Volume 27, Number 5
May 1973

WASHINGTON STATE BAR NEWS

ALICE O'LEARY RALLS 1905-1972

MEMORANDUM

TO: All State of Washington Attorneys

RE: The Unique Facilities and Flexibility of the Metropolitan Press, Seattle, a Service Oriented Printing Company

The Metropolitan Press has earned the reputation as the state's leading legal-financial printer and color lithographer. This reputation has been accomplished progressively since the Company's founding in 1905 by people who believed in the highest standards of quality, integrity and service as they apply to the printing industry.

A partial listing of services in our Legal & Financial divisions include:

LEGAL DIVISION

(Pertaining to the printing and disposition of appellate briefs)

- Brief drafts are edited to conform to the current rules on appeal.
- Index and case authority are prepared for you automatically with special attention to the correct form of citations.
- Briefs are printed either letterpress or offset; are served for you on opposing counsel (either personally or by our affidavits of service duly prepared and notarized) and we file the requisite number of copies. The above services take place in most instances within 48 hours after receipt of copy.
- We specialize in appellate briefs for the Washington, Idaho and Oregon State Supreme Courts; The Washington State Court of Appeals; The Ninth Circuit Court of Appeals; The U.S. Supreme Court; The U.S. Court of Claims; and the Interstate Commerce Commission.

FINANCIAL DIVISION

(Pertaining to documents required for the issuance of securities to the public)

- Financial printing for SEC encompassing registration statements and prospectuses requires a thorough knowledge of the complex rules and regulations and in many cases, overnight production of the documents involved.
- The Metropolitan Press has produced the documents for the majority of full registrations originating from this state.
- We are also specialists in the production of offering circulars, Regulation "A"'s, engraved and lithographed stock certificates, debentures and bonds; indentures; merger agreements; proxy statements and proxies; and annual and interim shareholder reports.

The Metropolitan Press
appreciates your business;
solicits your continuing business;
and invites your referral of new business.

Please call MUtual 2-8800 collect — MUtual 2-8801 in the evening after 5 p.m.

s/Barry J. Reischling
Manager, Legal-Financial Divisions
CRAFTSMAN-MET PRESS
(Metropolitan Press)
Fairview Avenue N. & Valley, Seattle, Washington 98109

(paid advertisement)

Washington State Bar News

Published by
WASHINGTON STATE BAR ASSOCIATION
505 Madison Street Seattle, Washington 98104

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

United Graphics

Credits

- 13 Seattle Police Department
- 21 John D. McLauchlan

Letters

Due Process For Lawyers?

Editor:

As a member of the Local Administrative Committee for King County, I have been investigating complaints against lawyers. I am dumbfounded at the ruling of the Board of Governors that "a copy of the complaint shall *not* be furnished to the attorney complained against." Instead, "a precise statement of the nature of the complaint as well as the Canon alleged to have been violated should be given to the attorney by the Local Administrative Committee member."

This rule seems to violate every notion of fairness. Why should not the lawyer complained against receive a copy of the complaint itself? Why should lawyer or complainant have to be content with the transmission of the complaint to the lawyer complained against, through this intermediary paraphrasing?

Moreover, how can the LAC member tell the lawyer complained against what Canon he is alleged to have violated? The complaints nearly always come from laymen and do not mention any Canon. Is the LAC member supposed to decide what Canon might be involved, and to inform the lawyer, before making any investigation?

I ask the Board of Governors to abolish that rule and to provide that, in the case of each complaint, a copy shall be given to the lawyer complained against, and that the complainant shall be told in advance that this procedure will be followed.

DOUGLAS SHAW PALMER
Seattle

No Fee — No Decree?

Editor:

Hash, an Arizona attorney, died at 74. Among his files his Executors found 194 old, signed, but *unfiled* divorce decrees. Some of these were dated as far back as forty years. On March 9, 1973, the Arizona Supreme Court ordered all 194 decrees filed and entered nunc pro tunc on the grounds that this would cause problems for the least number of persons.

The Executors of the Hash Estate feared that the unfiled decrees created such problems as the possible illegitimacy of children from later marriages; the administration of pension and retirement funds and possible bigamy charges.

Hash had withheld filing of the decrees until his attorney fees were paid.

I have no information that this practice is followed by attorneys in the State of Washington. It would be a violation of CR 58(a) for an attorney to withhold the filing of a divorce decree for any purpose. However, it is easily possible for an attorney to do this by retrieving the signed decree from the judge and holding it in his file. In view of this bizarre Arizona case, a modification of court rule 58(a) might be in order making it mandatory for the judge to file divorce decrees immediately after the signing and perhaps prohibiting attorneys from retrieving and holding them.

It seems clear, that at best it is unprofessional for a lawyer to withhold filing a divorce decree that has been signed. But isn't it equally unprofessional to refuse to set a case for final hearing until the fee has been paid? This practice *is* widespread in the State of Washington.

In the spirit of provoking an exchange I will take the position that the time for a lawyer to refuse to do something in a divorce case comes when he has a choice of refusing the case — and not when he should be setting a hearing date or filing the signed decree. TENNIS ANYONE?

CLAUDE M. PEARSON
Tacoma

Presidential Plea Viewed with Suspicion

Editor:

I am in receipt of the Special Bulletin signed by the President and the urgent plea of the members of the Board of Governors above named regarding Senate Bill 2041. [Group Practice]

I note with some shame that although my bar dues goes to pay for this reading material that my organization has been very careful to avoid furnishing me with a copy of the bill. In other words I am being asked to blindly support a piece of legislation I have never had the opportunity to read.

Inasmuch as this organization is controlled, lock, stock and barrel by house counsel for insurance companies and other giant corporations having a strangle hold on the economy of the State of Washington, and with whom I have precious little common interest, I view any pleading of this kind with a great deal of suspicion. In fact, I would be inclined to urge the legislative representation from my district to vote against it, if for no other reason that the manner in

which I have been asked to support it. I am sure that there are many others who view your bulletin with the same skepticism.

VAUGHN E. EVANS
Seattle

Caveat to Land Developers

Editor:

The purpose of this letter is to alert your Bar to consequences which may ensue from failure to understand fully the Interstate Land Sales Full Disclosure Act and its implementing regulations.

The 1968 Interstate Land Sales Full Disclosure Act became effective April 28, 1969, and has now been operative for nearly four years. Although the Office of Interstate Land Sales Registration (OILSR) has processed thousands of registrations on both domestic and foreign subdivisions, it is nevertheless likely that an even larger number of subdivisions covered by this Act are still unregistered.

Unless exempt, any developer having 50 or more lots or parcels of subdivided land who sells these lots by using the U.S. mails or any other instruments of interstate commerce, without first registering with OILSR and providing the purchaser in advance of sale with an approved property report, is in violation of the law and may be sentenced to a jail term of 5 years or a $5,000 fine, or both.

In addition, all such contracts are voidable at the absolute and unconditional election of the purchaser. Besides refunding the purchase price of the lot, the developer may be required to pay the reasonable costs of all improvements on the lot or lots.

Attorneys who have developers as clients have a professional responsibility to familiarize themselves with the provisions of the Interstate Land Sales Full Disclosure Act and its implementing regulations, and to advise their clients accordingly.

In addition to the direct penalties that the developer may face, there may be serious derivative consequences for the accountants, bankers and title companies, and even the real estate brokers of unregistered developers under certain circumstances.

We urge you to read and study the Interstate Land Sales Full Disclosure Act and the OILSR Regulations. We are ready at all times to answer any questions from concerned parties.

GEORGE K. BERNSTEIN
Interstate Land Sales
Administrator
HUD Department
Washington, D.C.

No Response from Prentice-Hall

Editor:

Congratulations on your first issue.

I have two thoughts for you and fellow readers:

1. Several months ago the Journal printed my letter to Prentice-Hall asking why edition dates are left out of legal book advertising. No response then, either to the Journal or me; no response to date. This insulting practice seems endemic with most legal publishers.

It is now the subject of an FTC inquiry, and I invite lawyers to write either the Seattle or Washington, D.C. offices and make their views known.

2. Long motion calendars and client-disillusioning waits in presiding for trial, as much as two days, with attendant costs for experts on standby, are getting me down.

I think we ought to give the Pierce county "federal" system a try, but I don't have the court administrative experience or enough facts to be sure.

However, "doing is believing" and I find in Tacoma that trials happen on time, motions are quick and clean along with special pretrial or discovery matters, and best of all, the pre-assigned judge gets to know about the case in a different way than here in King county, which I have found promotes efficiency. The most obvious example is of course that motion calendars are shorter (each judge hears his own) and each judge controls his own trial calendar.

I would like to see rational comments and debate on this from attorneys here and especially from our local judges.

DON M. GULLIFORD
Seattle

Children's Orthopedic Trust Forms Ready

Editor:

The Children's Orthopedic Hospital and Medical Center has recently prepared sample forms of Charitable Remainder Annuity Trusts and Charitable Remainder Unitrusts for use by attorneys. Copies may be obtained by writing or calling Ronald Nordeen, Director of Development, The Children's Orthopedic Hospital and Medical Center, 4800 Sand Point Way N.E., Seattle, Washington 98105, 206/234-5058.

ROBERT MUCKLESTONE
Seattle

Editor's Notes

In March, we stated that much of the thrust behind no-fault auto insurance comes from the high cost of legal services. In April, in a letter to the Editor, Robert S. Day of Pasco suggested, *inter alia,* that we had accepted the propaganda of insurance carriers.

Our response:

"A more accurate accusation might be that I am promulgating insurance company propaganda rather than accepting it. Perhaps it is time to unmask and reveal my true identity as staff counsel for Unigard Insurance Group.

"As your letter implies, not all insurance companies are 'pushing for no-fault.' Several insurance carriers, for example, were in the forefront of the recent successful battle to defeat a no-fault initiative, sponsored by Common Cause, in Colorado. Much of the industry support for 'low threshold' no-fault at the state level comes from an appraisal that the alternative is more radical change imposed at the Federal level.

"Two-thirds of the automobile insurance premium dollar pays for *property damage* coverage in which the cost of legal services is a relatively minor factor. As to the remaining one third which pays for bodily injury coverage, the cost of legal services is significant. Department of Transportation studies show that $3.18 billion was paid for automobile bodily injury claims in 1968. Of this amount $1.17 billion was paid on 220 thousand litigated cases. (93% of these were settled. Plaintiffs won some recovery in 71% of the cases tried to conclusion.) Of the litigated cases in which any payment was made, the average loss payment was $5800.00; the median was $3,000.00

"The breakdown of the total cost of the average litigated automobile bodily injury case in 1968, according to my analysis of DOT statistics, was as follows:

Plaintiff's atty. fees (35.5%) $2050, 17%*; Plaintiff's litigation costs, $250, 2%*; Plaintiff's net recovery, $3500, 29%; Defendant's atty. fees, $820, 7%*; Defendant's litigation costs, $250, 2%*; Public's cost of maintaining courts, $650, 5%*; Commissions, Insurance Company Overhead, and Taxes (Prorated as a % of all $ paid out): Agent's commissions and other acquisition expenses, (20%), Loss Adjustment, Underwriting, Taxes, etc. (17%), Total, $4465, 37%: Grand Total $11,985, 100%

"You will note that attorneys' fees, additional litigation costs, and the cost of maintaining the court system (marked with an *), make up about ⅓ of the total. Advocates of no-fault argue that their system would save a good part of this cost, plus some of the loss adjustment expenses of the insurance carriers.

"I did not intend to imply that the high cost of legal services is a good argument for no-fault, or the major argument used by its proponents. Replacement of all personal liability based on fault with government mandated first party benefits would be an immediate detriment to the trial bar, and, in my view, sow the seeds of ultimate destruction of privately owned auto liability insurers.

"To dismiss the claim that the cost of legal services in automobile bodily injury litigation as mere insurance company propaganda, nevertheless, is to ignore a problem which merits the attention of the Bar."

H. McG.

Mr. Day's reply:

"Dear Mr. McGough:

Thank you very much for your letter of March 9, 1973 which contained a number of very interesting and valid statistics. The thing that I was concerned with, Hugh, was the somewhat misleading aspect, which is borne out by your letter, that the only statistics we really have are statistics on litigated cases. As you point out in your letter, the Department of Transportation study shows that $3.18 billion was paid for automobile bodily injury claims, and of this amount $1.17 billion was paid on litigated cases, which leaves according to my figures $2.01 billion which were not litigated and perhaps were not even represented by attorneys. In order to get what I consider to be valid statistics, you have to factor in not only the $1.17 billion but the $3.18 billion and measure the percentage based upon that figure rather than only upon the litigated cases. What I am saying, of course, is that if $1,000 is paid out for ten bodily injury claims, and one of them is a litigated claim in which the plaintiff gets $100 and the attorney's fee is 50%, then you could say according to the statistics that 50 cents of the premium dollar goes for attorney fees. This, of course, is not true and is the thing that many of us are very concerned about, that the insurance companies are trying to sell as part of the package to push for no-fault.

Please do not get the impression that I am accusing you of this in any way. I think the statistics you give are probably fair and accurate. I think we do have to recognize when we are

(Continued on Page 20)

The President's Corner

The Board of Governors recently asked the State Bar membership for all-out assistance in obtaining the enactment of Bar-sponsored group legal legislation in 1973. Many of our members responded promptly and effectively, and the Board of Governors is grateful for their assistance. At the time this is written prepaid group legislation is still in the Senate Judiciary Committee. On the other hand, the proposed mini-session in September appears to offer an opportunity for further legislative action this year, and all of our members are urged to continue and increase their support for legislation sponsored by the Bar Association.

Lawyers Need More Information

In any event, the subject of group legal services is one of first importance to lawyers generally as well as to the public. It is also new, complicated and substantially untested, and lawyers particularly need to know a great deal more about it.

Most of you are aware that group legal service programs are not entirely new. There are a number of such plans now in operation in the Seattle area. All of them are closed panel plans. None of them is prepaid. This is what our Bar-sponsored legislative program is all about — to provide a statutory vehicle for a non-profit corporation to operate an open panel group prepaid legal service program under Bar sponsorship and subject to Bar supervision. Another bill has been introduced which provides for prepaid closed panel plans. The prepaid feature of both bills raises the issue of insurance commissioner control. Under the Bar Association bill the open panel plan sponsored by the Association would be exempt from the provisions of the Insurance Code, the justification being the assumption by the Bar Association of supervisory responsibility.

