
WASHINGTON STATE BAR NEWS

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(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.



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For Secretaries

Editor:

There has long been a need in this state for a manual for the Washington legal secretary. The Washington Association of Legal Secretaries, which is a part of the National Association of Legal Secretaries, now has ready for distribution the first volume of a planned two-volume handbook.

Volume I covers the court system in Washington, civil procedure in all courts, appeal, state administrative agencies, recording and filing, verifications, affidavits and acknowledgements, mail procedures, docket control, legal research, law library management, lawyer's insurance program, Uniform Commercial Code, and garnishment.

In order to keep the price low enough to be within the reach of everyone and still have a profit for our association, we are not able to pay the cost of having advertising about the book sent to all law offices. The book may be ordered directly from Book Publishing Company, 2518 Western Avenue, Seattle WA 98121. The price of Volume I is \$23.56 which includes sales tax, postage and handling fee. Payment should accompany each order, payable to Book Publishing Company.

The second volume will cover subjects such as probate, domestic relations, adoptions, real property transactions, workmen's compensation, corporations, criminal practice, bankruptcy, enforcement of judgments, etc. Work has just begun on Volume II, so it will not be available for some time.

(Mrs.) Georgia M. Hinton, PLS
WALS State Handbook Chairman

Court Adds Laymen to Disciplinary Board For a One-Year Trial Period

Addition of two lay members to the State Bar Disciplinary Board for a one-year trial period has been ordered by the State Supreme Court.

The order, dated November 14, 1973, and effective January 1, 1974, amended Discipline Rules for Attorneys (DRA) 2.4 by adding Section (g):

(g) Lay Members

- (1) **General.** Two (2) lay members shall be appointed to the Disciplinary Board by the Supreme Court.
- (2) **Term of Office.** The lay members of the Disciplinary Board shall serve for terms of one year, or until their successors are appointed.
- (3) **Duties.** The lay members shall serve as advisory non-voting members of the Disciplinary Board. A lay member shall not serve on a hearing panel.
- (4) This paragraph of DRA 2.4 shall expire on December 31, 1974, unless continued by order of the Supreme Court.

Addition of the lay members for a trial period had been recom-

mended by the State Bar Board of Governors, which had studied that and other lay-member proposals for more than two years.

Washington becomes the third state to have non-lawyers sit with lawyers on disciplinary boards; the Minnesota and Michigan boards have had lay members for several years.

The Supreme Court's order noted that a majority of the court consider that the desirability and usefulness of lay members on the Disciplinary Board should be evaluated before lay membership is made permanent. The order was signed by seven members of the court.

Chief Justice Frank Hale in a dissent in which Judge Hugh J. Rosellini concurred said he "cannot concur" in the adoption of the amendment.

He stated three objections: That selection of the lay members should be "freed from professional influence" possible by appointment by the Supreme Court; that the lay members should have all the powers of regular members, including the right to vote; and that the lay members would not be, as the lawyer members are, subject to means of enforcing confidentiality. "I would expressly declare lay members to be included under DRA 11.6" (the confidentiality rule), the chief justice added.



Earlier this year, G. Edward Friar, Executive Director of our Bar, released projections indicating a growth in Bar membership from 5,000 at the beginning of 1973 to 12,000 by 1982. At about the same time, Dean Richard Roddis of the University of Washington Law School, in a thoroughly documented two-part article in the *Bar News* (March-April, 1973), carefully analyzed the exploding enrollment in the law schools of this state and its inevitable effect on admissions to our Bar.

What these men told us elicited little reaction. However, the addition of 455 new lawyers to our membership following the July bar examination, and the realization that the impact on admissions of the new University of Puget Sound Law School and the expanded enrollment at Gonzaga is just ahead, have suddenly put the matter in terms that cannot be disregarded.

About 550 lawyers were admitted to our Bar in 1973. During the next four years, annual admissions will probably range from 600 to 800. Assuming the normal rate of death and retirement from the relatively thin ranks of our older lawyers, the membership of our Bar just four years from now will be approximately 8,000.

The Increase Is Dramatic

The impact of these figures is put in more dramatic perspective by a startling comparison. The increase of 3,000 members in our Bar between January 1, 1973, and December 31, 1977, will exceed the increase in membership which occurred in the preceding forty years. To put the problem in its simplest terms, for every 10 lawyers of varied age and experience now practicing in this state, there will be six

inexperienced lawyers trying to find a place in the profession during the next five years.

Does this explosion in lawyer population pose a problem, and if so, what can be done about it?

Data on supply is more reliable than data on demand. It appears that supply already slightly exceeds demand. No one can be precise as to how the two will compare during the next few years but one doesn't have to be precise to determine that there will be a problem.

Will Group Services Help?

Those who are optimistic expect increased legal aid and public defender programs to have some effect on the equation, but their great hope lies in what they envision as a dynamic demand arising from the development of prepaid group legal services.

Those whose vision may be more limited, or perhaps more realistic, see the impact of prepaid group legal services as of only moderate significance, at least within the next four or five years. There is a growing suspicion that during that time span the hunger of the legal profession for such programs will exceed that of the consumer.

Whatever the components of increased demand may be, it is undeniable that there are counter-currents which depress demand. Increased use of sophisticated equipment in programmed word processing and in legal research reduce the expenditure of lawyer time. The accelerating use of para-professionals clearly curtails the increase in demand for lawyers.

New Needs Arise, Other Needs Ebb

There are other factors which

confuse the analysis of demand. It is undeniable that as the complexity of society increases, new needs for lawyers arise. At the same time, however, conventional areas of lawyer involvement are being eroded under societal and governmental pressures.

For the long term, the outlook is less alarming. As Dean Roddis has observed with great common sense, students contemplating entry into law schools are not oblivious to economic factors. The long-range prospects for prepaid group legal services are brighter than the short-range prospects, and over a long period of time most supply and demand problems work themselves out.

Over the short range of the next four or five years, however, it seems inevitable that a serious problem of oversupply will occur. Those who will be most directly affected will be young lawyers who are not yet well established, and many of the young people who will be attempting to find a place in our profession within the next few years.

Next month I will offer some suggestions for a constructive approach to the problem. Your thoughts on the matter would be most helpful.

WIVES, BABIES, NAMES AND THE COMMON LAW

by Hugh Davidson Spitzer

A recent front-page story in the *Seattle Post-Intelligencer* portrayed the bureaucratic tribulations of Dianne Roberts, a Canadian woman who chose to keep her own last name when she married Jim Whittaker, Washington's well-known mountaineer and recreation executive. Ms. Roberts is just one of many women in this state and throughout the country who have chosen to retain their birth-given, or "maiden," names when they marry; luckily, female Washingtonians who *are* U.S. citizens can keep their surnames without encountering the same legal and practical problems that faced Dianne Roberts.

A few intrepid American feminists and professional women have been holding on to their own names for years—at least since 1855, when Lucy Stone married Henry Blackwell but remained "Lucy Stone" against all comers. The recent upsurge of the women's movement has been accompanied by a marked increase in retention of birth-given names by females—this writer knows of almost fifty married Washington women who are using their original names.

Those who keep their own names give three main reasons for doing so: First, they feel that by giving up their surnames they would discard an important part of their individual identity and symbolically become the "property" of their husbands; second, they find it more convenient to keep the same name for mailing, telephone, licensing, credit and other legal purposes; finally, women with careers who have been known by their birth-given names are often reluctant to give up an important identifying label.

Undoubtedly some male lawyers will react negatively to the notion of married couples bearing different surnames, or might write off this phenomenon as an insignificant fad created by

women's liberation. But increasing numbers of female Washington residents *are* seeking to keep their birth-given names, and it is important for attorneys and legal workers to be familiar with the law in Washington that bears on surnames, as well as the important developments in other jurisdictions.

This article will review the common law and recent cases that pertain to married women's names, and discuss the state of the law in this state relating to females who keep or return to birth-given surnames. We will then turn to some practical problems of married couples with different last names, including the age-old dilemma of "what to name the baby," which will now be twice as tough!

Common Law and Women's Surnames

The general rule at common law has been that any person, male or female, can use whatever name he or she chooses, and can change a name so long as it is not for a fraudulent purpose. 23 Halsbury's Laws of England, 349-351. A person's chosen name is as valid as one given at birth, even if that person has taken the new name without any legal proceedings whatsoever. See MacDougall, "Married Women's Common Law Right to Their Own Surnames," 1 Women's Rights L. Rptr., Fall/Winter, 1972/1973. The common law provides that a woman's assumption of her husband's name upon marriage is only a custom, and although it has been the common practice, it is not legally binding. 19 Halsbury's Laws of England 829, 3d ed. 1957.

In the United States the courts have split

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sharply on the issue of whether a woman is legally bound to use her husband's surname after marriage. One well-known case is *State Ex Rel Krupa v. Green*, 177 N.E. 2d 616, 619 (1961), where the Ohio Court allowed a woman attorney to use her maiden name in voting registration and in an election, noting that she had an antenuptial agreement with her husband to allow her to retain her surname, and that she had used that name continuously in public life. The *Krupa* court held that "it is only by custom, in English speaking countries, that a woman, upon marriage, adopts the surname of her husband in place of the surname of her father. The State of Ohio follows this custom, but there exists no law compelling it."

Hawaii is the only state that does have a law compelling a woman to take her husband's last name, yet the courts in several other states have ruled that a female must take her mate's surname whether she likes it or not. See, for example, *Rago v. Lipsky*, 63 N.E. 2d 642, 644 (Ill. 1945).

The current trend in America supports the English common law rule that a name is whatever the person chooses, and that a wife's use of her spouse's last name is custom rather than law. In *Stuart v. Board of Supervisors*, 295 A. 2d 223, 225-228 (1972), the Maryland Court of Appeals ruled that a newly married woman could register to vote in her birth-given name, holding that because the common law allowed any person to assume any name he or she chose, surely a married woman could retain the name she had always used. The Maryland court allowed Ms. Stuart to keep her own name without resort to any change-of-name petition procedure. *Stuart* relied on a carefully researched common law approach, and sidestepped the appellant's attempt to obtain a decision on constitutional grounds based on the equal protection clause. Shortly before the *Stuart* decision, a three-judge federal court in Alabama upheld that state's practice of requiring women to assume their husbands' surnames on the grounds that Alabama's interpretation of the common law allowed it, and that from a constitutional standpoint, there was a "rational basis" for Alabama's stance. *Forbush v. Wallace*, 341 F. Supp. 217, 222 (M.D. Ala. 1971). Although this decision was affirmed by the Supreme Court *per curiam*, 415 U.S. 970 (1972), it is unlikely that a court would make a similar ruling in a state where there was an equal rights amendment. In addition, the Supreme Court in *Frontiero v. Laird*,

U.S. , 36 L. Ed. 2d 583, 93 S. Ct. 1764 (1973), has made it much more difficult for a state or federal body to show that it has a justifiable reason for discriminating against a female.

Women's Surnames in Washington

The State of Washington has seen no dispositive court decisions on the issue of married women's surnames; but this state's common law of surname acquisition appears to be close to that of Maryland's in *Stuart*. The ease with which people have been allowed to change their names, coupled with an Attorney General's Opinion and the recently enacted Equal Rights Amendment, make it clear that a Washington female can keep her birth-given name merely by continuing to use it after marriage. RCW 4.24.130 provides that a person may change his or her name by filing a petition in superior court. In the past, some Washington women have kept their own names at marriage by a legal maneuver utilizing the change-of-name statute. Immediately after marriage, assuming that their surnames had automatically changed to those of their husbands, they would approach the court and ask to have their names changed back to the birth-given name they had held only days before. Yet this procedure is unnecessary. An Attorney General's Opinion stated (1927-1928, p. 508):

"In the matter of the choice of a name for a person, it is fundamental law that any person may use any name he sees fit, provided that the use thereof is not with the intent to defraud. The custom of persons taking names from their male parent is merely a custom and is not binding upon anyone, and the same may be said of the custom of a woman taking her husband's name. In the matter of the choice of a name the individual has absolute liberty provided that a name is not assumed for the purpose of committing a fraud."

This Opinion, although it is many years old, tends to put Washington in the camp of those states following the traditional common law view that female assumption of their spouses' surnames is not legally mandated. Since it is only a custom for a woman to take her husband's name, there is little reason for a wife to go through the legal fiction of taking the spouse's surname, paying a filing fee, and wasting her time and the judge's to have her own name returned to her. Although the data have not yet been compiled, it appears that far more women in

Washington are keeping their birth-given names without resort to judicial procedures than those who use the courtroom route. That a court-ordered name change is unnecessary for a woman who wants to keep her birth-given surname is underscored by cases that suggest that any Washingtonian who wants to change his or her name for an honest purpose may be able to do it without a change-of-name petition. *State v. Lutes*, 38 Wn.2d 475, 480, 484, 230 P.2d 786, 789, 791 (1951), and *Christianson v. King County*, 196 F. 791, 799 (1912), aff'd 239 U.S. 356 (1915) both supported the position that a person may assume a new, legal surname by the common law method of open and consistent use of that name. Furthermore, since a purpose of the statutory change of name procedure is to give public notice that someone whom we know by one last name is now going to be known by another one, a petition is hardly needed when a woman merely keeps the same name by which everyone has known her.

Pennsylvania AGO of Interest

A recent Attorney General's Opinion in Pennsylvania (Official Opinion No. 62, August 20, 1973), is of significance to us in Washington. Working with similar name-change statutes, the Pennsylvania Attorney General concluded that a woman could keep her name without any court procedures. The opinion ruled that a legal surname is 1) the name assigned at birth; 2) in the case of a married woman, her husband's surname, if she chooses to use it; 3) a name appearing in a court order where a surname has been changed pursuant to statute; and 4) an assumed name that a person has used regularly and consistently. The Opinion further concluded that to require women to assume their husbands' surnames would violate Pennsylvania's Equal Rights Amendment, and such a requirement in Washington would appear to be contrary to the equal rights provision enacted by our voters last year.

Another conclusion of the recent Pennsylvania Attorney General's Opinion is that a woman who has been using her husband's surname for many years may change *back* to her original, birth-given name without going to court. If we apply the common law in Washington, such that a newly-wed woman uses her spouse's last name by custom but never legally loses her original name altogether, a person should be able to resume the use of her birth-given name at any

time during her marriage without going to court. Section 15 of our new divorce law (1973 1st Ex. sess. Ch. 157), provides a statutory basis for returning a pre-marriage name to a female when she is divorced. A number of women attorneys in the Seattle area, as well as the wives of some attorneys, have resumed the use of their pre-marriage last names during marriage without utilizing any statute at all. These women have simply made the resumption of their original names known to their friends, colleagues, and government and financial institutions with which they have contact. There have been few reports of legal or administrative difficulties. Ruth Nordenbrook, a deputy prosecuting attorney who is married to Federal Trade Commission lawyer Barry Barnes, says, "Going back to my old name was hard for older people to accept. . . . But I haven't had any significant trouble (with institutions). In fact the bar association here changed my name very quickly."

