reasonable offer. Terry V. Bernard, Seattle (LA 2-1158)

For Sale: 1-46 Am. Jur. 2d; Wash. Code; 1-19 Proof of Facts; 1-35 ALR 2d; 2 vols. O'Bryan Wash. Forms **Wanted:** Clark County Bylaws; Am. Jur. 2d vols. 47 to date; ALR 3d vols. 29 to date; 148 Wash. Rpts. H.I. Koths, Box 306, Morton 496-5133 or 496-5935.

Wanted: Wash. Shep. Citator, Wash. Prac. Vols. 1-10, and Wash. 2d Vols. 64 - to date. Betty McKillip (206-753-2702 in Olympia)

Wanted: Used set Fed. Rep. 2d. Call or write Jerry McNaul or Dave Berger, 13th Floor, Hoge Bldg., Seattle 98104 (MA4-7141).

For Sale: Friden Flexowriter, paper punch machine, Model 2340, Document Revision Capability. Excellent condition. Used one year. Ideal for repetitive typing from stored tape. MA 3-3333, Seattle.

For Sale: Wn. Rep. 1 Terr. thru 78 2d; RCW with Cit.; Wn. Dig. Ann.; all current, for cash or on reasonable terms. John A. Denoo, Whitman County Courthouse, Colfax, 99111.

For Sale: Two complete sets of RCW, one set with annotations, $275.00 — one set without annotations, $140.00. Pat Cockrill, 316 N. 3rd St., Yakima 98901 (GL 3-3165).

For Sale: Complete set CJS with 1971 pocket parts. Leave message MA 4-8075, Seattle.

Federal Law Library

Attorneys who have occasion to use the U.S. Court of Appeals Library in Seattle will be pleased to know photocopy service has been obtained. A coin-operated machine is now in use. Lawyers, who appreciate a quiet place to work, are always welcome to use the library facilities.

WASHINGTON STATE BAR ASSOCIATION
505 Madison Street
Seattle, Washington 98104