The proponents of the closed panel legislation demand that both open panel and closed panel plans be covered by the same bill and their bill, as amended, would cover both and subject both to supervision by the Insurance Commissioner. The Board of Governors does not object to covering both types of plan under the same bill. It does, however, believe, that its proposed non-profit corporation, to be sponsored by the Bar Association and to be subject to Bar Association supervision, and also to be subject to the requirement that half of the members of its governing board be non-lawyer public members, should be free from control by any other regulatory agency. We very much hope to convince the legislature of this — that if there is to be one bill covering both types of plan the regulatory authority to be exercised by another agency as to closed panel plans instead be exercised by the Bar Association as to the Bar-sponsored open panel plan. It is on this issue that your help is most needed.

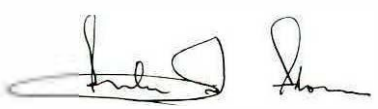
It is generally agreed that the greater part of the potential demand for prepaid group legal services will not be activated until there is further federal legislation in two areas; an amendment to the Taft-Hartley Act providing that legal services for employees are a proper subject for collective bargaining, and an amendment to the Internal Revenue Code which will make the cost of such services income tax deductible to the employer and not taxable income to the employee. There is considerable optimism that both such amendments will soon be reality.

Much to Be Done

In any event, there is much to be done in the meantime, especially for the open panel concept. Important facets in the development of an open panel plan include the establishment of the organizational structure of the non-profit corporation, the designation of the members of its governing body and review commissions, the development of the panel of participating lawyers throughout the state, and the creation and costing of a variety of plans covering different groupings of legal services from which consumer groups may choose. Many other important concerns will surely surface. All of this will take a good deal of time. And when the hoped for federal legislation has been adopted, we want the Bar-sponsored open panel plan to be off and running.

This why the Board of Governors believes time is of the essence in the enactment of prepaid group legal enabling legislation.

What do you think of this?



□

NOOSE IS TIGHTENING ON DELAY, CARELESSNESS

By Roy C. Mitchell
Director of Professional Activities
Washington State Bar

The wronged client eventually, inevitably blows the whistle. And that rare, rare bird, the actual lawyer "crook," is unearthed and undone. But what to do about those other birds whose "crimes" are sloppiness and carelessness in their practices, rudeness or indifference in their client relations, lack of proper responsibility?

Veterans of bar discipline work guess there are somewhere from 250 to 400 lawyers in that latter flock, scattered across the state.

They are the ones who bring most of the hundreds of complaints in the mail and on the telephone to the Bar Office every year. They are the ones who have clogged and slowed the discipline machinery, which instead is finely tuned for the occasional actual miscreant, the uncommon ethical violator or the rare crook. They are the ones who through the decades have muddied the public image of all lawyers, of the profession and doubtless of the system of justice.

The Names Are Familiar

"The same old names stay on the complaint investigation list year after year," says one long-time discipline worker. "The only way they seem ultimately to get off the list is to die."

But there are signs the rest of the Bar and its responsible leaders, particularly the Board of Governors and the Disciplinary Board, are getting restive and impatient. Things have been done, more is being done, and more changes, more tightening up, are in the offing.

Transition Nearing End

"We are beginning to reach the end of the transition from an amateur to a professional discipline program," says Michael J. Hemovich of Spokane, chairman of the Disciplinary Board.

"We have made tremendous advances. The Disciplinary Board has been able to relieve the Board of Governors of most discipline concerns and free the Governors for other constructive needs. We now have acquired a really great professional Bar Office staff. Work at the all-important Local Administrative Committee level, where delay became a headache, has been greatly improved and expedited — it's amazing sometimes, to those of us close to them, to see how hard some LAC chairmen and members really work, how much time they put in in the interest of the profession and the public, how thoroughly objective their investigations are.

"One county LAC chairman told me the other day that his work in the discipline field has given him more professional satisfaction than anything he has done in the practice of law — though it is an inherently distasteful job, it is a job that simply must be done for the public and the profession as a whole."

But he noted that the Disciplinary Board still is somewhat "in the embryo stage," still probing for further rules changes to speed and improve the processes, getting a closer look at the real problems.

Most Lawyers Do a Great Job

"Those of us close to discipline are finding out over and over what a really great job most lawyers do for their clients," he said. "But often the client doesn't realize this and is bitter because of an unfortunate result in litigation or a lack of understanding of what happened. He thinks sometimes that justice has abandoned him. And often, in these complaint cases, the client's matter was in bad, bad shape before he first reached the lawyer."

And sometimes the client's lack of understanding about legal and judicial processes, about what is going to happen or has happened in his case, is actually the lawyer's fault.

"Too often in complaint cases we find that the lawyer simply has not taken a few minutes to explain things and later handles the client's business without letting the client know what is going on. Sometimes clients who are kept in the dark end up accepting the situation anyway. But other times they become disturbed or frightened and they file a complaint, or call the Bar Office, which then has to provide the explanation that the lawyer should have provided."

Solo Practice Difficult

But in the lawyer's defense, Hemovich noted that the troubled lawyer quite often is a sole practitioner or in a small firm, is greatly overworked, when he has to go to court his office virtually falls apart, he has no partners to cover for him, and efficient office practice becomes almost impossible.

He says he has come to believe that one real key to happy client relations and to avoidance of complaints is "making the client feel you're giving him your full attention, that his is the most important matter you have on your desk. Even though many lawyers don't like to do it, making after-hours phone calls back to the client is highly effective — and the clients greatly appreciate it, even though they may be billed for it later."

Most Are "Good Guys"

Another long-time discipline leader notes: "Most of those troublesome lawyers are really fine people, nice individuals of good character, who wouldn't think of doing anything wrong. But they sure are hard on themselves and on other lawyers and the profession.

"I think the key is to educate them, to teach them to get the work done and improve client relations. They not only will avoid those repeated mistakes that endanger their reputation but also will find themselves making some money for a change."

Money is the cause of some lawyers' problems, according to two veteran observers of Local Administrative Committee operations.

"Typically, a certain kind of lawyer will agree to provide some legal service for a client, maybe without fully understanding what it entails," one man observes. "Then he learns how much work and time are involved and he knows there is no way he is going to earn any money at it. So he puts the file aside, probably at the bottom of his 100 or so files. And the longer it is there, the more repulsive the file appears. The lawyer comes to dread, and then to ignore, the puzzled client's inevitable phone calls and letters. The client has no place to turn except, of course, the Bar Office. And so another complaint feeds into the discipline pipeline."

Money Shortage a Peril

The other side of the money-problem coin is described by a former Disciplinary Board member:

"Some lawyers suddenly have had their cash flow slow up and find their resources insufficient. When their income situation is hurting, they have a hard time keeping their clients' money segregated. They typically do not use trust accounts for clients' funds. I have even heard of a lawyer or two who actually had *no* bank account, much less a trust account. These lawyers usually have no intention of 'taking' a client's funds — they just 'borrow' it temporarily. And it's then just a matter of time until a client feels he is being put off and he blows the whistle.

"This is one more reason that we need to keep an economically healthy bar."

He said that in his many years of experience he has found that lawyers' discipline problems stem from three causes: Use of other people's money, plain old lack of judgment, and delay and neglect — simply not getting things done, then failing to respond to the client's inquiries.

"In the lack-of-judgment category, most of the lawyers did not feel they were doing any-

Want to avoid complaints? Have happier repeat clients? Make more money?

The secret is all in the booklet, Your Income, Your Reputation and Your Clients, published by your State Bar and distributed to all lawyers as a special insert in the October 1971 issue of the *Bar News*.

If you have misplaced your copy you may obtain another by writing to the State Bar Office, 505 Madison, Seattle 98104.

The booklet was highly regarded enough that it was reprinted, verbatim and in toto, as a feature article in the February 1973 issue of the Florida *Bar Journal* for that state's 14,000 lawyers.

The Disciplinary Board takes a luncheon break during a monthly day-long meeting.

thing wrong. But they simply did not take a minute to think of the ethical considerations of what they were doing. A lawyer always must think as consciously of ethics as he does of his technical-legal performance — just sit back a minute and take an ethical look at what he's doing or about to do.

"Those three causes of lawyers' problems account for 80 per cent or more of the complaints.

Too Much Leniency?

"Maybe through the years we have shown too much leniency — we all realize the pressures and the time problems in a law practice. We have been reluctant to take away a man's livelihood perhaps as quickly as we should. But how can a man's general character, his innate nature, be changed? Some of these people just repeat and repeat on the discipline list. Perhaps we should suspend and disbar oftener for these somewhat less flagrant derelictions. And we also must ask: Are we giving enough publicity to discipline matters?

"I believe we should give publicity to every disciplinary act and procedure that we possibly can, but keeping appropriate individual confidentiality."

Some Changes Made

The Board of Governors and Disciplinary Board already have taken a big step in that direction. They approved in January periodic news releases on discipline statistics and other information. In addition, amendments to the Rules for Discipline of Attorneys adopted by the Supreme Court at the request of the Board of Governors and the Bar's Special Committee on Discipline provide that a censure or reprimand shall be published in the Bar News when it involved an attorney previously disbarred, suspended or reprimanded. The Board of Governors also may advise the news media of the pendency of disciplinary proceedings against an attorney when in the Board's judgment it is in the public interest to do so.

Money is far from the only root of evil for lawyers. John Barleycorn is another.

"There is an absolutely insignificant number of lawyers who could be described in any way as 'crooks,' " according to a Disciplinary Board member. "And almost everyone of those starts out as an alcohol problem."

The Key: Get the Work Out

Most of the "non-crook" problems come from lawyers who "first of all dilly-dally around, don't get the work done, then fail to return calls and don't let their clients know anything," he says. "Putting things off is their way of life. They have got to learn they have to get the work out, even if it possibly might contain an error of some little kind. Almost any error can be painlessly fixed."

An LAC chairman sees these honest-but-derelict lawyers simply as "disorganized."

"They are personally disorganized — harried and confused in their personal lives as well as in their professional lives. They have disorganized offices and disorganized employees. They usually have no communication at all with the client. They do not discuss the fee or what it might be or how it will be decided or how it may be paid.

"While they are spasmodically doing the work for the client they don't tell him about it and he has a perfect right to think they probably are doing nothing. They do not respond to the

client's calls and letters. If they ever do belatedly get the job done, they send a bill with nothing but a dollar figure on it, no explanation or even a general accounting. And then they wonder why the client is unhappy and either indifferent or hostile about paying the bill.

"Those are the lawyers who cause the great bulk of discipline complaints. In the hundreds of files I have handled I have seen signs of only a minuscule number of actual sharp practices."

Excuses a Form of Dishonesty

Another LAC chairman notes that such "sharp practices" usually involve a lawyer-lawyer relationship, rather than involving a client.

"In hundreds of files, I felt only a couple of lawyers actually were trying to pull something," he added. "Actually, though, I guess we would have to say there is a lot of actual dishonesty involved in the slow or sloppy lawyers' stories to the clients about why the work hasn't been done — they show great immaturity and lack of courage in facing up to the client and telling him honestly why something hasn't been done."

So, call him confused, or disorganized, or careless, or congenitally sloppy, or lazy, or a dilly-dallier. Something has got to be done about him.

Little by little, the pieces that will let the noose tighten are falling into place. And more and more emphasis is being placed by the Board of Governors and others upon protection of the public against incompetence, as well as dishonesty, by members of the Bar.

The Discipline Effort

The Bar's financial commitment to discipline has been greatly increased in the last year. Now more than $125,000, which is more than a third of the association budget, is earmarked for discipline.

Part of that is for salaries of four Bar staff members assigned full time to discipline — previously only one worked full time in that area. And more than 200 lawyers still are working as volunteers in the disciplinary area.

Until a few months ago the number of complaint cases somewhere in the discipline pipeline held steady in the 300s and the high 200s; it now has been cut down to little more than a hundred.

Until a few months ago six to eight weeks passed before a complaint could be fed into the pipeline. Now each complaint is assigned for investigation immediately, often the same day it is received in the Bar Office.

Disciplinary Board Chairman Michael Hemovich.

Suffered These Symptoms?

Is there such a thing as a Discipline Danger Signal? Something to alert a lawyer that chances are getting pretty good he'll be hearing from a discipline investigator any day now even though he knows he is among the 99.99 per cent of lawyers who try to be strictly honest?

These are among the reddest of the red flags, discipline experts report:

Bellyache. The lawyer gets that ache of revulsion in the pit of the stomach when he looks at a certain file. Maybe: He shouldn't have taken the matter in the first place; it will cost him ten hard hours of work and he'll be lucky to be able to bill for one; he doesn't quite know how to handle the matter and is afraid to ask.

He puts that file on the bottom of the pile. Again. Or worse yet, back into the cabinet.

Notavailableism. Usually follows Bellyache; makes secretary into perjurer. Refuses to see client, refuses all phone calls — not one or two but normally six to a dozen before the frustrated client gives up and blows the whistle.

File 13 Syndrome. Same as Notavailableism, only with letters; consistent failure to respond in any manner to a client's correspondence.

Peter-Paul Ploy. Need to "borrow" occasionally from one account to pay another. Signal of extreme danger; indicates poor office practices or marginal economic situation, calls for major review and revision of practice and business and personal life, etc. Tragic pitfall for many an otherwise ethical and honest practitioner.

Left to right, Serni Reeves, Disciplinary Board executive secretary; William R. Anderson, Director of Professional Standards; Michael Green, Seattle LAC subcommittee chairman; George Dixon, Tacoma LAC member.

Code of Professional Responsibility

The Bar's new Code of Professional Responsibility, in effect more than a year now, in much more explicit terms "points the way to the aspiring and provides standards by which to judge the transgressor."

A copy of the new Code was mailed to every active practitioner in the state. Sadly, even a year later some lawyers in telephone calls to the Bar Office were confessing they never had heard of the new Code. But the word seems to be getting around and the Bar seems to be learning gradually that the answers to most "what to do" questions are in the book.

The Code, too, eventually may help solve the client-funds problem. It provides in the clearest terms that "All funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, *shall* be deposited" in one or more separate and identifiable bank trust accounts. Thus failure to maintain trust accounts can be a definite basis for discipline.

Rules for Discipline

The January 1973 amendments to the Rules for Discipline of Attorneys tend generally to attack the delay that has plagued the disciplinary process. Transfer of disciplinary responsibilities from the Board of Governors to the Disciplinary Board, which began in 1969, is virtually completed. For the first time the rules contain a provision giving disciplinary proceedings priority in the setting of cases before the Supreme Court.