Everyday Problems of Separate Surnames

Practical problems of keeping or returning to a birth-given surname are varied, but have not proven to be burdensome for the Washington residents this writer has interviewed. Judith Starbuck, who has kept her own name ever since she married Legal Services lawyer Peter Greenfield three years ago, says "when we applied for a mortgage, we asked to have both names on the papers. They had to rewrite the mortgage two times to get everything right. They made us produce our marriage license to show that we were married. When I applied for a business license I asked for it in my own name but they sent it to me first with my name *and* his name on it. When I paid my tax for the first time I asked to have it changed into my name alone, and they sent me a new license. Little hassles like that happen all the time."

Seattle-area women who have kept their birth-given names upon marriage or returned to their original names with or without court procedures, have consistently been allowed to register to vote, register automobiles and obtain drivers licenses in the name they desire; those armed with court orders have had fewer problems. Many couples have had to carefully explain their unusual difference of surnames to realtors, banks and credit companies, but one young woman says that she has had an easier time obtaining credit on her own than have her friends, because she

kept a credit rating in her original name after getting married. Clients who plan to retain or resume their original names should be advised that they may have to argue strenuously and forthrightly in order to have their surnames accepted by incredulous functionaries. The women who have held on to their last names maintain that determination and patience always win out, and businesses and government agencies will use the correct name when it is insisted upon. One person says that when she signs an important document like a deed, community property agreement or loan papers jointly with her husband, she signs her name, followed by "wife of" in parentheses; her husband signs his name, writing afterwards in parentheses, "husband of ." Attorneys might suggest that females who retain their birth-given names follow this procedure, at least until society has become used to married couples with different last names.

U. S. Government Inconsistent

The federal government does not have a consistent policy regarding women's surnames. The IRS and Social Security Administration routinely allow women to pay taxes in their birth-given names even if they are married. The Passport Office will issue a passport to a married woman in her original name if she has used that name exclusively since the date of marriage and she submits satisfactory evidence of this public and exclusive use. Evidence may be in the form of affidavits from two or more persons, preferably blood relatives, attesting that the applicant has consistently continued to use her birth-given name. A married woman who has used her husband's surname and has now reverted back to her "maiden" name may have a passport written in her original surname only if she can show a legal document and/or public and exclusive use for a substantial period. The passport agency prefers a court order confirming a female's resumption of her birth-given name. Otherwise she may have to bear *both* surnames on her passport. This proviso means that a female who resumes use of her birth-given name after several married years may have to carry a passport with her husband's last name. However, with the increase of women who are going back to their own last names, and with the likelihood of successful legal attack on this government policy on equal protection grounds, the Passport Office may change its rule in the near future.

What to Name the Baby?

A final problem for a couple with different surnames comes if they have children. No Washington law requires that children bear their father's last names, and in practice the state Department of Vital Statistics issues birth certificates bearing practically any first, middle and last name the parents choose. Numerous Spanish-surnamed Washingtonians have traditionally registered their youngsters with hyphenated names. Yet the fact that parents *may* name their children as they wish doesn't settle the difficult problem of picking last name.

No consistent solution has emerged, and it is probable that none will in the near future. Some couples with different surnames say they will give their offspring the father's surname in order to avoid confusion for the children in school. Others maintain that the numerous divorces and remarriages in recent years have produced hundreds of children with last names that are different from those of their mothers and siblings. Besides, says one woman, "my geneology is just as important as my husband's."

Several methods have been suggested for naming children of parents with different surnames. One obvious solution is to use hyphenated names, a custom with a long tradition among the British upper classes. Hyphenation is convenient, but the next generation will be faced with the somewhat frightening possibility of giving *their* children surnames composed of three or four pieces. One Seattle woman who gave her son a four-part last name has shortened it to the two best sounding ones for every day use. Her choice of which surnames to have her child use regularly was based on "aesthetic reasons" of sound and rhythm; undoubtedly convenience played a big part in her decision.

Another approach is to give female offspring the mother's last name, while awarding male children the surname of the father. A third possibility would be to give children an entirely original last name or no surname at all.

It is beyond the scope of this article to analyze the merits and drawbacks of various systems of surnaming children, but parents who choose to use different last names themselves will be faced with this difficult—and intriguing—problem. Perhaps after several hundred families have experimented with different methods of bestowing surnames, some consistent, and hopefully convenient, pattern will emerge. □

THE REGULATORY AGENCY: THOSE REGULATED ALSO HAVE LEGAL RIGHTS

by Michael W. Herb

Government regulatory activity has grown to such a degree that businessmen often feel as if they are close to a partnership situation with the agencies, the agencies being the side having the veto power. Perhaps it's time to challenge the police power philosophy and consider concepts that would be more fair and realistic.

Regulatory Growth

The seeds for regulation were planted in *Gibbons v Ogden*¹ when Chief Justice Marshall used the commerce clause in the U.S. Constitution to justify federal control of navigation between New Jersey and New York. There had been no debate at the Philadelphia convention on the commerce clause, and very little had been written about it. From that case, the clause has evolved into a power base for federal control over a vast number of social and economic issues.

In the same case, the "police power" doctrine emerged. Congress had the power to regulate commerce that flowed over state boundaries and the states had an inherent power, called the "police power," to regulate local activity. The original idea of this power was something akin to self-defense. A state was authorized to protect itself against those things which threatened its existence.² This power was distinguished from the powers of eminent domain or revenue raising. The concept has been gradually broadened to include any reasonable regulations that are for the common good and welfare.³

The power of regulatory agencies has become

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momentous. President Kennedy described it in 1961 as follows: "The responsibilities with which they have been entrusted permeate every sphere and almost every activity in our national life."⁴ *The Report of the Commission on Population Growth and the American Future* predicts more growth:

"It appears inevitable that a larger portion of our lives will be devoted to filling out forms, arguing with the computer or its representatives, appealing decisions, waiting for our case to be handled, and finding ways to evade or to move ahead in line. In many small ways, everyday life will become more contrived."⁵

"Judicialization" Opposed

The pace of regulatory activity has become more intense. Volume in caseloads has increased. Whole new fields are being subjected to controls. Holding hearings with adequate notice and the right to be personally present slows the system down. Ecologists and consumerists are crying for faster action at a time when taxpayer revolts are causing tighter budgets with reduced manpower for agencies. The result is a pressure for "less judicialization."

An article in the September, 1972, issue of *The American Bar Journal* was an example of the trend. The author argues that existing procedures for due process of law cause too much delay in these modern conditions.⁶ Professor Kenneth Culp Davis quotes similar views in Volume 1 of the *Administrative Law Treatise* when he cites a letter from the Department of Justice:

"In our opinion, the general tendency. . . toward further judicialization of administrative procedures is undesirable and might increase delay and inefficiency in many areas of agency action in which delay and inefficiency already are considered serious problems."⁷

Isn't one purpose of the courts to provide a check against the emergence of this power? The steady expansion of power under the commerce clause has occurred with very little resistance or question in recent decades. The same is true for increased control pursuant to the "police power" doctrine. The only limits imposed by the courts have been requirements that regulations not be unreasonable, arbitrary or discriminatory, and that there be some procedural safeguards. Have courts been too loyal to concepts like "public interest," "police power" and the

commerce clause?

The essence of police power: the ability to restrict any activity if there is enough public support for the restriction.

In one sense, all administrative regulation is an exercise of police power, that is, the power of the sovereign to control activity. It is interesting to note how Oliver Wendell Holmes reflected on the concept. He saw the police power as "a fiction intended to beautify what is disagreeable to the sufferers. . . . It's an apologetic phrase, convenient to be sure."⁸ The government can take property without pay (by interfering and regulating) so long as it doesn't take too much (as in eminent domain). Holmes' concept of police power extended not only to public health, safety and morals but to all the great public needs.⁹ In *Tyson Bros. v Banton*,¹⁰ he outlined it as the ability of the legislature to forbid or restrict any business where it has sufficient force of public opinion behind it.

Holmes seems to be following John Locke's theory that any law is valid if it is based on the consent of the majority. A weakness in this approach is that it gives the majority the power to take away property rights and other supposedly inalienable rights.¹¹

In reality, the apparent consent of the majority might actually be a very small number of enthusiasts over a particular bill that a Congressman or state legislator wants to please. In the legislative process, many bills are drafted, proposed and pushed by pressure groups. Regulatory agencies frequently draft their own bills for expanded power, and then lobby to get them enacted. Elected officials watch local polls, correspondence from their home district and the local press for guidance on how to react to these pressures. Their attention is focused on their constituents and pressure groups and this may not necessarily be compatible with broader notions of the common good.

Can the courts check regulatory power?

There is no thorough way for courts to check what regulatory laws are really for the common good. The courts do not have constitutional power to review public policy. That discretion resides only with the legislature. The only thing the courts can do is prohibit administrative regulations that are clearly unreasonable or arbitrary and to make sure that minimum procedural safeguards are followed under the Due

Process clause.¹²

Since the review power of courts is limited under the separation of powers doctrine, the way for courts to balance off the regulatory power of the agencies is to give more attention to the rights of citizens who are being regulated. An evolution of case law in this area could bring in some balance so that the words of Blackstone could apply that "checks and balances constitute the true excellence of. . . the government."¹³

One purpose of judicial review is to preserve equality.

There is an absence of a philosophy of equality in the field of administrative law. This lack of equity can be seen in *State v. Readers Digest Association, Inc.*¹⁴ The F.T.C. issued a cease and desist order, part of which permitted the company to continue its "sweepstakes" promotion. Following that, the Washington Attorney General enforced the state consumer protection act, arguing that the "sweepstakes" was deceptive, after the F.T.C. said it wasn't. The court ruled that there was no preemption and upheld the state on the grounds that it was an unconstitutional state lottery.

Why shouldn't an opinion of this kind include the question of preemption from an equitable viewpoint? If a company relies in good faith on the F.T.C., should a state agency be able to undermine this? Should the state have had a duty to come forth earlier, while negotiations were being conducted with the F.T.C.? These questions aren't simple, but they shouldn't be precluded merely because the F.T.C. authority rests on the commerce clause, and the state consumer protection division is exercising its police power.

Another example is the general rule that a government agency cannot be bound or estopped by acts of its employees. The rule is giving way somewhat in government contract cases and personal injury negotiations but is still widely applied in regulatory matters. Courts frequently apply it without much thought, simply because it's a case involving "police power" or "sovereignty."¹⁵ A liberal application of estoppel might invite collusion in some cases. The courts should use this factor in determining when the rule should be applied, rather than the theory of sovereignty.

This failure to appreciate a balance of equality between the citizen and the agency is not in the spirit of the English Common Law. For many centuries, there has been a legal attitude of equity

and equality between the citizen and the power of law enforcement. Early jurists wrote that Lords had obligations as well as vassals. Everyone was subject to law, and this included the King and Parliament. Law in this sense meant an enumeration of meaningful principles. In the 16th Century, Chief Justice Coke of the Court of Common Pleas stated that there was no such thing as a sovereign, as the concept is understood in jurisprudence.¹⁶

The Federalist Papers carried on this attitude of equality of citizen to government. The writers were striving for a system that would preserve property rights and political liberties by applying Montesquieu's theory of separation of powers. Hamilton felt that judicial review was one of the most effective ways of preserving this quality, and for anyone to deny this view "would be to affirm that the servant is above his master; that the representatives of the people are above the people themselves. . . ."¹⁷ This is the philosophy that should be applied when a reviewing court is analyzing the exercise of regulatory power.

A regulatory agency is like a partner.

Some of the characteristics of administrative regulation lend support to the argument for more balance and equality because these characteristics indicate that agencies tend to be more like co-managers than law enforcers. This analogy can be seen when regulatory law is compared to classical notions of law, both as to enforcement and objectives.

Arriving at a traditional understanding of law can be an elusive task. The difficulty is lessened somewhat when the question is narrowed to police type law; the power of the sovereign to control activities of citizens as opposed to taxing and spending powers or powers of condemnation.

Blackstone could be used as a spokesman for classical thinkers. He felt that law had to be made up of uniform and universal rules that related to the community in general, so that there would be public tranquility and "every man may know what to look upon as his own." An individual had to have a way to measure his conduct.¹⁸

A great deal of regulatory power is discretionary power where there is no way to measure. The guidelines are often so broad, they really aren't meaningful standards. The enforcement of this discretionary power is similar to joint management. This similarity was noted in the *Landis Report* on administrative law, in this way:

"If judgments of regulatory agencies in many

fields such as rates are, in truth, business judgments rather than judgments conforming to a legal theory, techniques which do not rest upon the tedious process of examination and cross-examination, and which underlie honest business judgments made by industries may have a value in the handling of substantially the same problem by agencies."¹⁹

A good illustration of discretionary power would be the duties of security examiners in many states in reviewing all advertising related to a public offering of stocks or bonds before the lay-outs are sent to the media. Many states require that each proposed ad be checked by the examiner for "unfairness" or "deception." What constitutes unfairness or deception depends on the judgment of the examiner. It is discretionary power. There is no real objective norm.

"Power Without Rules"

Professor Davis has gone so far as saying, "The very identifying badge of the American administrative agency is power, without previously existing rules, to determine the rights of individual parties."²⁰

There is no way to predict whether the anticipated activity will meet established criteria. The agency has a veto power. The citizen has to check each time before he acts, as one partner would with another when there is joint decision making.

In other regulatory situations, very detailed regulations are applied, and, again, pursuant to such broad general rules that the rules have no meaning. The Uniform Building Code is an example. As a practical matter, this can be very similar to an exercise of pure discretionary power because very often only the building inspector understands the code. Most judges and lawyers do not. Cases have incorporated this fact into law by requiring courts "to give great weight to the contemporaneous construction of a statute, ordinance or resolution by the official charged with its enforcement."²¹

The only practical way for a builder to proceed is to check with the inspector as work progresses, similar to one partner checking with another.

Advice With a Disclaimer

The partnership analogy cannot be extended too far because many agencies will not take a position until after the act. Others, like the F.T.C., will issue a disclaimer as follows: "Any

advice given is without prejudice to the right to the commission to reconsider questions involved and where the public interest requires, to rescind or revoke the advice. . . ."²²

Nevertheless, the amount of discretion and the amount of detail in regulatory activity make the control very similar to a joint management relationship. In many counties across the country, when a property owner wants to erect an improvement he must in many situations apply for a conditional use permit and a local Board of Adjustment will decide whether it would be detrimental to the environment, the operation of commerce or to the use of surrounding property, or other similar, broad criteria. If the application is granted, the Board will normally set conditions related to the type of materials to be used, landscaping, location, parking, access, drainage, fire protection, hours of operation, bonding and perhaps other details regarding specifications.