The Rules also provide for a new tool that may help head off trouble of a serious nature. This is an "admonition," a warning to an attorney. It can be used if the Disciplinary Board decides that if the LAC findings are true the attorney has been guilty of misconduct, but not of sufficient magnitude to warrant a trial. The Board may dismiss the complaint but send the attorney a letter of admonition warning against such conduct in the future. The letter is not itself a finding of misconduct.

Also at work in the admonishing category is an informal new tool initiated by the Public Relations Committee and adopted by the Board of Governors and Disciplinary Board. It is used in cases in which a complained-against attorney has been cleared of any discipline violation but has been found to be guilty of client-relations or office-management practices which tend to produce unhappy clients and frequent discipline complaints. The LAC investigator notes the lawyer's shortcomings and they are pointed out to him in a letter with a helpful suggestion that he improve those practices.

Included in the Discipline Rules are grounds for discipline on which can be based proceedings against those "sloppy" lawyers who are becoming the bane of the Bar: "Violation of his oath or duties as an attorney"; "gross incompetency in the practice of law"; violation of the Code of Professional Responsibility; "a course

of conduct demonstrating unfitness to practice law."

The Rules also provide that a lawyer's failure to cooperate with the LAC in its investigation may itself be a basis for discipline.

Lawyers dragging their feet during attempted LAC investigations have increased the burden on LAC members. The Disciplinary Board, in an unusual special announcement (*Bar News*, July 1972, Page 18), specifically pointed up the cooperation rule and its importance and noted that in willful cases it henceforth will initiate disciplinary proceedings on that violation even though the original complaint was dismissed.

Mandatory Insurance

Not a part of the Bar's discipline program but certainly an allied consideration in the Bar's protection of the public interest, possible mandatory errors and omissions insurance for all practicing lawyers is being increasingly examined and discussed by the Board of Governors.

The association's Insurance Committee several years ago thoroughly researched the subject and recommended against it, for much the same reasons that have kept other bars from mandating such insurance — the problem of the government lawyer, the self-insuring lawyer, the large law firm, the problem of creating an insurance "monopoly" that might later become a disadvantage, etc.

The Board took up the subject again a few months ago and asked the committee for a new report and recommendation, and was informed the situation had not changed. Now the Board, feeling there must be a practical and feasible way and that it must be found, has asked the Insurance Committee not whether there should or could be a mandatory-insurance program but to propose some alternative programs that can be made to work.

If such a program can be found and it is adopted, it will be a "first" among the nation's bars.

Mandatory Audits

Should the Bar initiate a requirement for an annual audit of every lawyer's accounts? This is being discussed increasingly by members of the Board and other Bar leaders.

Certificates of an annual audit, along with payment of dues, are required for annual relicensing by Bars in much of the English Commonwealth, including British Columbia and other Canadian provinces. So far it is not required by any Bar in the United States, though several are discussing it.

Some of those who have looked into the subject believe such audits could be evaded by any lawyer actually bent upon mischief and that they therefore would not do what they would be aimed at doing — detecting and heading off problems before they become big problems, and perhaps diminishing the threat of some problems before they even get started.

But spot audits, also used by the British Columbia and other Commonwealth bars, seem to be more favorably regarded. For instance, upon complaint of a client, or a beneficiary of a lawyer's account, or a Bar member, or perhaps on their own motion, the Board of Governors, the Disciplinary Board or even the Client Security Fund Committee could order an immediate spot audit of an individual attorney's accounts.

Client Security Fund

The rules and operation of the Client Security Fund, one of the Bar's most selfless, generous and entirely volunteer efforts in the public interest, were broadened and improved by the Board of Governors in December 1970 and our Fund now is one of the best of the more than 30 such funds in existence.

The Fund in appropriate cases repays to a client, up to a $25,000 limit, money for which an attorney fails properly to account.

Existence of the fund has not been well publicized. But it will be more publicized in the future, the Board of Governors recently decided. Well-displayed news stories about the Fund in most of the state's newspapers in December 1970 and again in December 1972 did not result in any flood of unjustified claims, as had been feared might happen from widespread publicity. Many other bars publicize their funds widely, even including news releases reporting details of each claim paid.

Conclusion

Those associating daily with these varied Bar concerns and the many selfless lawyers bent upon improving the profession and protecting the public sense that the Washington State Bar is beginning to zero in on the discipline situation. It has improved enormously since the advent of the Disciplinary Board in 1969. It still has a distance to go. The problems are beginning to be isolated. The tools, both processes and personnel, to attack them now are available and at work. The solutions cannot be far away. □

POLYGRAPH AND THE LAW: A PROSECUTORS VIEW

by Christopher T. Bayley
Prosecuting Attorney, King County

In recent years, the use of the polygraph has been of increasing interest to those involved with law enforcement and the criminal justice system. I welcome the opportunity at this time to review some of the past legal developments regarding the use of the polygraph as well as to discuss some of its current uses.

Although this article is not meant to be exhaustive on the subject, there are four areas on which I will touch: (1) what is the law on polygraphs and the admissibility of examination results as opinion evidence; (2) the opinions of expert polygraph operators are, in appropriate cases, being given considerable weight in day to day decisions a prosecutor must make on whether or not to file charges on a given case; (3) even with existing case law limitations the opinion testimony of polygraph experts can be of a quality that should make it available to the trier of fact in determining guilt or innocence; (4) finally, in certain narrow and specific instances, the polygraph is a very useful tool for any internal investigations that might occur concerning the conduct and performance of public officials and employees with regard to their guardianship of the public trust.

Even a cursory search through the law library makes it clear that the polygraph has not yet won widespread judicial approval. Yet those who would categorically oppose the use of the polygraph or admissibility of polygraph results will find it increasingly difficult to legitimately maintain such a stance in light of more recent developments.

More Study Required

More work needs to be done with regard to a better understanding of the exact relationship between certain physiological reactions, such as pulse rate, blood pressure, muscle tension, respiration rate, and galvanic skin response, to the telling of a truth or a falsehood. The empirical data is, however, convincing with respect to the opinions of qualified experts when there is the opportunity for verification or corroboration such as in a confession case.

A key here is "qualified" expert. We are quite fortunate to have some of the top polygraph people in the country in the King County area. National standards would be helpful in speeding the acceptance of the use of polygraph evidence, but until such time, the courts should be able to proceed on a case by case basis with regard to the qualifications of a given examiner, in much the same manner as would be necessary in laying the foundation for any expert opinion testimony. At this time, polygraph technique has developed to the stage where competent examiners should be allowed to testify in courts of law as experts, with the evidence to be treated as opinion evidence just as, for example, handwriting analysis is.

Frye v. United States, 293 F. 1013 (D.C. Cir. 1923) set forth the reasons upon which current arguments against the use of the polygraph are still based. In *Frye,* a murder case, the defense offered the testimony of an expert witness concerning the results of a "systolic blood pressure deception test." The trial court denied the admissibility of this evidence holding:

> We think the systolic blood pressure deception test has not yet gained such standing and scientific recognition among physiological and psychological authorities as would justify the courts in admitting expert testimony deduced from the discovery, development, and experiments thus far made.

Id. at 1014.

One might note that the polygraph was in its infancy in 1923. In *Frye*, only one physiological measurement was taken. Today at least four are included. Furthermore, as with so many scientific tests and theories in other areas, the development of polygraph testing during the last ten years has shown enormous gains and advances. As an aside, another person confessed to the murder for which Frye was convicted.

Major Breakthrough

A major breakthrough in the use of the polygraph as evidence came in the early 1960's with such cases as *State v. Valdez*, 91 Ariz. 274, 371 P.2d 894 (1962). *Valdez* and similar cases opened the way for the use of polygraph evidence to corroborate other evidence in the case, upon stipulation by both sides. The court said:

> With improvement in and standardization of instrumentation, technique and examiner qualifications the margin of proven error (5 per cent or less) is certain to shrink. 'Modern court procedure must embrace recognized modern conditions of mechanics, psychology, sociology, medicine, or other sciences, philosophy, and history. The failure to do so will only serve to question the ability of courts to efficiently administer justice.' Chappell, J., concurring in Boeche v. State, 151 Neb. 368, 383, 37 N.W.2d 593, 596, 600 (1949). Although much remains to be done to perfect the lie-detector as a means of determining credibility we think it has been developed to a state in which its results are probative enough to warrant admissibility upon stipulation. Cf., People v. Zavaleta, 182 Cal. App. 2d 422, 6 Cal. Rptr. 166, 171 (1960).

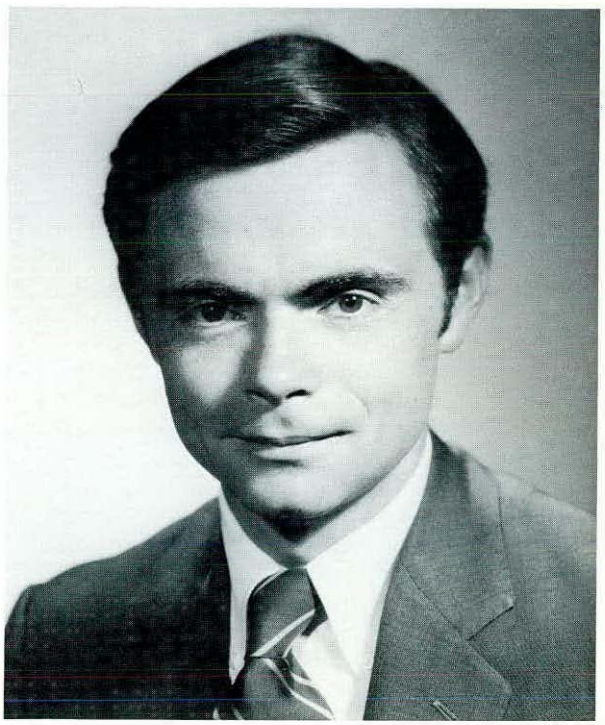
Id. at 900.

The *Valdez* standard was adopted by the Washington Court of Appeals in *State v. Ross*, 7 Wn. App. 62 (June 1972).

More recent decisions indicate that polygraph evidence is approaching full status as opinion testimony. The key decision is *United States v. Ridling*, 350 F. Supp. 90 (Oct. 1972), a decision by Federal Judge Charles W. Joiner, a former dean of Wayne State University's Law School. In *Ridling*, the defendant proposed to offer the testimony of polygraph experts. Judge Joiner held such testimony was fully admissible as opinion testimony provided that the defendant would agree to submit to a further test by a court appointed expert chosen from a group of three independent experts, and provided further that the expert found the subject fit for testing and was in fact able to reach an opinion as to the truthfulness of the subject's responses. In reaching this decision, Judge Joiner heard evidence from persons considered experts in the use of the polygraph on the following:

1. The basic theory of the polygraph.
2. The reliance on the polygraph by government agencies.
3. The reliance on the polygraph by private industry.
4. The comparative reliability of the polygraph and other scientific evidence, such as fingerprint and ballistic evidence.
5. The opinion of the experts as to whether polygraph evidence would be a valuable aid in connection with the determination of the issues such as the one facing the Court in this case (perjury) and in the administration of justice.

Id. at 92.



Christopher T. Bayley

In coming to its determination, the court made the following observations:

> Although these opinions (cases cited against the use of the polygraph evidence) are entitled to great weight in considering the matter at this time, they are not persuasive insofar as they are predicated on the unreliability of the polygraph. This is a question to be determined in each case, United States v. Wainscright, 413 F.2d 296 (10th Cir. 1969). Techniques improve. The evidence in this case indicates that the techniques of the examination and the machines used are constantly improving and have improved markedly in the past ten years.

Id. at 94.

The court further noted that the opinion testimony of the expert was admissible as any other opinion testimony, with its weight to be determined by the trier of fact.

Finally, the court noted that:

> The use of the Court appointed expert, whether or not he agrees with the expert tendered by the defendant, is a practical solution to the problem presented by the fact that only minimal standards exist for polygraph experts. It will in most cases permit the jury to hear the evidence.

Id. at 97.

Polygraph Aids Investigation

The polygraph should and does have a very important use as an investigatory aid in addition to any use it might have as evidence in a trial. There are occasions when the polygraph plays a very useful role in our office in the precharging phase. It is the responsibility of the prosecutor and his staff to carefully scrutinize all cases presented by the various police agencies for filing. The prefiling examination of cases is a vital step in weeding out any possible "bad" charges. There are occasions where deputies will carry on investigations in addition to those performed by the police agencies, including personal interviews with key witnesses. The areas where this procedure must of necessity arise are the so-called "one-on-one" situations, where the alleged victim is the only witness to the crime, with no other witnesses or evidence to corroborate that testimony. One such obvious area includes morals cases. The victim may then be asked to submit to a polygraph examination. Should the victim be a suitable subject for testing, and pass the test given by a reputable examiner, this substantially reduces any possibility that a person will be wrongfully charged.

Seattle Attorney Murray Guterson (left) and Dewey Gillespie, Seattle police polygraphist, with machine.

Admissibility by Stipulation

After charges are filed against a person, the use of the polygraph also plays a role in our office policy. In certain types of cases, stipulated polygraphs are offered to defendants. The use of stipulations is in keeping with the current state of the law in Washington under the *Ross* decision. With respect to the present office policy, the stipulation, which must be agreed to by the defendant, his counsel, and our office, indicates that the defendant will take a polygraph examination from a given examiner agreed upon by both parties, that if the examiner determines that the person is a fit subject for testing and if in the examiner's opinion the test results are conclusive as to either truth or deception with respect to questions asked, then the results will be admissible as evidence in a court of law.

It is further stipulated that if the subject is not fit for testing, or if the results are inconclusive, then the taking of the test will not be mentioned by either party.

This type of stipulation takes into account a number of factors. First it recognizes that in some cases the person may not be suitable for testing where, for example, the person is ill, too young, or suffering from the effects of drug addiction. Second, there is recognition of the fact that some test results may be inconclusive as to truth or deception.

Moreover, by stipulating that the results will be admissible as evidence rather than stipulating that the results will be dispositive of the case, there is tacit recognition of the fact that the polygraph is not relied upon as a sole determiner of guilt or innocence. It does represent opinion evidence which may be very helpful to the trier

(Continued on Page 27)

ALICE O'LEARY RALLS 1905-1972

Alice O'Leary Ralls, fondly known throughout the legal world, locally, nationally and abroad as "Alice," Executive Director of the Washington State Bar Association from January 1955 to March 1972, died suddenly of a heart attack on March 20, almost precisely one year after her retirement.

Born on October 31, 1905, in Wallaceburg, Ontario, she came to Seattle with her parents as a child. Entering the University of Washington from Lincoln High School, she received her Bachelor of Law Degree in 1930, and was admitted to the Bar of this state in 1931. While on campus, she was always active in student affairs, and was elected to Mortar Board in 1928. She was a member of Alpha Gamma Delta Sorority and Phi Delta Delta, women's law honorary.

She joined the King County prosecuting attorney's office as a deputy and was a founder and former director of the King County Family Court. She left this position in 1955 to head the Washington State Bar Association office.

Mrs. Ralls was a member of the Seattle-King County, Washington State, and American Bar Associations. She was a former President of the National Association of Bar Executives and a driving force in the Western States Bar Conference.

Concerned beyond her strictly professional interests with social problems, she was a former chairman of the King County Commission on Alcoholism and at the time of her death, was President of the Washington State Council on Alcoholism. In 1969, she received an "Honored Citizen Award" from the King County Council in recognition of her outstanding work in this field. She received the coveted "Woman of Achievement" Award given by the Women in Communications at their annual Matrix Table banquet in 1961.

On August 14, 1935, she was married to Charles R. Ralls, a Seattle attorney, who now holds the position of Northeast District Court Judge, King County. Their two sons are Charles P., of Concord, California, and Richard, of Chicago. Mrs. Ralls was enjoying her retirement at their country home on Bear Creek, 15020 Bear Creek Road, Woodinville. She is survived by her husband, her two sons, a sister, Mrs. Ray Coleman of El Paso Texas, and five grandchildren.

It so happens that the writer of this sketch knew Mrs. Ralls since 1927, when he was instrumental in admitting her to the University of Washington Law School, one of the rare women who chose a legal career in those days. Again, in 1955, he was fortunate in persuading her to leave the King County Family Court in order to take over management of the executive office of the Washington State Bar. During her seventeen years with the Association, she demonstrated superior administrative skills in a period of substantial growth in membership and expansion of Association activities. She acquired a stature, both locally and nationally, in bar organization work that is part of the permanent record. A dynamic and warm personality in her multitudinous contacts, she will be long remembered.

It is appropriate to close with excerpts from a statement placed in the *Congressional Record* by the Honorable Warren G. Magnuson, longtime United States Senator from this state:

> "Alice and her husband, Charles C. Ralls, have been associated with me throughout virtually my entire legislative career. Mr. Ralls served as Deputy Prosecutor of King County and after two terms of service in the U.S. Marine Corps, was twice National Commander of the Veterans of Foreign Wars. More recently, he was Regional Director of the U.S. Office of Civil Defense and presently is a District Judge in King County, Washington.
>
> "Almost the entire Washington Delegation are members of the Washington State Bar Association, and I am sure they and Senator Jackson join with me in expressing to Charlie Ralls and his family our sincere condolences, and it is with heartfelt sorrow that we mourn Alice's loss."

by Alfred J. Schweppe

Around the State

SEATTLE-KING REPORT
By GERALD G. TUTTLE

The annual Young Lawyers Section Alpental Ski Party and Comparative Negligence Cup Race was a great success. The Comparative Negligence Cup was won by **Bob Diercks** and "second place" (first place, women's division) was won by **Mrs. Ronald J. Perey. Peter LeSourd,** whose body got moving so fast that he left his skis behind, finished quite well on foot and was awarded the "best effort award." Following a social hour and period of recuperation for out of shape ski racers, a fine German buffet supper was served. 71 people enjoyed the event.

Helsell, Paul, Fetterman, Todd & Hokanson announced that **John R. Stocker** and **Thomas W. Huber** have become members of the firm and that **Lloyd Shorett,** formerly Judge of the King County Superior Court, has joined the firm as counsel.

Earl Lasher, Jeff Brotman and **Mike Sweet** announced their association for the general practice of law under the name Lasher, Brotman & Sweet, P.S. They will office at 1103 IBM Building in Seattle.

James E. Newton, formerly Regional Administrator for the Securities and Exchange Commission at its Seattle Office, has joined the firm of Davis, Wright, Todd, Riese & Jones as counsel. We seem to have missed the January 1 announcement of Davis, Wright, Todd, Riese & Jones to the effect that **Richard A. Derham, Duncan Bayne** and **Mark A. Hutcheson** have become members of the firm and that **David C. Groff, David B. Goldstein, Marshall J. Nelson** and **Barbara G. Dray** have become associates with the firm.

Gwynn Townes, formerly a hearing examiner for the Board of Industrial Insurance Appeals, has resumed the general practice of law in the IBM Building.

Mary Alice Norman and **John B. Magee** have formed a partnership for the practice of law under the name of **Norman and Magee.**

Robert Lee Ager has moved back downtown and has reopened his law office in The Financial Center.

With the cooperation of MESBIC of Washington, Inc. and the University of Washington Law School student body, the legal services to Minority Business Committee of the Young Lawyers Section has had an active year. A mailing to all lawyers in Seattle, King County, resulted in 45 offers of free or reduced rate legal services to minority businessmen. Approximately 30 MESBIC clients have been assigned to attorneys volunteering services and attempts have been made to match the clients' needs with the interests and expertise of the attorneys involved. A number of legal problems which have arisen among the minority businessmen have been solved by the lawyers assigned to those clients.

Students at the University of Washington Law School have indicated interest in assisting with the program and they stand ready to assist any lawyer whose minority businessman client has a need for their services.

The committee has also worked through the Association of General Contractors, who are attempting to set up a Minority-Contractors Committee to help solve some of the problems of minority contractors. This ac-

John Darrah and Paul Gibbs, Trustees; and Betty B. Fletcher, President, at meeting of Trustees of Seattle King County Bar Association.

tivity is being coordinated through the United Intercity Development Foundation. A number of the possible clients to be served as a result of this activity will come through the office of Greg Dallaire, Director of the Legal Services Center.

A committee of the Judicial Administration Section of the Seattle-King County Bar Association has been active for the past 60 days in a study of the proposed Uniform Rules of Evidence and Federal Rules of Evidence. The committee, headed by **Judge Ed Henry,** has involved the work of **Judge Lloyd Bever, Robert Piper, Richard Manning, William Moore** and **John Weinberg.**

As a result of considerable confusion concerning the effective date of the Federal Rules of Evidence and the difficulty of translating the Federal Rules of Evidence to be applicable to State Court actions, the Section has, to this date, reached no decision as to the specific form for possible uniform rules to be adopted in the State of Washington. The Section, at its meeting on March 9, 1973, adopted the following resolution:

> "BE IT RESOLVED that the Judicial Administration Section recommends to the Seattle-King County Bar Association that it petition the Judicial Council to take some affirmative action on making a study of the adoption of a set of Uniform Rules of Evidence."

It is expected that the Judicial Administration Section will continue to study the rules and will attempt to work in connection with the Judicial Council to formulate Uniform Rules of Evidence for adoption in the State of Washington.

KITSAP REPORT
By HELEN GRAHAM GREEAR

The Kitsap County Bar Association held its semi-annual dinner for spouses at the Officers Club in the Puget Sound Naval Shipyard on March 2nd and a very delightful occasion it was, with President **Ken Lewis** acting as master of ceremonies. I am always impressed with what beautiful women lawyers marry.

Two Port Orchard law offices are engaged in extensive building programs. Shiers, Kruse and Roper have greatly enlarged their offices on Prospect Street. Schultheis, Maddock & Fox have purchased land directly across from the front door of the courthouse and already have parking there. A one floor building with a skylight, air-conditioning, lounge for the secretaries, and accommodations for four lawyers is underway. The lot is 120x120 and the building will be 50x63 feet.

Walter M. Hackett, Jr., a former Bremerton resident, has gone to work for Arthur & Hanley. He is a law graduate of the University of Oregon (1968), is married to Cecily from Los Altos, California, and as yet no children.

Rick Smith (1966 U. of W.) with a Doctor of Jurisprudence degree from American University (May 1971), who has worked for Congressman **Floyd Hicks** and is presently in the legislature, plans to open an office in Silverdale. He is married to Janice and they have one child.

The Legal Aid Committee of our Bar has a modest office in the Smith School sponsored by the Kitsap Community Action Board. A screening and answering service is provided. **Myron Freyd** is in charge of the Legal Aid Committee.

BENTON-FRANKLIN REPORT
By NEAL J. SHULMAN

Highlighting the March luncheon meeting of the Benton-Franklin Bar Association, held at the Black Angus in Pasco, was a Video tape demonstration by the Yakima electronics firm of Lay and Nord. The development of Video tape recording has opened new horizons for the practitioner particularly in the area of depositions, and while costly, appears to have definite advantages over the standard procedures now in use.

Kennewick Municipal Judge and Justice of the Peace **Ken Serier** has resigned his position and will devote full time to the private practice of law in Kennewick. Ken's resignation was accepted by the City "with regret and lots of tears." Pending adoption of the District Court Act in Benton County, Kennewick has appointed **Brice Horton** as interim judge until it is established. Judge Horton graduated from the American University in Washington, D.C., and has lived and practiced law in the Tri-Cities for the past seven years.

Seen at the organizational meeting of the newly formed Tri-Cities Chapter of International Footprinters were **Harvey Faurholt, Stan Moore** and **Neal Shulman.** The new organization is fast gaining membership, now boasting 60 plus members.

In response to the many inquiries pouring in, those inter-

ested are advised that **Don Stancik** is alive and well, and claims to be practicing law in the City of Richland.

Welcome home to **John Westland,** who recently returned from a sojourn in the Hawaiian Islands.

PIERCE REPORT

By KENYON E. LUCE

At the March meeting of the Pierce County Bar Association, the turnout was greater than had been in the past, apparently due to the fine program established by the new officers of the Pierce County Bar. **Ronald Thompson** of Lee Krilich, Lowry & Thompson, gave a presentation on the handling of a zoning case; **Charles Gleiser** of Commonwealth Title Company outlined the comparative advantages of three forms of real estate security: contracts, mortgages and trust deeds; **Allan Overland** of Gelman and Overland outlined Washington condominium law; and **James Gallagher** of Eisenhower & Carlson is to be commended for his presentation and holding the attention of the members present when he discussed the securities aspects of public participation in real estate ventures and group investment in real estate. (The Federal Securities Act of 1933 is alive, well and being nurtured in Tacoma)

Owen Hughes, formerly with Bonneville, Hughes & Viert has withdrawn from the partnership and has established practice at 901 Tacoma Avenue South in Tacoma.

Peter and **Michael Sterbick** have withdrawn from the firm of Sterbick, Manza, Moceri, Gustafson & Narigi and are practicing at 721 South 38th in Tacoma.

The Young Lawyers section of the Pierce County Bar Association had an election of officers. Elected Chairman was **Kenyon E. Luce**; Vice-Chairman, **Gregory Pratt;** Secretary-Treasurer, **Robert Klein;** Trustees: **Hugh Ellis, Everett Holum, John Kouklis, Len Moen** and **Tim Bruce.**

Steven K. Casseaux, Jr. has joined the Pierce County Prosecutor's staff and is assigned to traffic. Steve graduated from the University of Tennessee Law School in December of 1967; worked as a law clerk for a United States District Judge in Tennessee; joined the Army in 1968 and was assigned to the JAG office at Fort Lewis, Washington. He is engaged to be married to a local girl.

ISLAND REPORT

By TED D. ZYLSTRA

John Wold, Dick Pitt, and **Ted Zylstra** have returned from Hawaii, Mexico, and California, respectively, with their advance suntans.

Marvin C. (Buck) Buchanan's new offices at 4086 400 Avenue West in Oak Harbor, are now open for business.

The election of officers of our local bar was held at the March meeting. **Harold E. Baily** is president and **Buck Buchanan** is secretary.

SKAGIT REPORT

By PAUL N. LUVERA JR.

Pat McMullen has returned from a three week trip to Germany, Austria and Switzerland with his wife Linda. Pat advises that the trip was a 10th Anniversary present. He says that they had a great time.

John Cheney, of Anacortes, just returned from a trip to California.

Deputy Prosecutor **Gil Mullen** went to San Francisco and then on to Hawaii recently. Gil just returned from the Bahama Islands before that.

Sedro Woolley attorney **John Anderson** says that it is simpler to give the names of the lawyers who are still in town practicing law than to talk about the lawyers who have been on vacation recently.

John Kamb received an award at the last Skagit County Bar meeting for his services as the past president of our bar association.

John Anderson of Sedro Woolley is driving a Model T automobile. Some wag suggested that his car represents the thinking of some judges they have tried cases before.

EAST KING REPORT

By BARBARA E. REARDON

The March meeting of the East King County Bar was held on March 26, 1973 at the Thunderbird in Bellevue. **Joseph A. Thidobeau,** Court Commissioner, Court of Appeals, spoke to the membership concerning the problems faced by Division No. 1 of the Court of Appeals. In Mr. Thidobeau's opinion the major difficulty is the crowded court calendar, which problem the court hopes to reduce by the instigation of a system of pre-screening of matters to come before the court. This, together with the pro-tem system recently instituted. Mr. Thidobeau indicat-

ed an urgent need of additional judges.

One of the series of Law Forums sponsored by the East King County Bar and the Bellevue American was held. On April 11, Land Use Regulations was discussed by panelists **Ralph Thomas,** Attorney; **Dick Chapin,** Attorney; and **Robert Walker,** Director of Planning for the City of Bellevue. Moderator was **Harvey Spigal.** The last forum will be held on May 16: Subject: Domestic Relations and Family Law. Panelists: **Fred Barker,** Attorney, **Barbara E. Reardon,** Attorney, **Hartly Newsum,** Attorney. Time: 7:30 p.m. Place: Puget Sound Power and Light Building, Bellevue.

President **Bill Kinzel** indicated that the law forums were well attended and could be viewed as a successful community service by the association.

East King County Bar's observation of Law Day was on April 27, 1973 with a dinner meeting at the Glendale Golf and Country Club. Congressman, **Joel Pritchard,** was our guest speaker. **Harvey Spigal** was Law Day Chairman.

The Association welcomes to the group **Richard Martens,** a 1970 graduate of the University of Michigan, who has opened offices in Bellevue, for the practice of law, at 12131 S.E. 13th St.