It differs from traditional law enforcement where one man could have a means for comparing his action to that of another and be assured that both were being treated equally as in obeying a speed limit or a "No Hunting" sign. The conditional use applicant has no objective norm to look to, and the only way to obtain answers is to actually apply for the permit to see if it will be granted and what conditions will be imposed.

The Agencies' Objectives Differ

Another way in which agency action tends to differ from classical notions of law enforcement is in the objectives. Most regulatory bodies are directed towards something more than Blackstone's "public tranquility." There is an attempt to help set direction for business.

Order, for the most part, has long been considered the purpose of law. Even in Anglo-Saxon times, the law was said to exist for "The King's Peace." William the Conqueror promoted "The Good Peace" so that "a man of any account might go over his kingdom unhurt with his bosom full of gold." Aquinas and Kant, following the path of Aristotle, supported the view that law was an imposition of norms so that there could be order.²³

The agencies are usually designed to regulate some specific problem in society such as pollution, hazardous products or monopolistic practices. The S.E.C. or state securities division is not just trying to encourage an orderly market.

The goal is to prevent fraud or unfairness. The agency takes an affirmative role in influencing business towards its version of the objectives.

In most communities, if a businessman intends to open a shop, he will have to work out his plans and specifications with numerous local, state and federal agencies, including planning departments, health offices, engineering divisions, building departments and environmental agencies. Each one has the objective of trying to upgrade society by influencing the business in a certain direction. To the extent that it occurs, it is analogous to a partner participating in the setting of policy.

When an agency acts like a partner, it should have duties like a partner.

There is a definite need for administrative regulation because of the expanding population, limited resources and complexity in society. But society pays a price: The waiver of having law to follow, if law is defined in a classical sense (an enumeration of principles to help preserve order). Government is going beyond traditional law enforcement and actually participating to a degree in the decision making process of business and labor. Courts must develop an awareness of this constantly growing power and act as a check on it to conform with Hamilton's appreciation for balance.

Lord Coke and Chief Justice Holmes looked upon the idea of sovereignty as a fiction. Now that the field of regulatory power has grown to such a degree, can society afford to maintain fictions in this field? Do labels like "common good," "police power" and "public welfare and morals" contribute to analysis and justice or act as an impediment?

Courts should exert some control over regulatory growth by requiring more responsibility from the agencies. When regulatory bodies assume a role analogous to a partner, it is only fair that duties analogous to those of a partner be imposed. Courts could begin looking to partnership law and similar fields in civil law on a case by-case basis for ideas.

In spelling out these duties, courts should consider the necessity for agencies to be able to do their job, balanced against the rights of those who are regulated.

Thought should be given to what duties regulatory agencies have to disclose, to inform, to be willing to take a position, to stick to a position, to help coordinate the various controls of other

agencies and to be reasonable in putting controls into effect. The citizen is not obtaining a fair break when an administrative appeal is rejected without analysis and solely on the grounds that the state was exercising its police power or power under the commerce clause "reasonably."

FOOTNOTES

- ¹ *Gibbons v Ogden*, 9 Wheat 1 (1824)
- ² *Ex parte Flake*, 149 S.W. 146, Texas (1911)
- ³ *Sieber v Laawe*, 109 A2d 470, N.J. (1910)
- ⁴ 107 *Congressional Record*, 5847 (1961)
- ⁵ *The Report of the Commission on Population Growth and the American Future*, Signet N.Y. (1972) p. 73
- ⁶ Roger C. Cranton, "Causes and Cures of Administrative Delay," Sept., 1972, *American Bar Association Journal*, vol. 58, p. 937
- ⁷ Kenneth Culp Davis, *Administrative Law Treatise*, 1970 Supplement, West Publishing Co., St. Paul, Minn.
- ⁸ Max Lerner, *The Mind and Faith of Justice Holmes*, The Modern Library, N.Y. (1943)
- ⁹ *Noble State Bank v Haskell*, 219 U.S. 104, 55 L.Ed. 113 (1911)
- ¹⁰ *Tyson Bros. v Banton*, 273 U.S. 418, 71 L.Ed. 718, 47 Sup. Ct. 426 (1927)
- ¹¹ W. Friedman, *Legal Theory*, Carswell Co. Ltd., Toronto, Ch. 9, p. 74 (1960)
- ¹² *Systems Amusement, Inc. v State*, 7 Wash. App. 516, 500 P.2d 1253 (1972)
- ¹³ Windmeyer, *Legal Theory*, 2nd ed., Law Book Co., Melbourne (1957)
- ¹⁴ *State v Readers Digest Association, Inc.*, 81 Wn. 2d 259, 501 P.2d 290 (1972)
- ¹⁵ *Mallette County v Arnold*, 76 S.D. 210, 75 N.W. 2d 641 (1956)
- ¹⁶ Windmeyer, *Op. Cit.*
- ¹⁷ *The Federalist*, No. 78, Modern Library, N.Y. (1937)
- ¹⁸ William Blackstone, *Commentaries on the Law of England*, vol. 1, Philadelphia, George Sharswood (1882)
- ¹⁹ Kenneth Culp Davis, *Op Cit.*, p. 34
- ²⁰ Kenneth Culp Davis, *Ibid*, p. 39
- ²¹ *Cramer v Van Pary's*, 7 Wash. App. 584, 500 P. 2d 1255 (1972)
- ²² Kenneth Culp Davis, *Op. Cit.*, p. 197
- ²³ Windmeyer, *Op. Cit.*, p. 19

WASHINGTON STATE BAR NEWS



On hand as the Legal Services Association for Thurston-Mason Counties reopened its offices in Olympia were, left to right, Bob Wallis, President, Governmental Lawyers Association; William E. Cullen, Jr., member of the Board of Directors of the Legal Services Asso-

ciation; William M. Lowry, chairman of the board of directors; Paul Licker, office director and staff attorney, and Nancy James, secretary. (Photo courtesy *The Daily Olympian*.)

Many Pitch In to Revive Olympia Legal Services

A legal services office in Olympia has reopened after a six-month drought of funds and for the first time offers a full-time staff attorney to serve low-income clients in Thurston and Mason counties.

William M. Lowry, chairman of the board of the Legal Services Association for Thurston-Mason Counties, presided at this Fall's opening ceremonies for the office, housed in space donated by Thurston County in its newly acquired Capitol Center Building.

Lowry noted that the office wouldn't have been in existence had it not been for great amounts of blood, sweat and tears shed by a number of dedicated persons, primarily attorneys, in the organization of the corporation and the canvassing of funds to meet the state matching funds.

The office had been funded by a one-year grant from the local Community Action Council, utilizing federal funds. That grant dried up in April with the expiration of the year's time, although the Council has made a contribution for current operations.

Office director and staff attorney is Paul Licker, a graduate of American University, who practiced in New Jersey before moving to

Washington State and who worked with the Seattle-King County Legal Services Prison Legal Services office in Walla Walla prior to accepting the post in Thurston-Mason counties.

Funds have been donated by individual members of both the Thurston-Mason County Bar Association and the Governmental Lawyers Association and by other concerned citizens, by the United Good Neighbors, Thurston and Mason Counties, a private charitable foundation, the Governmental Lawyers Association itself, and area churches. Cities within the counties have pledged funds pending enactment in the January legislative session of an enabling law which their counsel anticipate will be needed to validate city expenditures for such legal services.

Present at the opening ceremonies were Justice Robert Utter of the State Supreme Court, Lowry, Olympia and Tumwater mayors, Bob Wallis, president of the Governmental Lawyers Association, and Bill Cullen, member of the Board of directors of the Legal Services corporation and representative of the Thurston-Mason Bar.

Lowry acknowledged great efforts expended by lawyers who were not able to be present, including Edward T. Shaw and Morton M. Tytler of Olympia and Brian Leahy, presently of Vancouver, Wash.



The Board's Work

Following are extracts from the minutes of the meeting of the Board of Governors October 5-6 at Harrison Hot Springs, B.C.:

Legislative Committee

Edward N. Lange, Chairman of the Legislative Committee, appeared before the Board to discuss the Legislative Committee's programs, procedures, and recommendations. The Board then:

Approved support of House Bill 630 relating to non-resident Prosecuting Attorneys and joint County Prosecuting Attorneys; voted in opposition to House Bill 634 repealing prohibition against Deputy Prosecuting Attorney, employee, partner or agent of Prosecuting Attorney appearing in adverse interest in proceeding in which prosecutor appearing; supported House Bill 1142, providing for removal of 3 months period in which action must be commenced against County after 60 day waiting, and Senate Bill 2990, supporting extension of period for filing claims against the State when incompetent; opposed House Bill 1162, providing for extension of negligent homicide for person killed in crosswalks, on the basis that the provisions of the Bill are too broad; opposed House Bill 1167, a proposed amendment to the Comparative Negligence Act.

The Board approved in principle progress made in arriving at acceptable legislation relating to improvement of the Probate Code; and approved April 1, 1974, as the deadline for proposals from Sections and Committees for suggested legislation to be included in the Legislative Committee's program for the 1975 Session.

Sites for Annual Meetings

It was agreed that the 1975 Annual Meeting of the Bar Association be held September 10-13 in Vancouver, B.C., at the Hyatt Regency Hotel and the Hotel Vancouver, and the Board reaffirmed its decision to hold the Bar Association's 1976 Annual Meeting in Hawaii but the restriction that the meeting be held outside the City of Honolulu was removed.

Dates for Annual Meeting

It was voted that henceforth as a general policy the Annual Meetings of the Bar Association be held the second week-end in September.

Continuing Legal Education Program

Board Member William Gates was designated

as the Board's liaison with the CLE Committee.

Appointments to the Judicial Council

The Board, on recommendation of the Legislative Committee, selected as the Bar Association's representatives on the Judicial Council for 1973-1975 Kenneth P. Short of Seattle and John J. Ripple of Spokane.

Bar Examination

It was voted that a recommendation be forwarded to the Supreme Court recommending that the cost to an applicant taking the Bar Examination be \$125 for those not previously admitted to any Bar and \$225 for those already admitted to another Bar.

Committee on Unauthorized Practice of Law

The Board adopted the recommendation of the Unauthorized Practice of Law Committee that legal action be instituted against the Guarantee Escrow Company of Tacoma in a matter involving allegations that the company is engaging in the practice of law.

Request to be Allowed to Resign

It was moved, seconded and carried that the request by a lawyer that he be allowed to resign as a member of the Bar Association be deferred for final action pending the payment of the sum of \$2349.50 into the Registry of the Bar Association in connection with certain obligations owed by the petitioner.

No. 276 — The Public Disclosure Act

A. Robert Hauth, from the Attorney General's Office and Attorney for the Public Disclosure Commission, appeared before the Board to discuss the provisions of that act and litigation involving it and to analyze how the provisions of the act affect lawyers and the legal profession.

B. It was voted that the President appoint a Select Committee to study the provisions of Initiative 276 as those provisions relate to lawyers and as they affect the opportunity of members of the profession to serve in public capacities.

Patent Law Section

It was moved, seconded and carried that the name of the "Patent, Trademark and Copyright Section" be changed to "Intellectual and Indus-



trial Property Section."

Following are extracts from the minutes of the meeting of the Board of Governors at Vancouver, B.C., September 5, 1973.

Senate Bill 1876 — Diversity Jurisdiction

The Board re-expressed its disapproval of the proposed elimination of Diversity Jurisdiction in the Federal Court.

Senate Bill 1179 — Private Pension Legislation

It was ordered that the Washington State legislative delegation be advised that the Bar Association urges the delegation's support of provisions of the pension reform legislation pertaining to self employed individuals.

Election of a Treasurer

Richard H. Riddell of Seattle was elected Secretary-Treasurer of the Bar Association for 1973-74.

Removal Procedure for President

Section 2 of Article IV of the By-Laws was amended to provide a procedure for the removal of a President.

Initiative No. 276

On recommendation of the Legislative Committee, the Board recommended to the Legislature that Section 24(1) requiring elected officials to make a report of financial affairs on or before January 31st of each year be amended so as to extend the January 31st reporting date to April 15th.

Commendation of Young Lawyers Committee Chairman

It was carried unanimously that a commendation of Curtis L. Shoemaker be spread on the minutes for his outstanding service during the past year as Chairman of the Young Lawyers Committee and an ex-officio Member of the Board. Mr. Shoemaker expressed his appreciation for the Board's having allowed him the opportunity to participate in its meetings and requested that the record show that he had been given every opportunity to participate and to present the viewpoint of the Young Lawyers and the Young Lawyers Committee.

Nevada divorce simple. Joe Perberton, Bellingham, reported a telephone conversation with a Reno lawyer whom he asked to defend a divorce action commenced there by a foot-loose husband. The lawyer stated it was not practical. In Nevada there was really only one ground for divorce. What was it? Answer: Marriage!

Births

Anacortes welcomed Frank Hutchins, who forsook practice in New York, Paris and North Africa to locate there.

RWC having difficulty really being born or accepted. It was suggested that lawyers file complaints, if any, with Ben C. Grosscup, the chairman of the Statute Law Committee, or with Richard O. White, Revisor, Olympia. Of course, lawyers were too busy complaining to do much writing.

In Spokane, Joseph J. Stangle suffered a broken neck and broken jaw in an auto accident. Justin C. Maloney suffered a dislocated shoulder and broken arm when thrown from a horse.

Counsel for the Damned, the life story of George Vanderveer, written by Ralph B. Potts, Seattle, was reviewed. Vanderveer was a brilliant trial lawyer who loved to fight with his fists and defend the underdog such as the Wobblies. A Seattle writer, Douglass Welch, described him as a study in futility and quoted Vanderveer as saying of himself that he was "counsel for the damned" because he was one of them himself.

Crossed the Bar

Spokane: Johnston B. Campbell.

Auburn: Merton Elmer Brewer, 78.

Seattle: Chester R. Hovey, 81, long time resident of Ellensburg, past president of the State Bar Association, served one term on the State Supreme Court.

James B. Howe, 51, brother of Drayton F. Howe and son of James B. Howe, one of the leading lawyers of his time, fifty years ago.

Edward D. Phelan, Sr., 75, formerly of Helena, Montana.

The trouble with the world is that the stupid are cocksure and the intelligent are full of doubt.