WALLA WALLA REPORT

By JOHN BIGGS

On March 21st, our Bar Association co-sponsored with the Trust Department of the Baker-Boyer National Bank headed by **Sidney Anderson,** Vice-President and Trust Officer, an important seminar. **Malcolm Moore** Esq., a distinguished Seattle lawyer, was imported by the Bank as our speaker. His subject, "Modern Trends in Estate Planning" inspired an interesting discussion following a question and answer period, moderated by our Bar President, **Cameron Sherwood.** Guests included Judges **Albert N. Bradford, John C. Tuttle** and **Patrick McCabe** and lawyers from Columbia and Garfield County and local Bank executives. **Alex McCabe,** the Dean of the Southeastern Washington Bar, from Pomeroy, was our guest of honor. More than 50 persons present signed a "Get Well Letter" forwarded to **John F. Watson,** who practiced law in Walla Walla more than 40 years. John retired in 1947 and now is 96 years of age residing in Portland. Courageous **Ed Stanfill** chauffeured by his charming spouse, Virginia, came to the Seminar from Pomeroy wearing as armour his "iron lung." Some of our lawyers who "were too busy" to attend should profit from Ed's dedication to the practice of our Noble Profession.

The County has commenced the reconditioning of our Court House Annex as a modern Law Library, replacing inadequate space and chaos prevailing in the present Law Library. **James Mitchell** is Chairman of our Law Library Committee which armtwisted the County Commissioners out of more than $40,000.00 for this long needed improvement. This project was initiated two years ago by our then President, **Art Eggers.**

Our Bar Association has agreed to temporarily support the local Legal Aid Office with $50.00 per month contributions pending adoption of permanent plans for this service. Local lawyers have been harassed with requests for writs of habeas corpus from inmates at the Penitentiary not served by their "jailhouse lawyers." Legal Aid may bring relief to the Bar and to the convicts seeking "courtroom furloughs."

Cam Sherwood reported on results of the Conference of County Bar Presidents held at Spokane March 17th with the Board of Governors. That Board has been invited to hold one of its meetings this year in Walla Walla. Members of the Bar attended the funeral of Richard Heffel, District Counsel, U.A. Army Corps of Engineers. Mr. Heffel, a graduate of the University of Idaho Law School. lost his life in a recent tragic airplane accident in Walla Walla.

LINCOLN REPORT

By NORMAN D. BROCK

The Lincoln County Bar Association recently elected **Philip Borst** of Wilbur President and **Norman Brock** Secretary-Treasurer. Many thanks to outgoing President, **Larry Libsack** of Odessa for the fine job as president.

Fred Campbell and his gracious wife Olive of Davenport recently returned from a three-week vacation in Hawaii and San Francisco.

Edward Dawson of Wilbur has returned from a three-week jaunt that included such faraway places as Israel, North Africa, Greece and Italy.

Lincoln County Bar Association's annual social event at the Wilbur Golf and County Club, will consist of 18 holes of golf followed by a cocktail hour and dinner.

THURSTON-MASON REPORT

By **STEPHEN J. BEAN**

The Legislative Session has found many of our members involved in lobbying.

For instance **Bob Seeber,** representative of the Dirty Books and Pictures Industry, was so successful with his lobbying this session that he promised to arrange for a private screening for the Thurston-Mason Bar Association of two films — Last Tango in Paris and Deep Throat. Members of other county bar associations wishing to view these films, to determine whether or not they are of redeeming social value, may contact this correspondent for the date and time of this showing. It is rumored that this will be the first time that the Thurston-Mason County Bar Association met in the Seattle Center Coliseum.

Vern Lindskog was busy representing the oil industry and **Pat Sutherland** was busy representing the court reporters and parking lot operators. **Bernie Lonctot** was representing the Washington State Bar Association and **Francis (Buzz) Walker** was representing the Catholics.

As the game of musical chairs continues, the firm of Owens, Johnson & Weaver announced that as soon as the new Bank of Olympia Building is completed, they will love their offices to that building and from what I've seen of their plans for their new office, the firms of Foster & Foster and Lynch & Lynch, as well as Buzzard, Brown & Glenn, may suddenly find themselves taking a back seat to Owens, Johnson & Weaver firm, insofar as splendor is concerned.

Labor Law Seminar Has Outstanding Speakers

Most of the Sixth Annual Pacific Coast Labor Law Conference, to be held May 11 and 12 at the Olympic Hotel in Seattle, will be devoted to negotiating labor agreements. The conference will include Friday lectures and Saturday workshops.

Einar O. Mohn, Director of the Western Conference of Teamsters, San Francisco, will discuss negotiating a labor agreement from the union standpoint. The government's role will be described by W.J. (Bill) Usery, Jr., Director, Federal Mediation and Conciliation Service, Washington, D.C. The employer's standpoint will be handled by Edward Flynn, President, Pacific Maritime Association, San Francisco, California.

Peter G. Nash, General Counsel, National Labor Relations Board, Washington, D.C. will talk on recent developments and a look ahead under the NLRA. Discrimination in employment speakers on the Friday afternoon agenda include William A. Carey, General Counsel, Equal Employment Opportunity Commission, Washington, D.C.; Alfred E. Cowles, Executive Secretary, Washington State Human Rights Commission, Olympia, Washington; and nationally known attorneys.

Participants will have their choice of two workshops on Saturday. The various phases of negotiating will be chaired by Cornelius J. Peck, Professor of Law, University of Washington, Panelists will include Einar O. Mohn, W.J. Usery, Jr., Edward Flynn, Albert L. Gese, Commissioner, Federal Mediation and Conciliation Service, Seattle. A second workshop, entitled Negotiations: Benefit Trusts and Administration, will also be held. Panel members include Lionel Richman and George M. Cox, attorneys from Los Angeles, California.

The conference is sponsored by the University of Washington School of Law and the Labor Law Section of the Seattle-King County Bar Association.

Editor's Notes
(Continued from Page 4)

talking about percentages for attorneys' fees and other costs that we have to take in the total payout rather than only the litigated cases payout.

I have seen, I think recently or at least in the last six or eight months, a somewhat different attitude on the part of most of the insurers who are becoming a little bit frightened at (some of) their own Frankenstein monster, and as you point out, I think many of the responsible companies are beginning to recognize that no-fault, if pushed too hard, may lead to government insurance rather than private insurance. Mr. Grieve's monstrous bill might in fact come to pass.

Again, let me thank you very much for your most enlightening and courteous letter, and may I say that I think that if the last issue of the Bar News is going to be an example I think that we can look forward to many fine future issues of the Washington State *Bar News.* I think you have done a fine job.

ROBERT S. DAY
Pasco

Extracts from the minutes of the Board of Governors, convened at the Lamplighter Lodge, Spokane, March 16-17; all members were present. Also present was Curtis L. Shoemaker, Chairman of the Young Lawyers Committee of the State Bar Association.

Law Clerk Program

Messrs. Miles McAtee, P.K. Abraham and Wayne Cyphers appeared in person before the Board to urge the continuation of the Law Clerk Program, the continuation to be accompanied by a re-designing of the program with closer supervision and several new periodic review requirements. Among the suggested changes were:

A. The administration of a mini-bar examination at the end of each year of the Law Clerk Program and that a passing grade on the examination be required in order for the Law Clerk to be allowed to continue in the program.

B. A Judge review of the regular reports filed by the Law Clerk.

C. All Law Clerks to regularly attend Bar Review Courses given during the Law Clerks' participation in the program and

D. Regular attendance of the Law Clerk in the CLE seminars made available to the membership of the Bar Association.

The Law Clerks Association was requested to submit its suggested rule changes in a formal manner with recommendations as to new procedures and tighter supervision for action on the Board's agenda for its meeting in Seattle in April.

Rules for Admission — Amendment of Rule 7

Messrs. William F. Nielsen and Douglas D. Lambarth, both of Spokane, discussed possible exceptions to Rule 7, or an amended Rule 7, to provide for participation in legal activities by lawyers engaged in the various poverty or legal services programs.

Unauthorized Practice of Law

On the recommendation of the Unauthorized Practice of Law Committee Bar Counsel was requested to seek injunctive relief against Do It Yourself Divorce, Inc. d/b/a DIY Publishing Company, Inc. The committee reported that the sale of the DIY Divorce Kit with the instructions and forms therein constitute the unauthorized practice of law and the purchasers of the Kit were the victims of misrepresentations concerning the value of the kits in solving domestic relations legal problems.

Legal Ethics Committee

The resignation of Max Kaminoff as Chairman of the Legal Ethics Committee was accepted with an expression of gratitude for his outstanding service in this capacity. Ford E. Smith of Seattle

Kenneth P. Short, Seattle; John J. Ripple, Spokane; Cameron Sherwood, Walla Walla; Charles I. Stone, Seattle; Edward J. Novack, Everett; at March 16, 1973, Board of Governors Meeting in Spokane.

was named as Chairman of the Legal Ethics Committee to fill out the unexpired term.

Proposed Amendment of the Bar Act (S.B. 2826)

The Board voted to oppose the passage of Senate Bill 2826, a proposed amendment to the Bar Act to implement the one lawyer-one vote concept. The vote on the motion to oppose was 6 to 3 with Messrs. Curran, Gates and Pritchard voting "no."

Election of a President for 1973-74

It was unanimously agreed that the President should designate a three member sub-committee from the Board to submit at the April Board Meeting a possible name or names to be considered for election as the President of the Bar Association for 1973-74. The President designated Kenneth P. Short, Seattle, John J. Ripple of Spokane and Neil J. Hoff of Tacoma to serve on this committee.

Uniform Probate Code

The Board decided to oppose the adoption of the Uniform Probate Code in the State of Washington at the present time. It was agreed that the Probate Committee would continue investigation, study and review in this field. The vote on the motion to oppose was 8 to 1 with Mr. Pritchard voting "no."

Political Endorsements

With reference to the endorsement of candidates for political office by (1) the President, (2) the Members of the Board of Governors or (3) the staff members of the Bar Association, the following policy was stated:

(1) The President of the Bar Association, during his term of office, shall not endorse any candidate for any political office and this restriction applies fully to include (a) the use of his or her name, (b) the contribution of funds or (c) active support to any degree. Further, the President, during his term of office, shall not take a side publicly on any issue being submitted to the voters, pending before the legislature or otherwise except that he or she may do so when specifically authorized to do so by the Board of Governors on a matter relating to the work or to the function of the Bar Association.

(2) Members of the Board of Governors and members of the Bar Staff are prohibited from endorsing any candidate for a Judicial or other law-oriented office and the full restriction shall apply to these offices which means, (a) no use of name, (b) no contribution of funds and (3) no active support.

Long Range Planning Session

It was agreed by the Board that an extra day be chosen and set aside to be devoted exclusively to a long range planning session relating to the future of the Washington State Bar Association and that the said session should be held in connection with and at the site of the June meeting of the Board. It was further agreed that the President should designate a Chairman of a subcommittee to generate an agenda for the session. President designated William Gates of Seattle as this Chairman. The Chairman of the subcommittee was authorized and empowered to select at least two other members of his subcommittee, in consultation with the President.

Drug Abuse Committee

John Blake of Seattle was added as a member of the Drug Abuse Committee.

Legal Intern Committee

The Legal Intern Committee was requested to prepare an in-depth report and recommendations concerning the continuation of the Legal Intern Program so that the Board may consider its own recommendation to the Supreme Court regarding this matter.

Local Bar Presidents' Meeting

On Saturday, March 17th, the Board of Governors met with the majority of the Local Bar Association Presidents from across the State and problems of mutual interest and concern were discussed including among others No-Fault Legislation, the Group Legal Services Program, Certification of Specialists, the Judicial Article, Bar Structure and Re-Organization, Long Range Planning for the Bar Association, The Uniform Probate Code, proposed Landlord-Tenant Legislation, the proliferation of lawyers and the Bar Association's general legislative program and procedures.

Date and Place of Next Meeting

The next meeting of the Board of Governors was scheduled for the Washington Plaza Hotel in Seattle on Friday, April 20th and Saturday, April 21st. A joint session was to be held on Saturday, April 21st with a representative cross-section of Young Lawyers from across the State, those to be in attendance to be jointly designated by Curtis Shoemaker, Chairman of the Washington State Bar Association's Young Lawyer's Committee and William Neukom, Chairman of the Seattle-King County Bar Association's Young Lawyer's Section.

ADOPTIONS: ILLEGIMATE CHILDREN AND STANLEY V. ILLINOIS

by Mark G. Honeywell

The rights of fathers of illegitimate children were upheld in a far-reaching decision in *Stanley v. Illinois,* 92 Sup. Ct. 1208, 405 U.S. 645, 31 L.Ed.2d 551 (1972). In that decision and two following, considering similar issues, *Rothstein v. Lutheran Social Service,* 40 U.S.L.W. 3498 (1972) and *Vanderlaan v. Vanderlaan,* 40 U.S.L.W. 3498 (1972), the United States Supreme Court made it clear that all parents are entitled to a hearing on their fitness as parents before their children may be permanently removed from their custody, and that to deny the father of an illegitimate child such a hearing, while insuring it to parents of legitimate children is to deny him the equal protection of the law guaranteed by the Fourteenth Amendment. While *Stanley* was not an adoption case, it is equally clear that it rendered unconstitutional several sections of the Washington adoption statute, RCW 26.32. See *In re Guardianship of Harp,* 6 Wn. App. 701 (1972).

In response to *Stanley* and *Harp,* the Washington Legislature passed Senate Bill 2459, the Illegitimate Children and Parental Rights Bill, armed with an emergency clause, which became law on March 20, 1973. In regard to the adoption of an illegitimate child, the statute provides that in absence of the written consent by the putative father to the adoption of his child *and* a finding of paternity, or a finding of paternity in a filiation proceeding, notice of a hearing on the issue of consent of the father must be served by publication. This article, while not an exhaustive review, will discuss the new legislation as it affects the private practitioner involved in an adoption proceeding rather than its impact on filiation proceedings.

Prior to its amendment, our adoption statute provided that no consent to adoption was necessary from the father of an illegitimate child. The new statute provides that, except as otherwise provided, the written consent of the mother *and father* of an illegitimate child must be filed prior to any hearing on the adoption of that child. The "otherwise provided" exceptions, eliminating the necessity for consent, are those enumerated in RCW 26.32.040, consisting of a parent's deprivation of civil rights together with

Mark G. Honeywell is a partner in the law firm of Gordon, Thomas, Honeywell, Malanca, Peterson, O'Hern and Johnson in Tacoma, Washington, and is a 1968 graduate of the University of Washington Law School where he was a member of the Washington Law Review. Mr. Honeywell served as a clerk for the Washington Supreme Court before going into private practice.

a finding, after a hearing, that the child's welfare would be best served by permanent deprivation of parental rights; a finding of mental incompetency for more than one year prior to the filing of the petition for adoption; a finding of abandonment; the failure of a parent of an illegitimate child to contest a petition for adoption after notice provided in the new act; or a valid surrender of the child to an adoption agency.

As amended, RCW 26.32.040 now eliminates the illegitimacy of a child as a ground, in and of itself, for obviating the necessity of its father's consent prior to adoption. This section now simply provides, in the case of an illegitimate child, that consent is not necessary from "a parent" who has failed to contest the adoption after notice of a hearing specifically for that purpose.

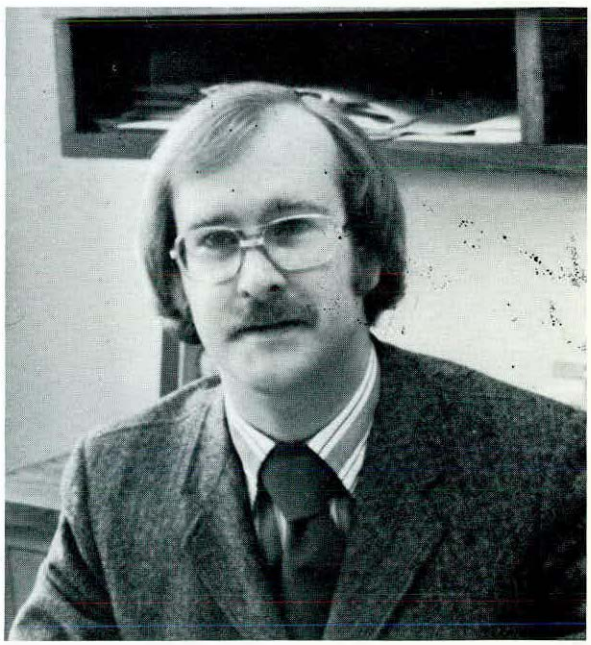
The consent of either parent of an illegitimate child is obviated if he or she has failed to contest the adoption proceeding after proper notice. However, in addition to the failure to contest the proceeding, the court could also find one of the other grounds for dispensing with either parent's consent for the adoption of an illegitimate child, such as abandonment. But in the case of a *legitimate* child, the fact that the nonconsenting parent has failed to contest the adoption after proper notice is presumably *not* sufficient to dispense with that parent's consent.

Amendment Includes Hearing Right

RCW 26.32.050, the section providing for a hearing upon any of the issues contained in .040 is merely amended to *include* the right of the father of an illegitimate child to such a hearing upon proper notice.

RCW 26.32.080, as amended, now applies primarily to hearings under RCW 26.32.050 as to nonconsenting parents of a *legitimate* child who is the subject of adoption proceedings. This section now *requires*, rather than making discretionary with the court, notice by publication in the normal fashion to a nonconsenting parent who is a nonresident of the state or cannot, after diligent search, be found within the state. The first of three weekly publications must be at least 25 days prior to the date fixed for the hearing, and the form for the notice is contained in that section. While *Stanley* did not deal with a parent of a legitimate child, the Washington Legislature recognized that under the circumstances in which notice is now absolutely required in the case of a parent of an illegitimate child, there can be no justification for not requiring notice in all such situations. Again, keep in mind that the failure of the nonconsenting parent of a legitimate child to contest the adoption proceeding is not sufficient to dispense with that parent's consent. There must be an affirmative finding of one of the other grounds in .040 for dispensing with consent.

Section 6 of the new legislation creates a new section to RCW 26.32, prescribing the procedure for notice to a nonconsenting parent of an *illegitimate* child who is the subject of adoption proceedings. Notice may be served in one of three ways: By personal service; by mailing, if the parent is not a resident of the State or after diligent search cannot be found within the State but the last known place of residence is known; or by publication if the parent cannot be found and the last known residence is not known. Remember, publication is *required* in *every case* except where service has been made on a person who has acknowledged parenthood *and the court finds him to be the parent,* or who has been found to be the father pursuant to a filiation proceeding. The court is also authorized to require notice by publication "whenever the court believes such notice might be necessary to protect the validity of adoption proceedings and any decree of adoption." This provision would seem to be directed toward those adoptions which are currently in progress, and in which the interests



Mark G. Honeywell

of the putative father have not yet been properly extinguished. One of the effects of the notice requirement is that even though the mother of an illegitimate child names the father, and he is personally served with notice of the hearing to deprive him of parental rights, notice must still be published unless the father acknowledges paternity and the court so finds him to be the father, or he has been determined to be the father in filiation proceedings. Due to its form, publication pursuant to Section 6 eliminates the requirement of a finding of paternity.

Minimum Proof of Paternity

When a formal consent is utilized, the requirement that the court find the father to be the parent of the illegitimate child raises some complications. In a situation in which the adoptive parents know all of the names and circumstances surrounding the adoption, a finding of paternity may be entered in the findings of fact at the time of the hearing on the petition. However, if the adoptive parents know nothing of the natural parents, it is suggested that a separate finding of paternity be entered in advance of the hearing on the petition for adoption. While the new legislation makes no reference to the minimum requisites for a finding of paternity, it is the opinion of this writer that the notarized consent of the father containing an acknowledgement of paternity should be sufficient to support such a finding. However, the practitioner should consult the local rules as the requirements may vary in different counties.

In most situations, the putative father of an illegitimate child has not given his consent and acknowledgement of paternity, there has been no judicial finding of paternity, and accordingly the attorney must proceed with the formal notice requirements. When a written consent and acknowledgement can be secured, it is not clear what legal effect it has upon the putative father's financial responsibility should the adoption proceedings be terminated for some reason or his responsibility for prior hospital, medical or support expenditures, not to mention the possible criminal implications. Therefore, even when the identity of the putative father is known, an attorney may decide to request an order to publish notice of a hearing on the issue of consent rather than attempt to secure the written consent, thereby eliminating the necessity of a finding of paternity.

Published Notice Names Mother

Section 6 of the new legislation also provides the form to be used in a notice by publication. It should be noted that this notice requires that the name of the natural mother be included in the notice. However, with care, the adoptive parents can be prevented from recognizing the publication of notice in their adoption proceeding by eliminating all identifying information from the petition at the time they sign it. They attorney may then proceed with the necessary hearing without the adoptive parents' knowledge.

It is suggested that attorneys employing the procedures to extinguish a nonconsenting parent's right to custody of an illegitimate child do so in all cases in advance of the hearing on the petition for adoption. This procedure may be accomplished with a "show cause" hearing utilizing the form provided in the new act. If an attorney felt there was no significant chance the putative father of an illegitimate child would appear at the hearing after notice by publication, he could set it at the same time as the hearing on the petition and enter a finding at that time that the consent of such parent was not required due to that parent's failure to contest the adoption proceeding after proper notice. However, the one case in which that procedure was used to obviate the necessity of separate appearances might be the case in which the putative father appeared, and, in the presence of the adoptive parents, demanded custody. Such a possibility should be avoided for obvious reasons. Also, once the putative father's parental rights have been extinguished, he is not entitled to notice of the hearing on the petition for adoption.

Sections 7 and 8 of the new legislation deal with substantive and procedural rules regarding the surrender of legal custody of both legitimate and illegitimate children to adoption, and presumably, State agencies. Attorneys handling adoptions through such agencies or the Washington State Department of Social and Health Services should still investigate the status of the putative father's right to custody of an illegitimate child in each instance.

Requirements Are Jurisdictional

The procedures provided in the new legislation for both adoption and surrender of custody, are jurisdictional, and failure to comply strictly may render an adoption void. This fact puts a tremendous responsibility on the attorney who ventures to advise his adoptive parent clients that there is no possibility that the adoption could be set aside at a later date even following the six month interlocutory period provided for in RCW 26.32.130.

Section 9 of the new legislation is entirely new and provides as follows:

"The parents of an illegitimate child shall have primary rights to the custody of such child. Between the parents of an illegitimate child, that parent who is the more fit from the standpoint of furthering the child's welfare shall have the superior right to custody. In any dispute between the natural parents of an illegitimate child and person or persons who have (1) commenced adoption proceedings or who have been granted an order of adoption, and (2) pursuant to court order or placement by the department of social and health services or licensed agency have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody."

Ostensibly, Section 9 does not give rise to additional grounds for setting aside an adoption but merely establishes factors to be considered in a dispute between natural and adoptive parents and allows the court certain discretion under the circumstances enumerated therein. This section also gives statutory recognition to the rights of an illegitimate *child* who is the subject of such a custody dispute.

The new legislation also provides in Section 10 that where a natural parent of an illegitimate child successfully petitions to have the adoption of the child set aside, such natural parent shall be liable to the adoptive parents for their direct or indirect costs in supporting such child. Quite obviously this remuneration would be of small consolation to adoptive parents who lost their "adopted" child due possibly to faulty adoption procedures. Such a situation could give rise to attorney liability if an adoption were set aside due to his negligence.

Unanswered Questions

The new act as it relates to illegitimate children is fairly straightforward, provides complete forms for the notices required, and provides for notice by publication as a cure of any defects in procedure created by doubts as to paternity. However, even in its apparent completeness, the new act is not without its uncertainties. What is the efficacy of service by publication upon a putative father who is a minor, who is mentally incompetent and without a guardian, or who is in the armed services and protected by the Soldiers' and Sailors' Civil Relief Act? How do you protect your adoptive parent clients against the situation in which a wife gives birth to a child not fathered by her husband, and she and the real (putative) father tell no one, and the child is surrendered for adoption with only the mother and her husband (not the father) executing consents? By definition that child is illegitimate. Will the presumption of legitimacy be sufficient to extinguish the putative father's parental rights in such a situation? Quite obviously, if the married mother informs the attorney or an adoption agency that her husband is not the father of her child, the new procedures regarding publication must be followed prior to an adoption.

The following issues are raised, not at all facetiously, as examples of the extreme situations to which the new legislation and *Stanley* could apply: Does the father of an illegitimate child conceived in the commission of a forcible rape have any parental rights under the new act? More serious is the effect of the procedure which requires a putative father of a child born to a 15-year-old girl to answer a petition in order to prevent his parental rights from being extinguished, when to do so would subject him to a statutory rape charge. And, in this advanced age, what parental rights, if any, are possessed by the putative father of a child conceived by artificial insemination? The new act also suggests tangential inquiries into issues regarding illegitimate children such as wrongful death actions, workman's compensation death benefits, and intestate succession.

An attorney facing questions under the new legislation due to unusual fact situations or facing related problems regarding illegitimate children may find guidance in the post-*Stanley* decisions of the United States Supreme Court or the decisions in other jurisdictions. It will be necessary for the private practitioner to become familiar with the adoption procedure in his particular county, as these practices may vary slightly from county to county. It should be noted that a Washington Law Review article written by Andrew C. Gauen will be shortly forthcoming This writer wishes to acknowledge the contributions of Mr. Gauen and also of Ted R. Willhite of the Attorney General's Office, who have shared their extensive research into the subject. □

(Continued from Page 14)

of the fact. Such testing is, as with all evidence, subject to impeachment through cross-examination or contradiction.

Our office does not stipulate that a finding of truthfulness would automatically mean a dismissal of the case as this would rule out the possibility that additional independent evidence might be discovered in the case. There have been situations where additional evidence has shown that a person's involvement in a given crime was different than originally thought at the time the polygraph test was given. The wrong questions may have been asked in the first examination, and additional polygraph tests have then been given with questions reflecting the new information.

Similarly, we are not in a position to demand that a test result indicating deception will require a plea of guilty. To do so might well be to deprive a person of his constitutional right to trial. In reality, the stipulated polygraph usually results in a reaffirmation of the other evidence supporting the charges, and a plea of guilty often results. The polygraph should not be used to decide the ultimate issue of guilt or innocence but should be considered like any other opinion evidence offered by an expert.

As a practical matter, should a defendant take and pass a stipulated polygraph, the state would usually not proceed with the prosecution. This of course assumes that further investigation uncovers no new evidence to support the proposition that the test was not properly given or the correct questions were not asked.

Injustice Averted

One recent case shows how a possible miscarriage of justice was averted through the use of the polygraph. There was direct eyewitness and physical evidence to indicate that the defendant participated in an armed robbery. The proffered defense was that of duress. Although this was a case involving direct, and not circumstantial evidence, the evidence was not inconsistent with the defendant's theory. Experience suggested that without any polygraph evidence, the defendant stood a strong chance of being convicted. Nevertheless, a stipulated polygraph was arranged and the defendant passed the test. After reexamining the evidence, and making further investigations, the decision was made to dismiss the charges.

Internal Investigations

In addition to its use in determining the filing or possible disposition of cases, the polygraph has an additional important function in connection with internal investigations. Such investigations might be appropriate in any area of public and governmental service. Recently, the focus has been in the area of police department internal investigations.

Legally, the Washington courts have addressed remarks to the issue of the use of the polygraph in internal investigations. In *Seattle Police Officers' Guild v. City of Seattle,* 80 Wn.2d 307, 474, P.2d 485 (1972), our Supreme Court held that:

> A police officer may be required to submit to a polygraph test under the penalty of dismissal for refusal, when the authorities investigating serious and notorious allegations of police misconduct or corruption conclude, in the exercise of prudent judgment, that it is reasonably necessary to use the device as an investigatory tool to test the dependability of prior answers of suspected officers to questions specifically, narrowly, and directly related to the performance of their official duties.

Inherent in such a holding is judicial approval of the substantial reliability of the polygraph when expertly used.

As this article is written there are debates in progress within the Washington Legislature and the Seattle City and King County Councils. Police unions are urging these legislature bodies to statutorily prohibit the effective use of the polygraph in internal investigations. It is my opinion that to say the law as set forth in the *Seattle Police Officers' Guild* case makes police officers second class citizens is a specious argument. All public employees with law enforcement responsibility, (including prosecutors) should be held to the highest standard in carrying out their public trust. To deprive Chief Tielsch, Chief Hendren, Sheriff-Director Waldt and others of this infrequently used but vital tool in the face of their advice as to its importance would be a serious legislative mistake.

It is clear from the cases and from the legislative debates that the polygraph remains a controversial machine. It is not infallible and certainly must be used with expertise and in the context of other available evidence. But it remains useful at all phases of the law enforcement process and it is clear that the courts recognize this and have given their approval to the polygraph and admissibility of polygraph evidence under proper circumstances. □

The Courts

COURT ADMINISTRATOR

By PHILLIP WINBERRY
Administrator of the Courts

The 1973 session of the legislature has been an interesting one, both for the casual observer of the legislative process, and for those who have an interest of a more specific nature. Several bills before the legislature have merited a close following. Of particular interest to the courts has been the proposal by the Citizens' Committee on Washington Courts, SJR 113 which would amend the State's judicial article.