— Bertrand Russell

David J. Williams

**Washington State Bar Association
General Fund
Schedule of Budgeted Expenditures
& Disbursements**

	<i>Fiscal 1973 Budgeted Expenditures</i>	<i>Proposed Fiscal 1974 Budgeted Expenditures</i>
Salaries	148,500	158,000
Committees	53,300	57,500
Bar News	36,200	37,700
Disciplinary		
Counsel expenses	35,000	17,500
Rent	24,700	26,500
Board of		
Governors	15,000	18,000
Telephone	10,800	10,800
Publications	10,000	5,000
Retirement	9,400	11,000
Office Supplies	8,500	8,600
ABA & Western	8,000	8,000
Social Security	6,300	8,000
General Mailings	5,000	6,500
Disciplinary		
Hearings	5,000	5,000
Disciplinary Board	4,000	5,100
Postage	2,500	3,000
LRS	2,400	5,900
Medical Program	2,200	2,800
Judicial Plebiscite		
& Polls	2,000	3,000
Bar Presidents		
Meeting	2,000	2,000
Audit	2,000	2,500
Contracts	1,500	
Miscellaneous	1,500	1,500
LAMP	1,796	1,800
Judicial		
Conference	1,000	1,000
Library	1,000	1,000
Office Equipment		
Maintenance	1,000	1,200
Trustee Fee	750	750
Headquarter		
Improvements	500	5,000
Office Equipment	500	1,500
Office Insurance	500	600
Memberships-		
Organizations	500	600

(Continued next column)

**Washington State Bar Association
General Fund
Schedule of Estimated Revenue
and Receipts**

	<i>Fiscal 1973 Estimated Revenue Per Budget</i>	<i>1974 Estimated Revenue</i>
Dues	353,000	389,000
Transfer from		
Examination		
Fund	24,000	12,300
Reimbursements-		
Disciplinary		
Costs	6,200	5,000
Bar News Adver-		
tising & Sub-		
scriptions	3,000	3,000
Miscellaneous		
Income	1,000	
Interest on		
Investment		
Account	8,000	7,000
Lawyer Referral		
Service		2,200
Directory*		2,200
TOTAL	395,200	420,700

* Sale of Attorney Directories

(Schedule of Budget Expenditures continued)

Board of Elections	500	500
Industrial		
Insurance	300	300
News Service	150	200
Gifts & Memorials	100	100
Convention		
TOTAL	404,396	418,450

Are You a "Joy" or a Pain in the Neck?

Most attorneys are cooperative and "a joy with whom to work," according to Ms. Ingrid Bentzen, president of the Washington State Medical Record Association. But a minority of lawyers are somewhat less than a joy, association members say.

Of interest to many lawyers are the following comments, questions and recommendations received from Medical Record Association members attending a Medical-Legal Workshop; the comments were invited by Arthur Swanson, president of the Washington State Trial Lawyers Association, who spoke at the workshop:

Subpoena of Records

Would like to have a *notarized statement* concerning the records be accepted, in lieu of personal appearance in court, as it is done in California.

Why is there a difference in subpoena fees in the various counties?

When an attorney insists on keeping the *original* records, he should make an effort to return the originals as soon as the case is settled.

Subpoenas should be served at least three working days in advance.

Have court reporters present at *depositions*; don't wait for us to ask you to call one.

Specify on *subpoena* which attorney is representing the patient in cases where more than one attorney is listed on the subpoena (group practices).

Can a limit of time be established in which an attorney is allowed to retain medical records in his office, obtained via *subpoena*?

Review of Medical Records

The lawyer who is interested in a record should write a letter requesting the record and include the patient's written authorization. They should not just drop in to the department without prior notification and expect immediate service.

There is need to take care in giving specific patient identification such as birthdates, husband or wife's name, etc., in order to easily identify the correct patient's records.

There is need to be more specific with regard to admissions, dates, etc., for which copies of records are needed.

Letters of request with *undated* authorizations

should not be sent.

Miscellaneous Comments

There is lack of uniformity in procedures used by attorneys throughout the state.

Don't try to coerce a clerk or other non-management personnel to give out information in the absence of the medical record administrator.

Attorneys who "throw their weight around," trying to threaten the medical record department staff, are not appreciated.

Eliminate requests for confidential information by telephone.

Bar Honors Prosterman

The first Ralph Bunche Award was to be presented to Professor Roy L. Prosterman at a Seattle King County Bar Association luncheon on November 28.

The Ralph Bunche Award was created by the World Peace Through Law Committee of the Seattle-King County Bar Association with the concurrence of the Board of Trustees. The award is to be given to the person making an outstanding contribution to world peace through law and international understanding. A certificate given to the recipient contains a symbol portraying the essential unity of mankind; the symbol is taken from an original oil painting by committee member Robert C. Mussehl.

The name of the award, Ralph Bunche, was taken in honor of Ralph Johnson Bunche.

Dr. Bunche's career was crowned by receipt of the Nobel Peace Prize in 1950. He was the first black man to be so honored.

Roy L. Prosterman received his Bachelor's Degree from the University of Chicago and graduated from Harvard Law School in 1958. Dr. Prosterman practiced with the firm of Sullivan and Cromwell in New York City from 1959 until the middle of 1965. He is now a full professor at the University of Washington Law School.

He has done field work on land reform and rural development problems in a dozen less developed countries. He wrote the basic draft of the South Vietnam land reform law, pursuant to which one million titles have been issued.

State Bar Committees—1973-74

Americanism

Charles V. Moren, Seattle—Chairman; Andrew G. Burnfield, Ferndale; Arthur L. Hawman, Walla Walla; Montell E. Hester, Tacoma; Philip Mark King, Seattle; George Planthaler, Spokane; Michael H. Rosen, Seattle; Lloyd W. Shorett, Seattle; Charles Z. Smith, Seattle; Alvin Ziontz, Seattle; Clifford Cordes, Olympia; Francis Walker, Olympia.

AVAILABILITY OF LEGAL SERVICES

Robert Moch, Seattle—General Chairman.

Group and Prepaid Legal Services

Charles I. Stone, Seattle—Chairman; Lionel E. Wolff, Spokane; Vincent J. Beaulaurier, Yakima; Stanley D. Moore, Spokane; William A. Roberts, Seattle; Edmund J. Wood, Seattle; Mary Ellen Krug, Seattle; Frank Owens, Olympia.

Lawyer Referral

Gary G. McGlothlen, Yakima—Chairman; Murray J. Anderson, Tacoma; Basil L. Badley, Seattle; V. Robert Barker, Seattle; David L. Broom, Spokane; Vernon Guinn, Longview; Bettina Plevan, Seattle; Herb H. Springer, Longview.

Legal Aid

Edward Shaw, Olympia—Chairman; Patrick R. Cockrill, Yakima; William C. Collins, Jr., Tumwater; Evelyn Black Dennis, Seattle; Robert D. Dellwo, Spokane; Donald D. Haley, Seattle; R. Bruce Harrod, Bremerton; Brian D. Leahy, Vancouver; Bardell D. Miller, Everett; Kent Millikan, Seattle; Martin L. Potter, Tacoma.

Legal Services to the Armed Forces

Charles A. Kimbrough, Seattle—Chairman; Geoffrey C. Cross, Tacoma; Ralph Jones, Walla Walla; Larry E. Levy, Tacoma; Bruce F. Meyers, Seattle; Daniel O'Leary, Olympia; Theodore D. Zylstra, Oak Harbor; George Klawitter, Seattle.

Civil Rights

Eben B. Carlson, Seattle—Chairman; Lembhard Howell, Seattle; Chester R. Bennett, Edmonds; Charles W. Cone, Wenatchee; Charles Barr, Pasco; Wallis Friel, Pullman; Mrs. Lee Kraft, Seattle; Douglas N. Owens, Lacey; Edwin S. Stone, Seattle; Richard J. Schroeder, Spokane; Richard L. Norman, Longview; Winslow Whitman, Seattle; Michael R. Pickett, Richland.

Clients Security Fund

Walter J. Robinson, Jr., Yakima—Chairman; Thomas F. Curran, Spokane; Jeffrey Hahn, Edmonds; Burton A. Kingsbury, Bellingham; Philip M. Raekes, Kennewick; Dale W. Read, Vancouver; Donald Thoreson, Seattle; Dudley Perrine, Port Orchard; David Hoff, Seattle; Joseph Gagliardi, Spokane; M. H. (Cy) Hemmen, Tacoma.

Contemporary Problems and Public Interest Law

James M. Dolliver, Olympia—Chairman; John Blake, Seattle; John S. Biggs, Walla Walla; J. Gregory Casey, Spokane; Irving M. Clark, Seattle; Charles R. King, Seattle; Roger M. Leed,

Seattle; C. James Lust, Yakima; Charles B. McCord, Tacoma; William K. McInerney, Jr., Seattle; Lyle E. Neeley, Kirkland; Thomas H. Oldfield, Tacoma; Eugene G. Schuster, Richland; J. R. Sherrard, Bainbridge Island; Charles Van Marter, Spokane; John M. Wolfe, Aberdeen; Dwight Halstead, Prosser; Joseph Holmes, Jr., Seattle; Carl Maxey, Spokane.

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Correction and Prison Reform

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A. Thorner, Yakima; Stanley P. Wagner, Tacoma; Gerald A. Reitsch, Longview; James T. Monahan, Bellevue.

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Albert Hanan, Seattle; B. Franklin Heuston, Shelton; James M. Hilton, Seattle; Valen G. Honeywell, Jr., Tacoma; Lombard Howell, Seattle; Patricia G. Harber, Seattle; Edmund F. Jacobs, Puyallup; Bertil Johnson, Jr., Tacoma; Bradley T. Jones, Seattle; Judson Klingberg, Longview; Mary Ellen Krug, Seattle; Edward Level, Everett.

Allan D. Loucks, Seattle; Gordon Livengood, Kirkland; C. Duane Lansverk, Vancouver; James H. Madison, Seattle; Muriel Mawer, Seattle; Jack McSherry, Cle Elum; Hugo E. Oswald, Jr., Seattle; Jack G. Rosenow, Tacoma; Kermit M. Rudolf, Spokane; Stephen Ringhoffer, Walla Walla.

Darrell E. Ries, Moses Lake; Lawrence R. Small, Spokane; Jane D. Smith, Olympia; D. McKay Snow, Seattle; Ralph G. Swanson, Olympia; Donald Schmechel, Seattle; Mark E. Vovos, Spokane; William Wilson, Everett; C. Robert Wallis, Olympia; Donald McGavick, Tacoma; Martin Crowder, Seattle; Rembert Ryals, Richland; Murray Taggart, Walla Walla.

Photo Register Available

Copies of the Lawyers Pictorial Register of King County, containing photographs of more than 1900 lawyers and judges, still may be obtained from the Bar office at 320 Central Building. The reduced price is \$3 plus 16 cents state tax.



BENTON-FRANKLIN REPORT

By NEAL J. SHULMAN

Highlighting the fall social activities of the Benton-Franklin Bar Association was the annual golf tournament and dinner dance at the Tri-City Country Club. Chairing the event for the 13th straight year was **Duane Taber** of Pasco. In a controversial decision **John Westland** was declared the low gross (no handicap) winner.

Living up to all tournament traditions, **Judge Fred Staples** was declared to be the low net (handicap) winner with a handicap of 30. His handicap is rumored to be the highest in the Tri-Cities, if not the entire state.

During the fall season, several Tri-City attorneys have supplemented their already busy trial schedules with teaching responsibilities at Columbia Basin College and elsewhere. **Pete Felsted**, Pasco, teaches a course in real estate law, while **Jim Remsen**, Kennewick, is handling a business law class, both at CBC. **Phil Rodriguez**, Kennewick, is teaching a commercial law class, while **Curt Ludwig**, Chief Deputy Prosecutor for Benton County, teaches criminal law, also at CBC. Franklin County Prosecutor, **Jim Rabideau**, is teaching a course on the Uniform Code of Military Justice in the Naval Reserve Program in Pasco, while **Neal Shulman**, Richland City Attorney, has formed a criminal law class for the Richland Police Cadets.

Bob Free, Battelle Northwest Staff Attorney, and **Ed Shea**, who practices in Pasco, are active board members of the Benton-Franklin Mental Health Center. Bob has served on the Governor's task force which set

up this \$1,000,000 community treatment center.

The Tri-Cities bids welcome to several new attorneys in the area. **Louise A. Seeley**, a native of Tacoma and a graduate of the Annie Wright Seminary, has become a staff member of the Benton-Franklin Legal Aid Association. Louise did her undergraduate work at Pomona College, graduating in 1968 with a major in philosophy. She attended Boston University School of Law, graduating in 1973.

Patrick T. Roach, a native of Pasco, has joined the law firm of **Wayne Campbell** and **Mike Johnston**. Pat is a 1970 graduate of Seattle University and a 1973 graduate of Gonzaga. Pat, his wife, and a soon-to-be-born child have taken up residence in Pasco.

Tom Cowan, a 1973 Gonzaga graduate, has joined the Richland law firm of **George Butler** and **Mike Pickett**. Tom, a native of Kennewick, has now settled in Richland with his wife and son.

SEATTLE-KING REPORT

By GERALD G. TUTTLE

Gary W. East, formerly a partner with Kelleher & East, now has his office for the general practice of law at 17723 - 15th Avenue N.E., Seattle.

Gerald M. Ormiston has joined **Thom, Mussehl, Navoni, Hoff & Pierson** as an associate.

Bill Neukom has been elected to the American Bar Association Young Lawyers Section Executive Council, which will have **Bob Mussehl** as chairman for the coming year. **Dave Hoff** has been appointed one of the four directors of the ABA, YLS Executive Council.

Robert P. Karr has been appointed chairman of an American Bar Association Section commit-

tee on prepaid legal services.

Brian Comstock, who first came to fame as the leader of the Roberts, Shefelman, Lawrence, Gay & Moch football team which yielded 30-0 to Perkins, Coie, et al, some years ago, has surpassed his previous athletic endeavor. Enamored with the glow surrounding Bobby Riggs, he made the mistake of challenging the non-professional staff in his office on the outcome of the Riggs-King circus. As a result, on October 5, Brian was the hostperson to 10 non-professional persons from his office at a rather elaborate luncheon. As a token of their esteem, he received from his guests a replica of Porky Pig.

KITSAP REPORT

By HELEN GRAHAM GREEAR

Election Notes:

Oyez, Oyez. The Kitsap County Bar Association's new officers for the year which began in September are: President, **Douglas Fox**; Vice President, **Jay Roof**; Secretary-Treasurer, **Michael Koch**; Trustees, **John Merkel**, **Gary Cunningham**, **Philip Best** and **James Roper**.

New Faces:

Alas, I didn't cut out the list of the men who passed the Bar, but **Larry Hall** (son of Ray Hall, well-known insurance executive) will be associated with **Curtis Coons**; **William Denend** (retired Army Colonel) has been working for **Dean Pontius**; and a 1973 Willamette University Law graduate, **John B. Jackson**, is working for **Walgren & Sexton**.

The Annual Meeting WSBA:

One of the best, I thought. The legal institutes were excellent, and the three successive

luncheon speakers have to be—each in his own way—the best I ever heard.

Vital Statistics:

David Armstrong (of Sanchez, Martin & Armstrong) married **Stephanie Hazelwood** on September 1, 1973.

Courthouse Notes:

The County Commissioners have renovated and cleaned up the courthouse in connection with the handsome new jail. The Black Hole of Kitsap County is no more. Some jail trustees admit they have it better there than at home; an elevator has been added and many comforts and safety factors in the handling of prisoners, and rightly so. I am told it is not permanent, but the Law Library continues to be an orphan, crowded, ill-arranged, uncomfortable, noisy, with no working space worthy of the name.

Across from the courthouse rises the attractive new building to be the law offices of Schultheis, Maddock & Fox.

Our Court Administrator Myrth Miller asks that I mention that in Kitsap County motions are heard at 11:00 a.m. instead of 9:30 a.m., on Fridays.

Tennis:

She's not in my county (I wish she were) but lovely **Evelyn Foster** flew to Houston to see **Billie Jean King** (a superb player) wallop a good player, the late **Mr. Riggs**.

More affiant sayeth not.

EAST KING REPORT

By **Barbara E. Reardon**

The East King County Bar Association has a membership of 71 attorneys with a potential membership of considerably

more. All East Side attorneys who qualify for membership, should pay their dues to Judge **Tony Wartnik** and attend the meetings at the Thunderbird.

The East Side has recently acquired the services of two attorneys, **J. Stephen Fink**, whose offices are at 3080 148th S.E., and **William J. Morris**, officing at 1197 112th N.E., Suite 10.

James Stanton has moved his office to 105 Main, Kirkland.

For the 1973-1974 term starting January 1 the following have been nominated for office: **Francis N. Cushman**, vice president; **Hugh Stroh**, **Charles Deisen**, and **William Morris**, trustees.

Election is scheduled for December 17.

John W. Rusden and **Robert W. Villareale** announce the opening of their law offices at 11410 98th Avenue N. E., Juanita Beach Junction, Kirkland, as of November 1st.

Perfect attendance at Bar Meetings signifies the orderly and efficient mind. While that may not be true (since I just authored it), still steady attendance carries with it manifold benefits not the least of which are: a show of appreciation to the efforts of your officers and trustees; keeping up with bar activities, and most significantly your presence insures that you will have an opportunity to vote against your appointment to the committee of your choice.

SNOHOMISH REPORT

By **HENRY S. CHAPMAN**
RUDOLF V. MUELLER

Doug Ferguson, a graduate of the University of Washington, has joined the law firm of **Anderson, Hunter, Dewell, Baker & Collins** in Everett.

Timothy P. Ryan, a graduate

of Gonzaga University, has recently passed the bar examination and will be working in the Prosecuting Attorney's Office in Snohomish County. He is married and has two children and has been employed by the Prosecutor's Office as a legal intern.

A new Public Defender office has been established in the county. The Director is **Richard Pratt** and his staff includes **Ronald Castleberry**, Assistant Director, **James Sherman**, **David Mitchell** and **Pete Rothschild**. The purpose of this office is to assist indigent defendants assigned to them by the Department of Assigned Counsel and represent them regarding misdemeanors and felonies.

YAKIMA REPORT

By **RANDY MARQUIS**

Judicial Delegate Named:

Yakima County Superior Court Judge **Carl Loy** has been selected as one of four Washington delegates to the National Conference of State Trial Judges. Judge Loy will serve a three year term.

Changes and Acquisitions:

Newly admitted members of the Yakima Bar have associated with Yakima law firms: **Stephen M. Brown**, associated with **Velikanje, Moore & Shore**. **Vernon E. Fowler, Jr.**, associated with **Felthous, Peters & Schmalz**.

J. Eric Gustafson has been appointed deputy prosecuting attorney by Prosecuting Attorney **Lincoln Shropshire**.

Other Significant Acquisitions:

Rob Leadon of the **Felthous** firm entered into the bonds of matrimony in Fresno, California. His bride is the former **Patricia**

Nolan.

Kevin Kirkevold of the firm of Tunstall & Kirkevold has embarked on the sea of marital bliss with Susan Muggocks, prominent Yakima probation officer. They were married at Olympia, Washington, Oct. 6.

Lawyers in the News:

G. Thomas Dohn, former president of the Association of Municipal Attorneys of the State of Washington, has replaced **George Clark** as city attorney of Union Gap. **Jerry Talbott** was appointed assistant city attorney.

Serving as leaders in the Yakima County U.G.N. campaign were: **Robert Redman**, Corporate and Professional Division; **Lou Prediletto**, Corporate Employees Division; and **Kent McLachlan**, Metropolitan Business, Residential and Special Gifts Divisions.

George Velikanje has been elected treasurer of the Greater Yakima Chamber of Commerce for the 1973-74 term.

G. William Baker has been elected president of the Washington State Community Theatre Association. Bill is past president of the Yakima Little Theatre Group.

PIERCE COUNTY REPORT

By **KENYON E. LUCE**

Ron Thompson has become the president of Optimists International, a service organization of approximately 3,000 clubs throughout the United States and Canada and Mexico with a membership of approximately 100,000.

Jerome F. McCarthy, **Keith M. Black** and **Donald G. Meath** have become associates of the firm of Gordon, Thomas, Honeywell, Malanca, Peterson, O'Hern and

Johnson.

Fred Fleming, formerly Pierce County Deputy Prosecuting Attorney, is now associated with the firm of Hemmen & Cohoe.

The November Bar meeting was held and a discussion of the new landlord-tenant law was given by **Brad Gierke**. A discussion on commercial leasing & leases was given by **Perry McCormick**.

Gerald W. Neil, a 1973 Willamette graduate, is associated with **Kenyon E. Luce** and **Richard T. Vlosich** at 1404 - 54th Avenue East, Tacoma.

The Bar Office is looking for a heater. Any volunteers?

COWLITZ REPORT

By **O. H. Husemoen**

Cowlitz County continues to have an influx of new attorneys, and Gonzaga University seems to be supplying a good share of the new people.

We already reported that **Stephen L. Wanderer**, Gonzaga '72, has joined a local firm. In addition, **Philip E. Hickey**, Gonzaga '73, has joined the firm of **Roethler & McCulloch** as an associate, and **William Kenny**, Gonzaga '73, is now an associate with **Klingberg, Houston, Reitsch, Cross & Frey**.

New partners are also being added to local firms. **Leonard Workman** is now a partner in the firm of **Springer, Norman & Workman**. **Studley, Purcell & Spencer** have made **Vernon J. Guinn** a partner in that firm.

Judson T. Klingberg has a column that has been appearing for some time in the Longview Daily News entitled "Man in the Kitchen". His column is also being carried in other cities and supplies some interesting reading on

cooking from the gourmet touch to a Super Bowl soup. He has planned a second month-long trip to Europe for additional material for his column and, I think, to sample some of the good wines.

WHITMAN REPORT

By **LLOYD W. PETERSON**

A great many events of special significance affecting the Whitman County Bar have occurred since the last Whitman County report. One of the state's best-known judges, Hon. John A. Denoo, is now retired from his position as Whitman County Superior Court Judge. Former Prosecuting Attorney **Philip H. Faris** has assumed the bench.

The new Prosecuting Attorney is **Robert F. Patrick**, who left a difficult job as a University fundraiser in the capacity of Associate Director of Alumni Relations at WSU to assume the far more difficult job of fund-raising in private practice (while also serving as part-time prosecutor). Bob is assisted by Deputy Prosecuting Attorney **Wm. Don Parkinson**, formerly of Henderson & Parkinson.

New practitioners have been added to the rolls as a result of recent bar examination results. Recent law school graduates **Claude Irwin, Jr.** and **Dave Savage** have joined the Pullman firm of **Irwin, Friel & Mykelbust**. New associates were needed for that firm so that senior partners would have more time available to spend their money. **Howard Marshall Neill**, also a recent graduate, is associated with the firm of **Aitken, Schauble & Shoemaker**, formerly **Neill, Aitken & Schauble**. There is no truth to the rumor that the firm intends to have **Howie specialize**

in matters before the Federal District Court in Spokane.

John O. Knowlton has become associated in the practice with **Richard Loucks** in Pullman. **Joann Henderson**, whose husband, **Jim**, is the current president of the Whitman County Bar Association, also successfully passed the bar exam and elected to try the academic life as an instructor of Business Law at WSU. Joann is already a legendary figure because of her academic achievement at the University of Idaho Law School. **Deloris Cooper** from Garfield also successfully passed the bar examination. Recent additions to the bar in Colfax are already Whitman County veterans. **Edward McBride** is associated with **Savage & Nuxoll**, and **Ronald B. Webster**, formerly of Cowlitz County, is associated with **Lawrence Hickman** in the firm of **Hickman & Webster**, formerly **Hickman & Faris**. After a brief "sabbatical" your reporter has returned to his former position as the Assistant Attorney General assigned to WSU.

Until proved otherwise, Whitman County Bar Association

Defenders Organize

Public Defenders have formed a statewide organization and elected **Carl Hultman**, senior felony attorney, Seattle, as president; **Dean Morgan**, head of the Clark County Defender Office, vice president; **Richard L. Cease**, defender from Spokane, secretary, and **Everett Mullin**, administrator of the Skagit County defender office, treasurer. The group will be called the Washington Defender Association and its purpose will be to improve the quality of services provided to poor persons accused of crime.

claims honors for the highest attendance of any local bar association at the last bar convention. Attendance was particularly high at the cocktail hours. **Wally Friel**

even made it to a portion of one of the program sessions. Improvement is evident everywhere in the affairs of the Whitman County Bar.

In Memoriam

James P. Salvini, 58, who practiced in Sunnyside since 1946 and served 20 years as city attorney there, died October 6. He was a graduate of the University of Washington Law School. He was active in a large number of Sunnyside and Yakima Valley community and civic organizations.

Dale F. McKenzie, 50, who practiced in Grandview 23 years, died October 5. He earned degrees from University of Oregon and Yale University before being graduated from University of Washington Law School. He served in the Air Force in World War II and was a leader in civic and community activities.

Morris A. Robbins, 77, who practiced in Seattle 47 years, died October 11. A veteran of World War II, he was a leader in activities of the B'nai B'rith Lodge and the American Zionist organization.

Raymond C. Brumbach, 53, a 1950 graduate of the University of Washington Law School, died October 11. A former partner in the firm of **Brumbach & Lamb**, he served as president of a security and loan association and served recently as president of Telephone Utilities, Inc., of Ilwaco.

Richard S. Munter, 80, who served as president of the State Bar in 1947-48, died in Spokane September 27. A native of Spokane, he was graduated from Michigan Law School and admitted to the Bar in 1916. He was president of the Spokane

County Bar in 1926-27, and later served several years as a member of the American Bar Association House of Delegates. He began practice with his father, the late Judge **Adolph Munter**, and later with associated with **Justin C. Maloney** in the firm of **Munter & Maloney**. He also was active in Spokane civic, educational and political affairs.

Jerome F. Combs, 43, of Tacoma, died September 18. A graduate of University of Washington Law School, he was a hearing examiner for the Board of Industrial Insurance Appeals until 1959 and then served two years as an assistant state attorney general. He served on a number of State Bar and Pierce County Bar committees.

Robert W. Copeland, 62, Tacoma lawyer, port commissioner, civic leader and retired Navy rear admiral, died August 26.

A Tacoma native, he was graduated from University of Washington Law School in 1935. After a distinguished Navy career during and after World War II, he practiced with **Mann, Copeland, King, Anderson, Bingham & Scraggin**. He also was active in affairs of the state and local bars.

John Emmett Murray, 85, longtime Chehalis lawyer and former Lewis County Superior Court judge, died September 16. He practiced in Chehalis from 1914 to 1945, when he became a judge. He was a graduate of University of Washington Law School.



**Ford Smith,
Seattle**



**Mary Ellen Krug, Bob Mussehl,
Susan Fletcher French, Seattle**



**The Seattle-King County Bar at the
groaning luncheon board**



**Bob Beezer,
Seattle**



**Cameron Sherwood,
Walla Walla**



**Llewelyn Pritchard, Betty Fletcher,
Burroughs Anderson, William H. Gates,
Seattle**

455 Pass July 1973 State Bar Examination

Four hundred fifty-five persons passed the July 1973 bar examination.

The three-day examination was administered in Seattle by the State Bar Association's Board of Bar Examiners.

Students taking the exam were from more than 60 law schools throughout the country.

Those passing the bar exam are:

Seattle

John Aaby, Douglas Eaton Albright, Robert Carl Alexander, Charles William Bailey, Richard Louis Barbieri, Robert Arthur Baskerville, Arden Joel Bedle, Wm. Paul Beighle II, Steven Scott Bell, David Leon Beller, David R. Benjamin, Ronald Everett Berenbeim, H. Blair Bernson, Richard Cole Bertkau, John Thomas Blanchard, Robert Alan Bohrer, John Thomas Borst, Pamela Gayle Bradburn, James Joseph Buck, Peter L. Buck, Ann Forest Burns.

Joseph C. Calmes, Philip J. Carstens, Jr., David Dean Cheal, Donald Shelby Chisum, John Allan Clees, James Angus Coghill, Jerome Orville Cohen, Alan Bruce Corner, Kenneth Lynn Cowsert, Ronald Edward Cox, Teresa Burton Cramer, Philip Edgerton Cutler, Jack Cyr, Jr.

Steven R. Daily, Charles Maurice David, Lonnie G. Davis, Robert Lincoln Deming, Peter Normann Dennehy, George Allan DeWalt, Bradley Craig Diggs, Maureen Jan Dightman, Jerome J. Doherty, James Michael Doran, Dennis Lee Douglas, James Allen Douglas, Diane Elaine Dray, Michael Christopher Duggan, John H. Dunnigan, A. Richard Dykstra, John Jay Dystel, Shilah Portnoy

Eisenberg, John R. Ellis, Mark O. Erickson, Russell A. Evans, Thomas Charles Evans.