The Office of Administrator for the Courts, however, has been most particularly interested in those bills which would increase the number of superior court judges in the counties of King, Mason/Thurston, Spokane and Yakima. Those bills introduced as separate requests were consolidated by the Judiciary Committees of both Houses and at the time of this writing, authorize three additional judges for King County, one for Mason/Thurston judicial district, one for Spokane County and one for Yakima County. This will bring the number of superior court judges in this state to 98. It is hoped that with the addition of these judges, backlogs which have developed in those counties can be substantially reduced. It would appear, however, that in the case of King County, the action of the legislature is at best, a holding action. Additional judges will be necessary in King County before we can start to reduce case backlogs and the delay between the time when a case is noted for trial and the actual trial date.

In making presentations to the legislature this session, I have been constantly apprised of the fact that the members of the legislature believe the statistics which we presently compile do not accurately assess the workloads of courts and judges. We have been asked by individual legislators to provide in more detail, the types of cases filed as well as more definitive data relating to the caseloads for individual judges. It would appear that in future sessions the task of obtaining additional judges will be more difficult unless we are able to establish more factually, a statistical need for additional judges.

One method suggested by several members of the legislature is that the Office of Administrator for the Courts establish a weighted caseload system for evaluating workloads in superior court, much like a system followed in several states, most notably California. We are presently investigating this process and hopefully at future sessions of the legislature will be able to more accurately reflect for the legislature the needs of the courts.

An additional item of interest, under discussion by the legislature, was Senate Bill 2169 which would have allowed the annual judicial conference to be held outside the state of Washington in an adjoining state or province. The legislature took no action on this bill and as a result the annual judicial conference will not be held this year in conjunction with the annual State Bar convention. Rather, the judicial conference will be held at Rosario's Resort on Orcas Island. It is hoped that a future legislative session might give more favorable consideration to a bill which would allow the judges of courts of record in this state to meet in an adjoining state or province when the annual convention of the State Bar is scheduled for such a location.

Because this is the first article from this office which appears in the Bar News, a final note is in order. We have the responsibility to continually study the operation of the judicial system and make recommendations to the Chief Justice of the Supreme Court and the Judicial Council for the improvement of the administration of justice. We ask that members of the bar feel free to contact our office to give us any information which might prove helpful in the pursuit of this common goal.

SUPREME COURT PRACTICE

By WILLIAM M. LOWRY
Supreme Court Clerk

In mid-year 1970, the Supreme Court adopted Admission to Practice Rule 9. A new status of attorney authorized to practice law was created, the legal intern. Those eligible upon meeting certain requirements are: qualified law students, registered law clerks and graduates of approved law schools. As legal interns they can engage in the practice of law in any trial court of this state under the supervision of a Washington attorney.

Although there were many advocates in both the academic and practicing fields, there were also those who viewed the innovation with considerable apprehension. The rule was, therefore,

promulgated as an experiment for evaluation, paragraph F providing:

> This rule shall expire on December 31, 1973, unless continued by order of the Supreme Court.
>
> For the purpose of determining whether the program should be continued, the Court would appreciate comments and recommendations from those members of the Bench and Bar who have had occasion to observe or work with legal interns. Without intending to limit the scope of comments, evaluation with respect to the following would be helpful.
>
> Has the legal intern program:
>
> a. Provided valuable training which could not be adequately obtained in law school or through the law clerk experience.
>
> b. Affected the quality of representation by counsel.
>
> c. Contributed favorably to the attitude of the public towards the profession.
>
> d. Provide members of the Bar a means of obtaining legal assistance at less cost.
>
> Comments and recommendations should be received by the Supreme Court Clerk by August 31, 1973.

The following is a supplemental list of cases to be heard by the Supreme Court during the May 1973 Session which may be of interest to the Bar.

Original cases filed in the Supreme Court

42424 — *American Airlines v. Morgan*

Are certain articles, e.g. life rafts, portable oxygen bottles and medical kits, transported into this state to be installed in airplanes which are subsequently transported out of this state, exempt from taxation either under the Washington State Freeport Act or under the commerce clause of the U.S. Constitution?

42435 — *Clausing and Deer v. De Hart, et ux.*

Is a sale of 100% of the stock of a corporation through alleged misrepresentation, subject to the provisions of the Washington Securities Act?

42465 — *Eichler v. Yakima Valley Transportation Co.*

If conditions under RCW 46.61.340, which require motorists to stop for trains when they are visible, when a flagman warns of their approach or when an electronic signal or crossing gate is operating, do not exist, does a motorist have the duty to stop at a railroad crossing?

42603 — *Brewster Public Schools v. Public Utility Dist. No. 1*

Whether agricultural land is "operating property" within the meaning of RCW 54.28.080 which requires payment in lieu of taxes on land which is removed from the tax rolls as a result of the acquisition of operating property or the construction of a generating plant.

42611 — *Lavergne et al. v. Boysen et al.*

Whether the filing of an action challenging an excess tax levy election some 70 days after the election, is timely.

42624 — *City of Everett v. Michael Slade*

Is RCW 69.50.505 unconstitutional in that it fails to provide sufficient opportunity to appear and defend the forfeiture of a vehicle used to transport a controlled substance?

Original Writs

42352 — *Northshore School Dist. No. 417 et al. v. Kinnear et al.*

Does the present system of school finance result in a violation of the state's duty to provide a substantially equal educational opportunity in violation of the state and federal constitutions?

42625 — *Bullock et al. v. Roberts*

Is an indigent entitled to proceed in a divorce action without the payment of a filing fee and sheriff's fee for service of process?

42666-67-68 — *Reiner et al. v. Smith*
42736

Whether failure to credit pre-trial detention time against a defendant's maximum sentence and the mandatory minimum sentence imposed by law is unconstitutional.

Certifications from Court of Appeals

41958 — *Iverson v. Marine Bancorporation*

Is an indigent in a civil case entitled to public funds to obtain a statement of facts necessary to perfect the appeal?

42716 — *Seamans v. Walgren*

When and to what extent is a legislator of the State of Washington immune from process?

42726 — *Noe v. Edmonds School District No. 15*

Can administrative officials of a school district, not the school board, reduce a teacher's contract salary 7% during a period of probation under RCW 28A.58.450 and if so, is the statute a violation of a contract and therefore unconstitutional?

42732 — *State v. Roybal*

Whether a conviction of the crime of "person forbidden to possess fire arm" after having pleaded guilty to the violation of a city ordinance of "carrying a concealed weapon" constituted double jeopardy.

Transferred from Court of Appeals

42636 — *Hoops v. Burlington Northern*

Is RCW 81.04.440 providing: "If a public service company permits a thing to be done prohibited by the Utilities and Transportation Commission such public service company shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom", a strict liability statute?

42718 — *State v. Regan*

42637 — *State v. Richard R. Scheffel & Hideo Saiki*

Is the Habitual Traffic Offenders Act unconstitutional in that it violates the double jeopardy and ex post facto prohibitions of the state and federal constitutions and denies procedural due process of law?

42690 — *City of Spokane v. Vaux*

Is the Spokane City ordinance, making it unlawful for any person to operate a motor vehicle in a negligent manner, unconstitutional in that (1) it fails to give a person of ordinary intelligence fair notice if his contemplated conduct is forbidden and, (2) it depends for its application on a subjective interpretation by the enforcement officer?

42691 — *International Union of Operating Engineers Local No. 286 v. Sand Point Country Club*

Is it unlawful under the laws of this state for an employer to refuse to recognize and bargain with the representative designated by a majority of its employees to represent them for purposes of collective bargaining over wages, hours and working conditions?

Petitions for Review Granted

42644 — *Kjellman v. Richards*

Was it error for a trial court to allow an instruction on a defense of failing to wear a seat belt?

42659 — *Lyons v. Redding Construction Co.*

Whether the defense of volenti non fit injuria should be included in the general concept of contributory negligence, rather than a separate doctrine apart from it.

42664 — *Chase v. The Daily Record, Inc.*

Whether in a libel action you must show actual malice by clear and convincing proof.

42674 — *Investment Exchange Realty, Inc. v. Hillcrest Bowl, Inc.*

Does a real estate broker have the affirmative duty to disclose a dual agency relationship and what degree of disclosure is sufficient?

42676 — *In the Matter of the Estate of Ralph W. Lyman*

Is a will of community property which disposes of that property in a manner contrary to the provisions of an earlier executed community property agreement executed pursuant to RCW 26.16.120 valid?

42678 — *State v. Gluck*

Explores the extent to which the "stop and frisk" concept will be applied in the State of Washington.

42680 — *Anderson v. Halverson*

May the Court of Appeals in the face of filed juror affidavits setting forth the facts of filed juror misconduct in considering evidence dehors the record, reinstate a jury verdict allegedly based in part upon evidence supplied during deliberations?

42681 — *State v. Walker*

Can a defendant, induced to buy drugs for an undercover agent, be guilty of aiding and abetting the seller when he acts as an intermediary, yet received no benefits, monetary or otherwise, from such sale?

42686 — *Port of Tacoma v. V.C. Edwards Contracting Co.*

Whether a contractor as a condition of recovery against a Port is required to show how much delay was caused by the Port; and whether assuming the Port to have caused the delay the contractor is entitled to money damages.

42699 — *State v. Davis*

Is a psychiatrist, employed by the prosecuting attorney to interview an accused, required to give *Miranda* warnings?

42701 — *El Coba Dormitories, Inc. v. Franklin Co. PUD*

Whether a plaintiff must file a claim pursuant to RCW 54.16.110 prior to instituting an action for a breach of contract against a PUD.

THE COURT OF APPEALS

By JOSEPH A. THIBODEAU, *Commissioner*

The three chief judges of the Court of Appeals have determined that the court will consider approximately 130 cases during the May, 1973 Session. Cases raising issues which may be of interest to members of the Bar are summarized below.

Division I

SUMMARIES — Prepared by Joseph A. Thibodeau, Court Commissioner

No. 1939-I, State v. George Singelton, Jr.

Constitutional law — whether the method of jury selection by the use of the voter registration lists as the sole source of names for King County juries is a violation of the constitutional right to due process and equal protection through trial by an impartial jury.

No. 1970-I, 14,766 Seattle Voters, et al. v. Erlandson, et al.

When an effective date of an ordinance occurs on Saturday, whether the City Comptroller was required to accept additional referendum petitions sent by mail on Saturday but not received by the City Comptroller until the following Monday.

No. 1431-I, In the Matter of Gentle S. Allen v. Employment Security Department of the State of Washington

The issue before the Court of Appeals is whether the Commissioner properly construed and applied the Employment Security Act so that the 26-week period of disqualification from receiving unemployment compensation contained in RCW 50.20.070 (1953) runs in addition and subsequent to the 10-week disqualification period contained in RCW 50.20.060 (1970) rather than concurrently with the latter period.

No. 1534-I, State v. Ellsworth J. Robinson

Whether the trial court erred in communicating with the jury without notice to and in the absence of the defendant and his counsel; and whether the trial court erred in not considering a note from the jury requesting the trial judge to grant clemency.

No. 1569-I, Fisk v. Newsum

Whether an attorney committed malpractice with respect to preparation and closing of a contract for sale of an interest in a corporation.

Division II

SUMMARIES — Prepared by Laurence P. Gill, Clerk, Division II

No. 932-II, In re Lisa Ben David

The juvenile court declared Lisa Ben David an habitual truant for failure to attend public school. Petitioner claims that the Constitution of the United States gives a father a right to educate his child in a non-accredited, sectarian school which he has founded and which he administers.

No. 733-II, State v. Kenneth Leroy Pyles

A company guard jumped on the running board of a speeding car as it passed through the company gate. The ensuing struggle with the driver terminated when the guard slipped from the car to his death. Defendant complains that the state committed prosecutorial discretion, fatal in *State v. Zornes*, 78 Wn.2d 9, 469 P.2d 552 (1970), in charging manslaughter instead of negligent homicide by motor vehicle.

No. 756-II, State v. Clark James Danley, Jr.

Asks the court to determine whether an instruction that reads "on or about" is fatally defective when the defendant uses an alibi defense.

No. 774-II, Puget Sound Bulb Exchange v. Metal Building Insultation

A corporate defendant sought to impose a judgment entered against it on to a third party foreign corporate defendant which was dismissed by the trial court. Defendant was found liable for installing defective insulation in plaintiff's building which defendant fabricated from components manufactured by the foreign corporation who does not directly conduct business in the state of Washington. The court must decide whether the foreign corporation has committed sufficient contacts in Washington to be subject to jurisdiction through the long arm statute.

No. 779-II, Washburn v. Esser

Inquires whether a prescriptive easement may ripen from mutual use of a common roadway created originally by agreement of the original lot owners.

No. 710-II, In re Estate of Kubick v. Pacïfic National Bank

The issue is whether a forfeiture clause should be applied which limits bequests of will contestants unless the contest is made in good faith and for probable cause where the contestant challenged the executor of the grounds of conflict of interest.

Division III

SUMMARIES — Prepared by David MacCulloch, Clerk, Division III

No. 623-III, State v. Caswell Mims

Appellant was charged by information with the crime of armed robbery and was found guilty by a jury. On the day appellant commenced his jury trial, the Yakima papers had an article quoting the Yakima County Prosecutor as saying, "innocent men never go to trial." The court refused to poll the jury as to whether they were prejudiced by this article but did ask if any of them had read it. Should the jury have been polled about prejudice from the newspaper article?

No. 613-III, Lee Semon et ux. v. John Gamino et ux., et al.

This action arose over an accident caused by a flattened car body which fell from a leased trailer and damaged respondents. Appellant had coverage on the lessor of the trailer and held its coverage did not apply to the lease and his employee who was driving the trailer. The court granted respondent summary judgment holding the appellant's insurance did cover the lessee of the trailer and his employee. Did the omnibus clause in appellant's policy covering the lessor of the trailer cover the lessee and his employee?

No. 620-III, State v. Charles Frederick Tradewell

Appellant was convicted on one count of assault in the first degree and four counts of second degree assault. After appellant's arrest, he was examined by a psychiatrist, Doctor Hunter, who was allowed to testify at the trial. Does the calling to testify of one doctor waive the doctor-patient privilege of a consulting doctor?