Robert T. Farrell, Ken Fielding, H. Michael Fields, Wallace A. Fiore, Joseph E. Fischaller, Rodney Francis Fitch, Simon Henri Forgette, William Michael Foshaug, Patrick J. Frink, Michael A. Frost, David Arthur Gagley, Steven Allen Gaines, William R. Gales, Peter Allen Galloway, Alphonse Gawle, Paul Maitland Geier, Rita Sanders Geier, Paul Glenn Gillingham, Thomas A. Goeltz, Charles Andrew Goldmark, Marvin Lee Gray, Jr., Donald Arrington Greig.

Donald J. Hagen, Lyle Orion Hanson, Paul Arley Harrel, Thomas V. Harris, Roger Edwin Hawkes, Michael Sean Hayes, Joan E. Heimbigner, Lauritz Sande Helland, Ernest Alvin Heller, Robert J. Hellrung, Joann P. Henderson, Julie Ann Herak, Earle Jennings Hereford, Jr., Reinier Hijman, Bruce Titus Hilby, James Frederick Hoover, Gwendolyn Howard, Mary E. Howell, Philip Gamaliel Hubbard, Jr., Lynn Orvis Hurst, Stephen Kent Husby, Stephen James Hyde.

Mark Rodney Ideen, Barbara Ann Isenhour, Clinton Egbert Jacob, Gordon William Jacobson, Norman Scott Jensen, Helen M. Johansen, Eugene Allen John, Jr., Mark Edwin Johnson, Michael Dennis Johnson, Gary T. Jones, Robert M. Keefe, Stanley Everett Kehl, Daniel Orville Kellogg, Kevin F. Kelly, Richard Lee Kirkby.

Steven Walter Klug, Laurie Doran Kohli, Richard Michael Kovak, Paul Edward Krug, Louis A. Kurz, Frank Steven LaFontaine, Joseph L. Lawrence, Paul J. Layton, Anthony Lee, Thomas Adger Lemly, Wil-

liam James Lindberg, Jr., John Thomas Lindel, Patricia Marie Lines, Albert George Lirhus, Dean C. Lonseth, Philip Joseph Lucid, Stephen James Lundin.

Richard Francis McDermott, Jr., David Thomas McDonald, Michael John McGuigan, James Andrew McKenzie, IV, Norman Richard McNulty, Jr., David Louis Mackie, Ralph Maimon, David Ford Mainland, Nate D. Mannakee, Steven Craig Marshall, Richard P. Matthews, Grant Scott Meiner, Mark R. Mendenhall, Charles Lewis Meyer, Mitchell Yoriyasu Michino, Nicholas Patrick Miller, Curtis Alexander Moore, Douglas Hugh Moreland, Joseph Terrence Moynihan, James Michael Murphy, Patrick Judd Murray.

William George Neely, James M. Neff, Scott Charles Neilson, Bradley W. Nitsche, David J. Ordell, Gerald Michael Ormiston, Charles R. Osenbaugh, Kimberly Williams Osenbaugh, Mark D. Pearlman, Richard Leslie Peterson, John Roger Pettit, Rodney George Pierce, Fiore Joseph Pignataro, Philip Frederick Postlewaite, Douglas Wayne Purcell, Glenn E. Reed, Jay Allen Reich.

Jere M. Richardson, James Louis Robart, Peter Guy Rothchild, Timothy P. Ryan, Charles Patrick Sainsbury, Jack E. Sands, John S. Santi, Symone Berdina Carter Scales, Benjamin Michael Schestopol, James L. Sheehan, H. Dolores Dasalla Estigoy Sibonga, Roderick Sinclair Simmons, Gerald A. Skulderud, Charles L. Smith, Douglas Joseph Smith, James Alexander Smith, Jr., Mark S. Snyder, Gary L. Soholt, Michael R. Sorensen, (V) Rafael Stone, Janalee Ruth Bower Strandberg.

James T. Tannesen, Kevin

Paul Teismann, David Frederick Thiele, Robin Cheryl Thomas, Robert N. Thomson, Terry E. Thomson, Gordon Val Tollefson, Charlotte A. Twilight, Dale R. Ulin, John Edward Vanek, Allen C. Vautier, Wilton S. Viall, III, James Earl Walsh, III, Barbara Pauliina Warren, Laurence Ross Weatherly, Craig V. Wentz, Mark Kenneth Wexler, Lish Whitson, Alan Lee Wicks, Walter Leroy Williams, Gerald S. Wysocki, Robert Hideaki Yamagiwa, George Yeannakis, Steven Arthur Yost, John Finley Young, Walter J. Yund, Jr., David G. Zimmar, Tama Zorn, William C. Zosel.

Aberdeen—Gregory Orian DeBay, Robert Francis Peck.

Anacortes—Brent James Gilhousen.

Arlington—Neil Thorne DeGoojer, Arnold Eugene Whedbee.

Bainbridge Island—Roger F. Donohoe, Christopher Ogden Duffy.

Bellevue—Roger Leslie Barbee, James W. Bates, Jr., William Myrle Bauer, Christopher Ian Brain, Dwight J. Drake, James Duncan Findlay, George Arnold Finkle, Jack Allen Ginsberg, William Frederick Greenlee, James I. Holland, Morton Dyas Hurt, John Bertram Jackson III, Darrell M. P. Jones, Steven Mark Lewis, Lawrence Elliotte Little, Kenneth L. Myer, Thomas Joseph Sedlock, Ellen Denise Tiger, Terry Nicholas Trieweiler, Shannon Carmen Wetherall.

Bellingham—John C. Belcher, James G. Bell, Steven G. Sisson.

Bremerton—Lawrence Raymond Hall, Stanley G. Williams.

Chehalis—Norman B. Stough.

Colville—Stephen Robert Blake.

Concrete—John L. Ketcham.

Cosmopolis—John Dore Schumacher.

Des Moines—Thomas Waldo Hennen.

Eastsound—Robert Hugh Murray, Jr.

Edmonds—John Richard Shields.

Ellensburg—Richard Tyler Cole.

Ephrata—Ray R. Whitlow.

Everett—Richard Paul Armstrong, G. Douglas Ferguson, Russell B. Juckett, Jr.

Farmington—Richard Lowell Lehn.

Federal Way—Judith Tibbetts Graves.

Ft. Lewis—Christopher Sutton.

Garfield—Dolores Jane Cooper.

Gig Harbor—David D. Gordon, Theodore Marvin Johnson, Jr., Nick L. Markovich, Jr.

Issaquah—Frank Steven Lathrop.

Kennewick—Stephen Templeton Osborne.

Kirkland—Thomas Camblin Gores, Jerry H. Kindinger, Gary Curtiss Newbill, Thomas Sleret Robinson, Victor Dale Sampson, Cheryl A. Sylvester.

Lake Stevens—H. L. George Knowles.

Longview—David Stanley Edwards, Philip Edmund Hickey, William James Kenny, Clifford Michael McLean.

Lynnwood—Robin Michael Force, Donald Earl Wallace, Richard Ivan Young.

Medina—Jack A. Meyerson.

Mercer Island—Robert Hedcock Campbell, Michael Andrew Doty, Carolyn Jean Hayek, John Lien Hendrickson, John L. McCormack, Janet Dolores Olejar, Robert J. Rankin, William Tracy Robinson, James Steven Rogers.

Mountlake Terrace—Larry Boyd Bolin, Donald Carl Cramer.

Oak Harbor—Joseph Hodge Alves III, Jacob Cohen.

Olympia—Henry L. Freund, Jr., David Lynford Henry, John Andrew Hoglund, Stephen Jensen Hosch, Stephen Cummings Kelly, John Callison Marks, Allan Peter Parsons, James Kendrick Pharris, Richard G. Phillips, Jr., Allen M. Ressler, Robert Othmar Sailer, Robert M. Taylor, Maxine Daniels Thomas.

Pacific—Robert Wesley Pruitt.

Pasco—Patrick Timothy Roach.

Port Orchard—William Leonard Denend, Ronald Dean Ness.

Pullman—Claude K. Irwin, Jr., John O. Knowlton, Ralph Andrew Kottke, Howard Marshall Neill, David William Savage.

Puyallup—Ronald Duane Flansburg, James J. Helbling, Gerald Wayne Neil.

Redmond—Brent Dean Hege, Mary Ann Ottinger Hege, Craig L. Miller, Ralph W. Moldauer, Leo Edward Poort, Wallace E. Skidmore, Jr.

Renton—Gerald R. Fuller, Paul Gerrit Van Wagenen.

Richland—George Francis Wolcott, Jr.

Snohomish—Stephen Lionel Conroy, Donald William Kennedy.

Spokane

Lee Miller Barns, Rolf G. Beckhusen, Jr., Barry John Briggs, Patrick P. Brown, Thomas H. Brown, Robert Wm. Burns, James Burton Canning, Edward L. Colleran, Clark Darrel Colwell, Thomas A. Cowan, Jr., David Dillard Cullen, Christopher John Dietzen, Frederick Joseph Dullanty, Jr., Jerry T. Dyreson.

Roger A. Felice, Holland

Badger Ford, Stephen A. Foster, Michael Charles Geraghty, Peter Jennings Grabicki, Bryan Patrick Harnetiaux, David William Henault, Tim M. Higgins, Thomas W. Hillier II, Thomas Edward Jaffe, Edward Mendenhall Joy, James C. Kaiser, Lawrence Daniel Kuhn, Rickey Carlton Kimbrough, Stephen Joseph Looney, Terry W. Martin, H. Michael Martinson, Gerald John Moberg.

Dennis W. Morgan, Michael Jon Myers, Clarence J. Nees, John Patrick Nollette, James M. Parkins, Anthony John Philippsen, Jr., Michael J. Pontarolo, William Burwell Pope, Jr., Kristina Kay Sonderen, Robert Gene Taylor, W. Russell Van Camp, Donald J. Vaux, Michael G. Wickstead, Roger S. Wilson.

Sultan—Ronald Paul Bell.

Tacoma—Denton P. Andrews, David Alfred Bateman, Gary Albert Burns, Tony Michael Cook, Franklin Louis Dacca, Leonard Spencer Davis, Thomas Peter Larkin, Terry Eugene Lumsden, Steven Edward Lundstrom, James Gaetano Manza, Donald G. Meath, Stephen Scott Moore, Robert D. Nelson, Joseph Doyle Puckett, William Rademaker, Jr., Richard Raymond Schmal, Larry Richard Westholm, Edward Sydney Winskill.

Tumwater—Ralph Raymond Smith.

Vancouver—Randall Earl Ferguson, Grant Eugene Hansen, Gerald Don Joshua, Gregory James Tripp, Douglas O. Whitlock.

Walla Walla—Charles Brooks Phillips.

Yakima—Stephen M. Brown, James Edward Davis, Judy Ann Dugger, Vernon E. Fowler, Jr., J. Eric Gustafson, Russell James Mazzola, Ronald Stanton Zirkle.

Out of State—Douglas Lewis

Bell, Georgia, James Stanford Black, Jr., New York, James Aldon Cathcart, California, Roger Alan Coombs, Arizona, Stephen Robert Crossland, Oregon, Robert Paul Dick, Virginia, Cathleen Heffernan Douglas, Washington, D.C. Susan K. Gauvey, Arizona, Alan W. Ginsberg, New Jersey, James Ryburn Halstead II, Oregon, James C. Harrison, California, John Jacob Hilzer, Oregon, Gerald Don Kelly, Oregon, Richard A. Louthan, Idaho, Joanne Yoshie Maida, California, John Michael Meyer, Maryland, James Albert Moser, Virginia, Suzanne Elizabeth Mounts, California, John David Pappas, California.

Laurel James Peterson, Alaska, J. A. Powell, California, Timothy William Quirk, New York, John T. Ramstedt, Idaho, Steven M. Rosen, Virginia, Arthur Paul Schneider, Jr., California, Gerald Lee Sharp, Alaska, Bradley David Stam, Virginia, James John Stefnik, New York, David John Thornton, Jr., Idaho, Carl J. West, III, Illinois.

Attorney Applicants—Ricardo F. Buenaventura, Puyallup, Austin James Farrell, Mercer Island, Gerald A. Karam, Bellevue, Edward Carl Lagerquist, Seattle, C. E. H. McDonnell, Bellingham, Melvyn Roy Rubin, Tacoma, Paul Sidoran, Tacoma, Peter Lewis Sill, Bellevue, Henry C. Winters, Bellevue.

Dallaire Appointed

Gregory R. Dallaire of Seattle was named the delegate from the ABA Young Lawyers Section to a new 17-person interdisciplinary commission on the mentally disabled. The appointment was made by Chesterfield H. Smith, ABA president.

Grants Available

Washington State residents, including lawyers and legal groups, who are concerned about issues of educational policy may be eligible to obtain a grant from the Washington Commission for the Humanities, according to Dr. David G. Barry, commission chairman and professor at Evergreen State College.

He said competition begins this fall for the approximately \$250,000 to be allocated to Washington State for 1974 by the National Endowment for the Humanities. Grant guidelines and application forms are now available at the Washington Commission for the Humanities office (The Evergreen State College, Library 3229, Olympia, Wash. 98505).

Proposals to be considered for funding beginning January 1 were due at the W.C.H. office by November 2, 1973. A March 15 deadline has been set for projects later in the year.

Bequest to Law School

A bequest of \$30,000 to the University of Washington School of Law has been made from the estate of Evans C. Bunker, a prominent Whitman County attorney and judge. The fund will be set up as a memorial to Mr. Bunker and his wife, Margaret Newman Bunker. Mr. Bunker was a graduate of the University of Washington and practiced law for many years in Colfax and Lacrosse. At the time of his death, he was a District Judge in Colfax. His wife was the daughter of Thomas Newman, a judge in Bellingham for many years.

GU LAW SCHOOL TO OFFER 4 TOP SCHOLARS DURING EXPO

Four of the nation's top law professors, each a specialist in his own field, will come to the Gonzaga University School of Law to teach summer courses directed at law students, lawyers and judges.

The Rev. Francis J. Conklin, S.J. dean of the GU School of Law, said the program was planned to tie in with Expo '74 by giving visiting lawyers and judges in the Spokane area access to four of the top legal minds in the country.

The four are:

Professor Paul A. Freund, professor of law at Harvard, who will teach constitutional law; **Prof. Maurice Rosenberg**, professor of law at Columbia University Law School, conflict of laws; **Prof. Pierre Loiseaux**, professor of law at the University of California at Davis, commercial law, and **Prof. Richard C. Maxwell**, professor of law at the University of California at Los Angeles, the law of oil and gas.

Freund, who has been at Harvard since 1940, is recognized as a leading authority on constitutional law in this nation and has served as a consultant to the television networks on constitutional matters pertaining to the ongoing Water-gate crisis. His course will be taught at GU from June 10 to July 19.

Rosenberg, current president of the American Association of Law Schools, has been a full professor at Columbia since 1958 and has authored several articles and books on his specialty, conflict of laws. He will teach from June 17 to July 26.