No. 642-III, State v. Lewis C. Waldenburg

The appellant was charged by information in Franklin County, Pasco, Washington, with four offenses involving the sale of two cars. Appellant was a Portland, Oregon used car wholesaler. The charges arose out of the odometers on the two cars being turned back. Appellant was charged with grand larceny in the sale of each car and violation of RCW 46.37.550 (selling a car knowing the odometer has been turned back). After a trial by jury, appellant was convicted on all four counts. Is the count of grand larceny and the count of turning the odometer back a single offense?

SUPERIOR COURT NEWS

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

Members of the King County Superior Court judiciary participating in this year's Moot Trial program of the University of Washington School of Law are: Court Commissioner **Donald M. Niles** and Judges **Norman B. Ackley, Lloyd W. Bever, Cornelius C. Chavelle, William C. Goodloe, Edward E. Henry, Nancy Ann Holman, Erle W. Horswill, Jerome M. Johnson, James W. Mifflin, Janice B. Niemi, James A. Noe, George H. Revelle, Frank H. Roberts, Horton Smith, Stanley C. Soderland** and **Peter K. Steere.** The Moot Trial program is under the supervision of Seattle attorneys **F. Ross Boundy** and **John C. Coughenour.**

Will Letter

About a year ago, I published a Divorce Conditioning Letter brought to my attention by Judge William H. Williams of the Superior Court in Spokane County, which he had brought back from Long Beach, California and which is used by the firm of Colton & Austin in that city. It has caused considerable comment and interest. Del Cary Smith, Jr., of the Spokane Bar, now a member of the Superior Court Bench furnished me with a copy of another letter used by the same firm with respect to wills. It reads as follows:

A MESSAGE TO OUR CLIENT
REGARDING HIS OR HER WILL

Your Will has been signed in the manner required under our law. Congratulations! You have taken the proper action.

Among other things, you should keep the following in mind.

1. Your Will does not take effect until your death, and at any time before your death you may revoke your Will entirely, make additions, deletions, or change your beneficiaries.

2. However, never try to make any changes yourself. Changes made in your Will after you have signed it before witnesses may invalidate the entire document — which is the same as having no will at all! You should consult an attorney who will see that your desired changes are properly made.

3. You and your attorney should review your Will whenever any major changes in your life or family occur. For example, if you marry, obtain a divorce, have a child or adopt a child, or your spouse passes away, or if one or more of the beneficiaries should die, review your Will.

4. If you should move to another state, have an attorney there check your Will to make sure it complies with their laws. A valid Will in California may not be valid in another state.

5. Those of you who have not decided what to do with your Will, keep it in a safe place, preferably in your safe-deposit box. By the way, your Will does not have to be recorded or notarized.

6. Inform the party named as Executor or Executrix of your Will that he or she has been so designated, and also tell him or her where your Will can be found.

7. Finally, keep a current record of the addresses of the beneficiaries and inform the Executor or Executrix thereof. Many estates cannot be quickly closed because some of the beneficiaries cannot be found.

Thank you for giving us the opportunity of serving you. If you have any questions about your Will, we will be happy to try to answer them.

Yours very truly,
COLTON & AUSTIN
HARRY E. HENNESSEY

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

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

UPS Seeks Minority Students

The University of Puget Sound's newly established School of Law, which recently received provisional accreditation from the American Bar Association, is mounting a major campaign to actively recruit qualified minority students from across the nation.

The announcement was made this week by Joseph Sinclitico, dean of the law school, who indicated that he is not satisfied with the number of applications from minority students currently on file.

"We are not in the business of filling quotas here," the dean insisted, "but we also are convinced that many minority students interested in law careers are not aware of the UPS law program."

Sinclitico added that financial aid will be available for these students on the basis of need.

Minority students interested in further information are encouraged to contact the dean's office at the UPS School of Law in Tacoma. Day and evening law programs are available.

Twenty Years Ago

Memories of 20 Years Ago

"How to Keep Clients." This subject was to be part of a course given by Dean George N. Stevens and Prof. J. Gordon Gose under the name of Office Management and Professional Responsibility. We trust the course was well attended and that perhaps the subject "How to Get Clients" came under discussion.

Births

James S. Hogan opened in Miller Building, Yakima.

Wayne Gladstone left Pasco for Richland.

Jerome K. Kuykendall of Pomeroy and Olympia was appointed to the Federal Power Commission by President Eisenhower.

Owen Clarke, Yakima, was nominated by the President to the Interstate Commerce Commission.

Walla Walla: A number of law firms moved — Minnick & Hahner, Casey & Johnson, **Paul R. Roesch, Murray E. Taggart, Herbert H. Freise** and **Arthur L. Hawman.** It is not clear whether or not payment of rent was the problem.

Olympia: **Hewett A. Henry** appointed prosecuting attorney.

Auburn: **Luther C. Martin** appointed Justice of the Peace.

Seattle: **Newman H. Clark** joined **Ben Grosscup** on the state code committee. **Austin F. Case** and **Daniel C. Blom** joined forces. **John F. Vaughan** joined **Horace Davis. William H. Goucher** became a partner in the firm of Lundin & Barto. **Ford Q. Elvidge** obtained steady work as Governor of Guam. Mrs. Elvidge loyally joined him there.

A Washington State Chapter of the National Association of Claimants' and Compensation Attorneys was formed with President **John J. Kennett,** Seattle; Vice Presidents **Henry A. Peterson,** Tacoma, and **Ned Kimball,** Waterville; Secretary **Howard Pruzan,** Seattle; and Governors **John F. Walthew,** Seattle, **Robert Yothers,** Seattle; **Ralph Armstrong,** Longview, **Paul Edmondson,** Yakima, **Theodore Ryan,** Spokane, and **Frank Ruff,** Tacoma.

Crossed the Bar

Yakima: **J. Vincent Roberts** and **Emmons Ambrose Ferris.** Wenatchee: **Ray D. Kendall,** 50. Tacoma: **Arthur Hoppe.** Tacoma-Seattle: **Frank A. Huffer,** 90. Colfax and Kirkland: **Ulva Ettinger,** 92.

Seattle: **Arthur H. Hutchinson,** 76. **J. Ambler Newton,** 72, recognized as the leading authority in the United States on municipal law. **Donald G. Eggerman,** 71, born in Ada, Ohio.

Roger Shidler argued a burning issue. Governor Langlie stated, "It is a mighty poor lawyer who cannot make $10,000 to $15,000 a year." Roger mathematically analyzed the state tax commission reports to show that the average gross was $10,000 and the average net $6500. He wondered if this proved that the average Washington lawyer "is a mighty poor lawyer." No response!!!

David J. Williams

In Memoriam

Charles L. Harris, 77, who practiced in Seattle 51 years, died March 7. A graduate of the University of Washington and its Law School, he was a member of the firm of Carkeek, Harris, Harris, Myers & Vertrees.

John S. Acker, 66, Seattle attorney, died March 21 in Seattle. After his graduation from University of Minnesota Law School he practiced in Minneapolis until 1941. He served with the Office of Price Administration in Washington, D.C., during World War II, then came to Seattle as counsel for Carnation Company before entering private practice.

Richard K. Bush, 52, who practiced in Seattle since 1949, died March 15. A graduate of the University of Washington and of Harvard Law School, he taught at Lafayette College, Easton, Pa., before entering practice. He was active in educational and charitable activities.

Notices

A featured speaker at the June 7-9 Law Office Management Seminar at the Hanford House, Richland, will be Milton H. Stern (above), of Newark, N.J., nationally known writer and speaker on office-management practices. Registrations for the seminar, limited to about 100 lawyers and office managers, are now being accepted by the State Bar Office.

Lawyer Disbarred

Jack W. England of Seattle has been disbarred, by order of the Supreme Court filed April 5, 1973, upon recommendation of the Washington State Bar Association Disciplinary Board. According to the complaint, he improperly withheld and converted to his own use assets from an estate, forged a signature on a check, and failed to cooperate with the local administrative committee in its investigation of the complaint against him.

Wanted and Unwanted

Job Available. Lewis-Clark Legal Services, Inc., 310 Main Street, P.O. Box 973, Lewiston, Idaho 83501, Telephone: 743-1556, has an opening for the position of Staff Attorney. The salary is negotiable to $10,000.00 annually. Interested applicants should submit resume to the Board of Directors at the above address.

For Sale. Moore's Federal Practice (24 volumes), current, $120. Don Skinner, 1702 Norton Bldg., Seattle 98104, MA 4-3310.

For Sale: Complete set Wash. Reports 1 Terr. three Court of Appeals; complete set Wash. Practice, Vol. 1 through 10; new condition and current. Make offer. Call Philip E. Rosellini, MA 4-3280 (AC 206).

For Rent: Office, fully equipped, including dictating equipment, receptionist and library. Raymond D. Torbenson, Seattle, 624-5760.

Space Available: $325.00 per month, excellent office, telephone service, dictation equipment, beautiful reception area and excellent library; secretarial service available on an hourly basis. James T. Johnson, Seattle, 624-2832.

Space available: For one lawyer, library and secretarial available. William J. Van Natter, 411 Norton Building, MA 3-2348.

Space Available. Approximately 883 square feet available for lease immediately. Choice space on one of top floors of Seattle-First Building. Ready for occupancy. Includes carpeting, complete file system, some furniture. Premises have own separate entrance. $625 per month. MA 4-3600.

For Sale: U.S. Supreme Court Reports, L. Ed. second series, Vol. 1-29 and Am Jur Pleading and Practice Forms, complete including the revised volumes through Vol. 21 and all current indexes. Madison R. Jones, Walla Walla, JA 9-1301.

For Sale: Washington Reports through 78(2d); up to date R.C.W.A.; Washington Digest with 1971 pocket parts. James R. Thomas, P.O. Box 751, Okanogan, 98840, (509) 422-3610.

Wanted: Used IBM Selectric typewriter, 13⅛" carriage, 10 pitch. Carbon ribbon. Paul Luvera, Jr., 1002 S. 3rd St., Mount Vernon, 336-6561.

Products Liability Books Now Available

Now available for purchase is the new 339-page volume on Products Liability, the practice manual which accompanied the Continuing Legal Education seminar on that subject during March.

The book may be obtained for $12.50 from the State Bar Office, 505 Madison, Seattle 98104.

Authors are Shannon Stafford; Hon. Keith M. Callow, judge, Division 1, Court of Appeals; Hon. Erle W. Horswill, King County Superior Court judge; Hugh R. McGough, Raymond D. Ogden Jr. and Daniel F. Sullivan.

Among the subjects discussed: The necessary elements of a prima facie case; theories of liability and parties; discovery in products liability cases; the role of design defects and flammable materials in products liability law; suggestions for instructions and some model instructions; a defense view of a products case; indemnity, and the UCC in products liability law.

Calendar

"Flammable Fabrics" Subject of June Seminar

On Friday afternoon, June 15 and all day Saturday, June 16, 1973 at the Seattle-Tacoma Hyatt House, the Washington State Trial Lawyers Association will hold a seminar on the subject of "Flammable Fabrics."

The following speakers and subjects will be covered: Abraham Bergman, M.D., Children's Orthopedic Hospital, Seattle, Washington (Attempts to and the Changes Made in the Law Relative to Consumer Protection in Reference to Flammable Fabrics); Dr. S.J. Golub, Assistant Director of Fabric Research Laboratory, Inc., Dedham, Massachusetts (expert evidence in research in flammable fabrics and the liability of producers); Herman Glaser, attorney at law, New York City (presentation of expert testimony and demonstration of experiments in reference to flammable fabrics in a jury trial); Melvin Sturman, M.D., Seattle, Washington (the care and treatment of burn injuries); Phyllis Buxbaum, attorney at law, Washington, D.C. (the role that the Federal Trade Commission plays in assisting the consumer and attorneys); Frank Pozzi, attorney at law, Portland, Oregon (preparation and discovery and presentation of expert testimony in a flammable fabrics case); Justice Robert F. Brachtenbach, Washington State Supreme Court (The trends and development of law in reference to consumer protection); presentation of KING TV nationally acclaimed program "The Burned Child," and comments by Don McGaffin.

Around May 15th, registration forms will be available.

May 11-12	Sixth Annual Pacific Coast Labor Law Conference. Olympic Hotel, Seattle. Sponsored by U of W Law School and Labor Law Section of SKCBA.
May 12	Maritime Law. WSTLA Seminar. Hyatt House, Seattle. Gerald Bangs, Chairman.
June 1-2	ATLA Seminar on Basic Advocacy. Seattle.
June 7-9	Law Office Management Seminar at Hanford House, Richland. Sponsored by WSBA Committee on Law Office Management and Economics of the Bar. Richard J. Dolack, Tacoma, Seminar Chairman.
June 15-16	Flammable Fabrics Seminar. Hyatt House, Seattle, WSTLA.
July 29 - August 4	College of Advocacy. Hastings Law School, San Francisco.
August 6-9	ABA Annual Meeting. Washington, D.C.
Sept. 6-8	WSBA Convention. Regency Hyatt, Box 8650, Station H, Vancouver, 1, B.C.

LAWYER PLACEMENT SERVICE

By DAVID L. BROOM

The Young Lawyer's Committee of the Washington State Bar Association operates a Lawyer Placement Service at the State Bar Office, 505 Madison Avenue, Seattle, Washington 98104, and at the Spokane County Law Library, Paulsen Building, Spokane. The service is available to members of the Association and recent law graduates seeking legal opportunities and employers seeking legal personnel. The service is offered without cost to either the applicant or prospective employers. The following are summaries of a few of the many applicants on file:

1. Western Washington Prosecuting Attorney seeking Chief Civil Deputy with trial experience. Salary up to $24,500.00.

2. Resume on file for individual seeking work as full time legal investigator; has had specialized schooling in this particular field.

3. Attorney with substantial practice in small community wants to employ associate on a salary basis initially with view to forming partnership at the end of short period.

4. Southwest Washington Prosecutor's Office seeking Chief Deputy at $14,000.00+; experience required. Same county also seeking Deputy Prosecutor for criminal trial work at $10,000.00-$12,000.00 depending on experience.

5. Port District needs legal officer to assist Deputy General Manager with day-to-day legal problems. Two years' experience desired.

6. Large county seeking Deputy Prosecutor for domestic relations, child support enforcement work. $1,000.00 per month to begin.

WASHINGTON STATE BAR ASSOCIATION
505 Madison Street
Seattle, Washington 98104