Loiseaux, who has taught at a number of leading law schools, has been a Fulbright lecturer on law in Denmark and has authored books on contracts, commercial law and creditors' rights. He will also teach from June 17 to 26.

Maxwell is a former dean of the UCLA Law School and is a top expert on law pertaining to oil and gas. He is the immediate past president of the American Association of Law Schools. His course will be offered from June 17 to July 26.

Father Conklin said the presentations by the four scholars will form the nucleus of the GU Law School's summer program, which is being restructured to accommodate visitors to Expo '74.

Competitive Salaries for Public Defenders Urged by Board

Salaries high enough to attract the most able law school graduates to jobs as public defender attorneys are urged in a resolution passed by the State Bar's Board of Governors.

Public defender salaries should be at least on a par with those of attorneys employed in prosecuting attorneys' offices, the board said in the resolution.

The board also urged a limit on the number of felony cases assigned to each public defender caseload.

"The Constitution of the United States and its criminal justice system require that the defendant be treated fairly and such fairness requires that the indigent defendant be provided legal services of high quality," the resolution states.

It adds: "Felony caseloads for defender attorneys should not exceed a maximum of 150 cases per attorney per year and each jurisdiction should conduct a study of such caseloads to determine whether a lesser figure should be adopted. Caseload standards in other fields, such as juvenile, misdemeanor, mental illness, etc., should be set after appropriate study."

Alaskans' Tuition to Be Paid

Gonzaga University has entered into an agreement with the State of Alaska and the Western Interstate Commission for Higher Education (WICHE) enabling Alaska residents to attend the Gonzaga School of Law with all tuition and fees paid for by the state.

The Rev. Francis J. Conklin, S.J., dean, said, "It is convenient for Alaska to finance this program since the population does not really warrant the financing of a law school there. This program has been used with success in other fields of study, such as medicine."

There now are ten students at the school from Alaska.

The Sections

Bar Education Key to Environmental Law Section

There is a lot more to environmental law than just Environmental Impact Statements. If lawyers had any doubt on the broadening impact of environmental regulations and litigation, that doubt was removed by the recent *Roanoke Reef* decision () which made compliance with the State Environmental Policy Act (RCW 43.21C et seq.) necessary for discretionary, non-duplicative governmental actions. That case involved a building permit renewal. To demonstrate the fact that all lawyers are increasingly involved in environmental law, you only have to make a checklist of your clients' concerns over building permits (City and County), parking permits (EPA) and complex sources of air pollution (DOE), shoreline developments (Shorelines Management Act), advertising (proposed billboard restrictions), and as stated so eloquently in "The King and I," "etcetera, etcetera, etcetera."

Responding to the burgeoning concern, your State Bar recently established the Environmental Law Section. Charles Roe, chairman-elect, will be heading a Section Newsletter (Any suggestions for a name?) to keep section members informed and educated on the latest environmental developments. Irving Clark, secretary-treasurer, will be working at getting you to become an active section member. Dues of \$5 a year are payable now; send a check to the Washington State Bar offices.

First priority of section activities in the coming year is educational. A CLE program, possibly timed to coincide with the opening of Expo '74, which

has an environmental theme, is being directed by Charles Mertel. George Mack, John Snoddy, and Charles Roe will work with other section members to develop the CLE program. (Each section member will be getting a card shortly whereby they can volunteer to help in this as the other activities.) The CLE program will emphasize learning about the State Environmental Policy Act, the Shoreline Management Act, and why this environmental concern is upon us. Specific problems in land use, air quality, and water control will be discussed in the context of specific study materials and worksheets.

Aiding local county bars will be the principal activity of Phil Bert and other section members. A compilation of legal and technical speakers for county bar meetings will be prepared. Your local bar can use the list to direct attention to specific environmental problems your county may face. Not to be forgotten is George Mack's work towards a possible seminar at the next Bar Convention.

NOTES:

✓ The House of Representatives' *Committee on Ecology* is studying HB 700 which would require that a refundable deposit be paid on beverage containers sold in the state. Close attention is being paid to Oregon's experience banning non-returnable bottles. ✓ When counseling municipal corporations on implementing regulations for the State Environmental Policy Act (RCW 43-21C et seq.), you might look at Department of Ecology's Guidelines (write Dennis Lund-

blat, Department of Ecology, Olympia); also, King County's regulations (write Mr. Tom Ryan, King Co. Department of Community & Environmental Development), or California's (write The Resources Agency of California, 1416 Ninth Street, Sacramento, Calif. 95814). ✓ Mr. Frederick R. Anderson of the Environmental Law Institute recently had published "NEPA in the Courts—A Legal Analysis of the National Environmental Policy Act". This is one of the best pieces on the NEPA/SEPA legislation (available for \$6.95 in paper from Resources for the Future, Inc., 1755 Massachusetts Avenue N.W., Washington, D.C. 20036). Incidentally, two of our section members may soon have an article in the U.W. LAW REVIEW. ✓ Your county will be submitting, by December 24, 1973, a Master Program under the Shoreline Management Act to the Department of Ecology for review and approval. Will it permit or restrict your client's development? ✓ The State of Washington may soon be given authority to issue the National Pollutant Discharge Elimination System (NPDES) permits under the Federal Water Pollution Control Act Amendments of 1972. All point source discharges to our waters are prohibited unless your client has his NPDES permit and is in compliance with various sections of the Act. ✓ Client building a facility which use will result in motor vehicle emissions? Check the Department of Ecology's Complex Source of Air Pollution Regulations WAC 18-24) and EPA's parking permit requirements if in King, Pierce, Snohomish, Clark and/or Spokane counties. ✓ Legislation in the coming session will be considered in Noise Pollution

(represent a trucking firm?) and in Forest Practices. The latter involves a question of counties being preempted from engaging in forest practices regulation. ✓ Section Board members, Roger Leed and Tom Garlington, were featured speakers at the National Institute on Environmental Highway Litigation, November 30 and December 1, 1973 in St. Louis. ✓ The Seattle-King Co. Bar Office (\$5.00; 320 Central Bldg., Seattle) has copies available of Proceedings of a Symposium on the Shoreline Management Act held in June, 1972. Speakers included Charles Roe, Robert W. Graham, Prof. Ralph Johnson and Marvin Durning among other experts. Good legislative history of the Shoreline Management Act.

REMEMBER: Join the Environmental Law Section (send \$5 and your name to the State Bar Office) and then volunteer to help accomplish the section's environmental law educational activities.

Joel Haggard
Section Chairman

Law Study Center Gets New Director

Dr. Duncan Chappell, an international authority on criminal justice, has been appointed Director of Battelle's Law and Justice Study Center in Seattle.

Dr. Chappell has been an associate professor in the School of Criminal Justice of the State University of New York in Albany since 1971. A native of England, he was graduated from the University of Tasmania in Australia. He received his doctorate from the University of Cambridge, England, under a British Commonwealth Scholarship.

Most Men Under New Work Rules

Several State employment standards which once related only to women now apply to male employees as well, according to William C. Jacobs, director, Department of Labor and Industries.

Jacobs, also chairman of the State Industrial Welfare Committee, said the six-member Committee has adopted emergency rules covering minimum wage payment, paycheck deductions, itemized wage statements and minor work permits. These rules—and many other "Industrial Welfare Orders"—have applied to women and minor employees for years. But the recent passage of Senate Bill 2463 ended the discriminatory aspects of the former law by extending the committee's rule-making authority to include male employees, Jacobs said.

The new law requires adoption of revised Industrial Welfare Orders suited to both sexes. But adopting new permanent orders will take time. In the meantime, the Committee has adopted on an immediate, emergency basis four rules that can't await permanent adoption procedures.

Under the emergency rules the minimum wage is set at \$1.60 per hour, in keeping with the State's minimum wage law. Special rates for trainees and learners (85 percent), for student learners (75 percent) and for handicapped workers are allowed. The minimum wage for minors is \$1.40 per hour, and each employee under 18 must have a valid minor work permit.

Jacobs said the rules prohibit employers from deducting from wages of employees for cash shortages, failure of customers to

pay, and breakage or loss of equipment—except in cases of proven employee dishonesty or willful negligence.

Another provision requires employers to furnish each employee with itemized wage statements showing hours worked, pay rate(s), gross wages and deductions, Jacobs said.

Nearly all employments are subject to the emergency rules, except newspaper vendors or carriers, domestic or casual labor in or about private residences and farm workers.

Jacobs said the Industrial Welfare Committee has begun investigating wages, hours and working conditions in occupations subject to the law. A series of information-gathering meetings will supplement data gathered by this study. On the basis of what is learned through these efforts, new orders will be drafted for proposal at a public hearing to be announced at a later date.

Compensation Program Director Is Appointed

Calvin Winslow, Olympia, will head the State's new program to compensate victims of violent crimes.

William C. Jacobs, director, Department of Labor and Industries, said he selected Winslow on the basis of his extensive experience in handling workmen's compensation claims. The crime victims' compensation law, enacted as Senate Bill 2490 by the 1973 Legislature, is patterned largely after the State's workmen's compensation law.

The new crime victims' law will become effective July 1, 1974.



SUPREME COURT PRACTICE

By WILLIAM M. LOWRY

Supreme Court Clerk

CAROA 14 resolutely approaches the question of what determinations are appealable with the following language:

An aggrieved party may appeal a cause . . . from any and every of the following determinations, *and no others*, made by a superior court . . . (Emphasis added)

The rule then sets forth eight categories of determinations. Research by the Appellate Rules Task Force, particularly staff assistant Karl Tegland, suggests that changing "and no others" to "and some others" would clarify the rule. The following orders have been held final and must be timely appealed to obtain a review:

ESTATES

Award in lieu of homestead	RCW 11.52.016, 11.52.010; <i>In re Shew's Estate</i> , 48 Wn.2d 732
Award of homestead	RCW 11.52.016, 11.52.020
Award in addition to homestead	RCW 11.52.016, 11.52.022
Family allowance to survivors of decedent.	<i>In re Kruse's Estate</i> , 52 Wn.2d 342
Order requiring guardian to pay money to ward.	<i>In re Hill's Heirs</i> , 7 Wash. 421
Denial of motion to vacate an order appointing a guardian.	<i>State ex rel. Young v. Denney</i> , 34 Wash. 56
Order for an accounting, containing a final decision determining the general rights of the parties.	<i>In re Halle's Estate</i> , 29 Wn.2d 624
Order overruling objections to final accounting.	<i>In re Shew's Estate</i> , 48 Wn.2d 732
Order vacating decree on the grounds that decedent died intestate.	<i>In re Halle's Estate</i> , 29 Wn.2d 624
Decree approving or	RCW 30.30.090

disapproving trustee's accounting.

DOMESTIC RELATIONS

Modification of custody provisions of divorce decree.	<i>Sutter v. Sutter</i> , 51 Wn.2d 354
Order for suit money.	<i>State ex rel Taylor v. Superior Court</i> , 151 Wash. 568
Order reducing alimony.	<i>Liebig v. Liebig</i> , 107 Wash. 464

CREDITORS

Order quashing, or refusing to quash writs of execution after judgment.	<i>Washington Dredging & Improvement Co. v. Kinnear</i> , 24 Wash. 405
Order quashing writ of garnishment.	<i>Tatum v. Geist</i> , 40 Wash. 575
Receivership; Order confirming final report and directing a distribution of funds.	<i>Chandler v. Cushing-Young Shingle Co.</i> , 13 Wash. 89 (1895)
Order directing sale and determining creditors' preferences (receivership action).	<i>Radebaugh v. Tacoma & Puyallup R.R. Co.</i> , 8 Wash. 570 (1894)
Order directing compensation of receiver.	<i>Tompson v. Huron Lumber Co.</i> , 5 Wash. 527 (1893)
Order making partial distribution of estate following assignment for benefit of creditors.	<i>Dexter Horton & Co. v. Schwabacher Bros. & Co.</i> , 5 Wash. 344 (1892)

CIVIL PROCEDURE

Denial of motion to vacate judgment, including default, unless the remedy of appeal from final judgment was adequate but was not pursued.	<i>Sound Investment Co. v. Fairhaven Land Co.</i> , 45 Wash. 262; <i>Graham v. Yakima Stock Brokers, Inc.</i> , 192 Wash. 121
Granting of motion to vacate judgment.	Some cases suggest that the order is appealable on the grounds that it is tantamount to

the granting of a new trial, which would be an appealable order. *Marie's Blue Cheese v. Andre's Better Foods*, 68 Wn.2d 756. Other cases, however, suggest that the order is not appealable on the grounds that it lacks "finality" and that an appeal should wait until final judgment. *Brandtjen & Kluge, Inc. v. Nanson*, 9 Wn.2d 360

Order quashing summons, necessitating new proceedings.

Tatum v. Geist, 40 Wash. 575

Order entered pursuant to CR 54(b), deciding fewer than all claims or rights of fewer than all parties.

Manion v. Pardee, 79 Wn.2d 1

Final Order, even though accompanied by actions to be taken if certain contingencies occur.

Weaver v. Stinson, 177 Wash. 140

Dismissal of counterclaim without prejudice when effect is to terminate action.

Lewis County Savings and Loan Ass'n. v. Black, 60 Wn.2d 362

Order modifying previous judgment.

Alexander v. Lewes, 115 Wash. 319

Order dismissing some, but not all, defendants in personal injury action when effect is to deprive plaintiff of remedy.

Adams v. Allstate Insurance Co., 58 Wn.2d 659. *Query*: What result after adoption of CR 54(b)?

MISCELLANEOUS

Order of public use and necessity.

This order is not strictly "appealable," for, by statute, review is limited to certiorari. The court has held, however, that if certiorari is not sought within five days, the error is waived and cannot be

reviewed upon appeal from final judgment in an eminent domain proceeding. RCW 8.04.070; Taylor v. Greenler, 54 Wn.2d 682

Order of Contempt.

RCW 7.20.140; *Limited in Arnold v. National Union of Marine Cooks*, 41 Wn.2d 22

Order in habeas proceeding discharging a prisoner.

In re Garfinkle, 37 Wash. 650

Order in partition proceedings, adjudicating the interests of the parties.

Bishop v. Lynch, 8 Wn.2d 278

Order quashing subpoena.

State of Washington v. Superior Court of King County, 139 Wash. 704

Order levying assessment.

Bennett v. Thorne, 36 Wash. 253

COURT OF APPEALS

By JOSEPH A. THIBODEAU

CAROA 33(5) and its criminal counterpart, CAROA 46(e) (1), provide that unless the chief judge shall previously order otherwise, the appellant must

- (1) 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
- (2) 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.
- (3) 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.
- (4) 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.

Failure to comply with provisions of this paragraph may be grounds for imposition of terms or dismissal upon the motion of the parties or the clerk.

The primary purpose of this provision was that by requiring appellant to make arrangements and file a statement, this would avoid appeals taken for delay only.

To avoid any further abuse and to assure compliance with the rules, the court is now adopting the policy in both civil and criminal cases that the clerk examine each file 55 days after the notice of appeal has been filed. In the event the file discloses that the statement has not been filed, a court's motion to dismiss will be placed on the next available motion calendar.

A statement shall be in substantially the following form:

IN THE COURT OF APPEALS OF THE
STATE OF WASHINGTON
DIVISION _____

(Plaintiff)

(Respondent or
Appellant,)

v.

STATEMENT OF
ARRANGEMENTS

(Defendant)

(Appellant or
Respondent.)

Court of Appeals
No.

Appellant hereby states that the court reporter,

(name and address) , has been ordered to transcribe the statement of facts necessary for the appeal, and that arrangements accepted by the court reporter have been made for the payment of the cost. He further states that arrangements have been made with the clerk of the superior court for what he wishes to be included in the transcript.

DATED this day of

(Name, address and telephone
number of counsel for appellant,
or of court reporter if
appellant is pro se.)

SUPERIOR COURT NEWS

By ROBERT M. ELSTON, Judge
King County Superior Court

Judge **Walter A. Stauffacher** (Yakima), with interesting results, has given community talks in which he asks lay citizens to engage in sentencing.

Judge Stauffacher utilizes the facts of an actual case. First, he reads a newspaper story about a sentencing, explaining this is the information upon which the public forms opinions as to the appropriateness of a sentence. He points out that newspapers have practical limitations of time and space and cannot cover each sentencing in detail but that more is involved in sentencings than appears in print.

On the basis of the newspaper story, Judge Stauffacher asks his audiences to indicate their sentences on forms he supplies. After this is done, he discusses factors that sentencing judges must consider: possible rehabilitation vs. danger to society; what can be accomplished through conditions of probation; the cost of "warehousing" individuals together with hidden costs such as welfare, restitution, etc.; and the long-range outlook of what an offender will be doing years from the sentencing.

Then Judge Stauffacher reads a pre-sentence report and explains that the judge also had this additional information upon which to base his sentence. The audiences are then given different forms upon which to indicate the sentences they would now impose. A wide disparity of sentencing is revealed—not from individual to individual, but in the same individual depending upon the information available.

Responses from two recent audiences indicate that on the basis of newspaper information the "pro tem" judges would: sentence to state institution—85; grant probation with county jail time—73; grant probation without county jail time—6. On the basis of the additional pre-sentence information the same persons would: sentence to state institutions—13; grant probation with county jail time—35; grant probation without county jail time—116.

Judge Stauffacher "firmly believes that both the bar association and the judiciary need to do considerably more in advising the general public about the 'mysteries' of the law and the sentencing procedures that are being so severely criticized by the public because of a lack of understanding."



Rolling Shelves

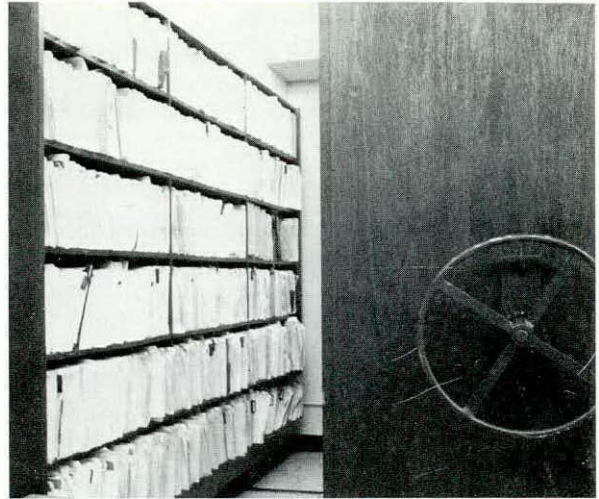
When we designed our law building we had accumulated a good many transfer files and a substantial library. With the present cost of building, floor space to house both the library and the transfer files represented a substantial portion of our building expense.

Initially, we had designed a daylight basement by extending the foundation some 10 feet beyond the building so that we had an outside area 10 x 50 feet in which we planted a Japanese garden complete with gold fish in the pool, bridge and waterfall. Sliding glass doors and windows occupied the garden wall. Then came private offices and conference rooms with ceiling-to-floor partitions of heavy glass screened with drapes on tracks with electric motors controlled by buttons at the lawyers desk so that he could open or close them as he desired privacy. Next to the glass partitions came the stenographic desks and an area against the back wall some 8 feet deep was selected for the library and transfer files.

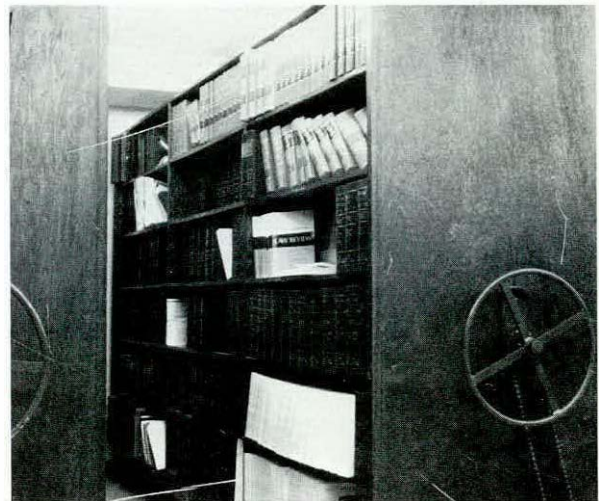
When the slab floor was poured, two 2 x 4s were placed in the concrete where the tracks for the rolling shelves were later to be installed. They were removed and the tracks put in place. These tracks are 2½" angle iron set in pyramid form and the steel wheels that run on them are V shaped to fit the top of the pyramid. As shown by the illustrations, turning wheels are mounted on the end of each unit with a chain going down to a sprocket connected to a shaft which turns the wheels on the floor level.

Each rolling shelf is 28" deep, being 14" on each side, allowing us to double deck our books with the odd numbers in front and the even numbers behind. Since 14" is also the size of a legal file, we start our library in one end and our transfer files at the other and work toward the open space in the center. We have a briefing alcove alongside the rolling shelves where the lawyers can isolate themselves with a dictation machine for their heavier briefing.

These rolling shelves have a tremendous capacity and since there is only one passageway or aisle they represent a great saving of space. Recently I have read of commercial units equipped with electric motors, but they appear to be about ½ as wide as our units and designed for single decking rather than double decking library books.



The files . . .



And the books

I was interested to learn from an old librarian that double decking of books has been the custom at Oxford for more than 400 years and on numbered sets I have often wondered why we have been so long in adopting it in legal libraries.

Harry E. Hennessey

Prepared by the Committee on Law Office Economics and Management, Raymond D. Torbenson, 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.

Two New CLE Manuals Now Available to Bar

Now available from the State Bar Office are two new Continuing Legal Education Practice Manuals:

Estate Planning, 8½×11, offset, soft cover, 263 pages, \$15. Contents and authors: Community-Separate Property, James B. Gilchrist, Seattle; Avoidance of Probate, Scott B. Lukins, Spokane; Buy-Sell Agreements, Kenneth L. Schubert Jr., Seattle; Income Taxation of Trusts and Estates, Hilton B. Gardner, C.P.A., Tacoma; Basic Tax Considerations on Gifts to Minors, S. Alan Weaver, Tacoma; "Cafeteria" Compensation for Employees, Ted Kibble, C.L.U., Seattle; Recent Federal and State Developments in Estate Planning, Malcolm A. Moore, Seattle; Transfers of Closely Held Business Interests—Planning and Drafting, Malcolm A. Moore, Seattle; Third Party Life Insurance Ownership, Fred J. Dophiede, C.L.U., Byrn Mawr, Pa.; Immediate Pre-Mortem Estate Planning, Edward S. Schlesinger, New York; Estate and Trust Administration — Problems and Solutions, John R. Cohan, Los Angeles.

Public Interest Law, 8½×11, offset, soft cover, 311 pages, \$12.50; (Supply limited). Contents and authors: Discrimination in Employment, John F. Aslin and Elizabeth J. Bracelin, Seattle; The Civil Rights Act, Stephen M. Randels, Seattle; Environmental Protection, Roger M. Leed, Stephen J. Crane, Stephen A. McKeon, Kenneth W. Vernon, all Seattle; Consumer Protection, Charles D. Armstrong, Robert J. Baynham, Peter Moote, Seattle; The Right to Court-Awarded Attor-

Lawyer-Volunteers Are Sought for Corrections Program

A volunteer program available through the Washington State Bar and the State Adult Probation and Parole Office gives lawyers the opportunity to work as volunteer sponsors on a one-to-one basis with an adult parolee or inmate of a state prison.

It is called Lawyer Volunteers in Corrections (formerly known as Volunteers in Parole Program) and during its first year has given over 80 lawyers from all parts of Washington a unique opportunity to see how our correctional system affects those who are incarcerated. Washington is one of 12 states which participated in this pilot project of the American Bar Association, and to date more than 1400 attorneys across the country have become involved.

Many attorney sponsors have worked with inmates in state prisons and the response has been excellent. Generally, the inmates feel that a sponsor is a "very important outside resource and just someone who cares what happens to the resident."

It has been shown that the highest rate of return to prison for a parolee is during the first 3 months after release. During this time, the backing and support of an established member

neys' and Expert Witness Fees in Public Interest Cases, J. Anthony Kline, San Francisco; Representing Community Organizations, J. Richard Aramburu and Frederick Mendoza, Seattle; Class Actions, William L. Dwyer and Richard C. Yarmuth, Seattle.

of the community can mean the difference between "making it" or going back to jail.

Jim Kaeding, an Olympia attorney, tells of his experience as a sponsor: "Bill was released from prison with \$40, a suit of clothes and no family or friends in the area. I don't know how he would have made it those first few days without a contact in the city."

As a sponsor you may assist an inmate in preparing pre-parole plans, help locate job resources or perhaps assist in registering for school or training programs. The problems are varied but all have a common base: The need to be reintegrated into the ordinary community—sometimes after an absence of several years. As a volunteer sponsor, you will serve as a bridge back into society, providing practical assistance when possible, but more important, being someone who listens, counsels and cares about someone else. As a sponsor you will see how the parole system works and have the chance to appreciate the difficulties encountered by both the Parole Officer and the parolee.

You will not be providing free legal services as a sponsor. Rather, you will be a counselor, friend, resource person and motivator for a parolee or inmate. The time commitment asked is about 8 hours per month for one year.

Trisha Streff, the program's coordinator, has materials available about the program; she will be glad to talk with any who are interested. She is at 918 Smith Tower (phone 464-6524).



Wanted and Unwanted

Space Available: For one lawyer in law offices, ground level, in small business and professional mall, 6522 N.E. Bothell Way; overhead dependent upon services required; available are Washington library, file space, copying, air conditioning. Stanley B. Allper, 485-9591.

For Sale: Complete Washington Practice Set and Washington Digest set. Vern Guinn, Longview, 423-8820.

For Sale: Complete RCW and Wash. Practice vol. 2-8. Any offer considered. Mark Litchman, Seattle, AT 5-3900.

For Sale: Entire 1st series National Reporter (Pacific, S. Eastern, S. Western, Southern, NY Supp, NW, NE, Atlantic, Federal); also English law books, English Reporters; Michell Koss, Seattle, 623-7520.

Wanted: Entire law office furnishings, equipment, books, forms, etc.; D. J. Cooper, Route 2, Box 37AA, Garfield, 509-EX7-4085.

For Sale: One or two IBM executory dictators, one transcriber with belts and indicator pads, \$200 each or best offer. Paul W. Chemnick, Seattle 622-1905.

For Sale: Wash. Reports and Appellate Reports, complete and current, \$2,000. George W Schoonmaker, Seattle 622-4841.

For Sale: Medical Atlas for Attorneys (10 Vol.) plus complete set of courtroom drawings

Dec. 1

CLE Seminar, Greenwood Inn, Olympia, Washington State Taxes: Substance, Administrative Remedies, Trial Practice. John T. Piper, Chmn.; Speakers: Michael L. Cohen, James Furber, Graham H. Fernald, Harley H. Hoppe, James R. Stanford, S. E. Tveden, E. M. Sandy Murray; Consultants: William R. Anderson, Michael B. Hansen, Robert S. Mucklestone.

Dec. 8
Dec. 14

CLE State Tax Seminar, Olympic Hotel, Seattle.
CLE State Tax Seminar, Ridpath Hotel, Spokane.

Jan. 9-12

CLE & Ski program, Big Mountain, Whitefish, Mont., on Land-Use Planning; faculty includes Marvin Durning and Richard U. Chapin of Seattle; registration limited to 100, fee \$100; sponsored by Continuing Legal Education Montana, University of Montana Law School, Robert E. Sullivan, Dean, Missoula 59801.

March 6-9

Sixth Medical Legal Institute, Americana Hotel, Miami Beach; for information, University of Miami Law Center, Box 8087, Coral Gables, Fla. 33124.

March 15,
23 and 30

CLE Seminar in Spokane, Seattle and Olympia on Personal Injury Practice Under The Comparative Negligence Law.

Notice of Hearings

Mr. Arthur S. W. Chantry and Mr. Harold V. Johnson have applied to the Board of Governors of the Washington State Bar Association for reinstatement to the practice of law.

Mr. Chantry was disbarred by the Supreme Court of the State of Washington on October 28, 1965 (67 Wn. 2d 190).

Mr. Johnson was disbarred by the Supreme Court of the State

and surgical techniques. Hammermaster, Robbins & Boettcher, Sumner, 863-5115.

For Sale: Year-old RCW with cumulative supplement index and legislative supplement, \$140. Neil G. Mackinnon, Seattle 682-9065.

of Washington on June 20, 1968 (74 Wn. 2d 21).

On or prior to the date of the hearings anyone wishing to do so may file with the Board of Governors written statements for or against reinstatement, such statements to set forth factual matters showing that the petitioner(s) does or does not meet the requirements of Rule 8.6 of the Rules for Discipline of Attorneys.

The hearings on Mr. Chantry's and Mr. Johnson's applications will be held on Saturday, December 8, 1973, commencing at 9:00 a.m. and 10:30 a.m., respectively. The hearings will be held at the Inn at the Quay, Vancouver, Washington.

Michael E. Jacobsen
State Bar Counsel

WASHINGTON STATE BAR ASSOCIATION

505 Madison Street

Seattle, Washington 98104

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