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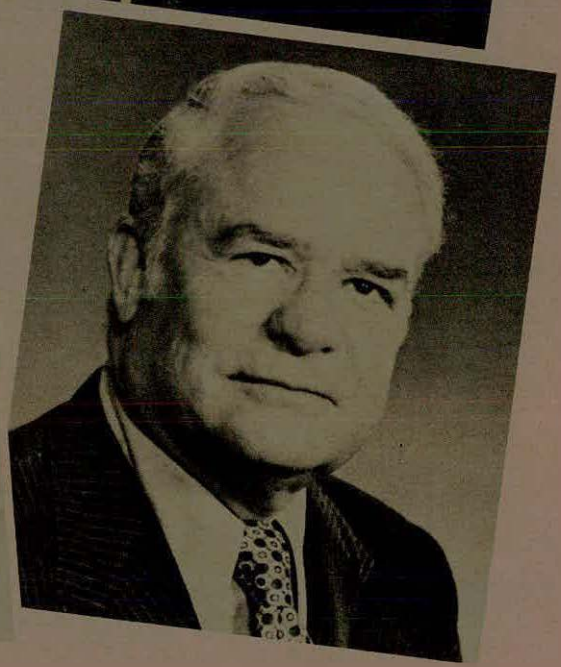
WASHINGTON STATE BAR NEWS



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Letters

Scandinavian Adventurers Appreciate McLauchlan

Editor:

I enclose a letter just received by me from Jack McLauchlan.

During the return trip from Europe last October, the lawyers and their wives aboard the Bar charter flight were so happy with the flight and were so grateful to Jack for all that he did in attending to the myriad of detail involved with making it thoroughly pleasurable that quite spontaneously it was decided aboard the plane to take a collection and to buy Jack a gift. It has taken this long to find precisely the proper gift. Ben, Max and I assured those who contributed that we would make a report to them as to the use of the money. It was hoped this could be done in the Bar News. Could you find space for this purpose? It seems to me, in any event, that a tip of the hat from the Bar News is due to Jack McLauchlan.

Very truly yours,
George H. Bovingdon

Seattle

McLauchlan to Give Rollie a Work-Out

Dear Friends:

I wish to acknowledge the handsome gift of the members of our Bar Association flight of October 8, 1972. I am the happy owner of a brand new Rollieflex 35 mm. camera and intend to give it good use on future trips overseas.

I am very grateful to your committee for your good thoughts, although I find the gift somewhat embarrassing since I have received more than ample reward for any work done in the delightful contacts I have made in connection with our Bar Association flights. However, I am sincerely grateful and look forward to giving the Rollie a real work-out.

With best wishes to you all,
I remain Your friend,
John D. McLauchlan

No Fee—No Decree? —Reprise

Editor:

I have received the attached letter from Stanley P. Wagner, Jr., the Director of the Pierce County Legal Assistance Foundation as a reply to my letter in the May, 1973 issue of Washington State Bar News which you entitled "No Fee—No Decree?"

The case cited by Stan Wagner is most certainly of interest to all lawyers of this state who handle divorce cases. *State Bar of Michigan vs Daggs* 384 Mich. 729 (1971) was summarized by that Court in this way:

> "Whether Respondent-Apellant (Attorney Daggs) *** was involved in unprofessional conduct in violation of the Michigan Supreme Court Rules and Canons of Ethics so as to justify a three-month suspension from the practice of law?"

The facts were that the client had paid attorney Daggs $150.00 to file a divorce in September of 1968. Daggs filed the Complaint in November 1968, obtained preliminary injunction and order for attorney fees upon filing the suit; and thereafter he did nothing in the matter with the result that the suit was dismissed for lack of progress in January, 1970. Daggs argued that the Board (Disciplinary Board) should not credit the clients version that the $150.00 was to represent the whole fee for his services in light of the fact this amount was less than the recommended minimum fee. He urged that in face of his 15 years of a good professional practice the Board should give greater credibility to his version that this sum amounted only to a partial retainer and that the client promised additional money before the divorce suit would be processed.

In affirming the three month suspension from practice the Michigan Supreme Court stated in part:

> "Once a lawyer accepts retainer to represent a client he is obliged to exert his best efforts wholeheartedly to advance the clients legitimate interests with fidelity and diligence until he is relieved of that obligation either by his client or the Court. The failure of a client to pay for his services does not relieve a lawyer of his duty to perform them *completely and on time* . . ." (underlining mine)

Two observations might be warranted from this case:

1. It is very wise to have a written retainer agreement in a divorce.
2. It is mandatory to complete the divorce case once it has been started, whether the client pays or not!

Respectfully submitted,
Claude M. Pearson

Tacoma

No Fee — No Decree Windfall to Lawyers?

Dear Mr. Pearson:

I was appreciative of your letter in the State Bar News concerning attorneys who take divorces and do not finish them. We have innumerable instances of attorneys taking retainers of $150 or more, starting the case, but then refusing to do anything more until the client comes up with more money.

Some attorneys will hold the files and not release them until they do receive more money. However, we do run into the problem often that an attorney will start a divorce and when he finds that his client has not come up with the remainder of his fee, will sometimes refer her to our program to complete the divorce. We generally attempt to take the position that if an attorney has started a divorce, we will not complete it.

I think you are correct in that an attorney should make a determination in the first instance whether he will take the case and the client can pay him; then if he does take it, he should complete it. While I don't believe our courts have ruled on the matter, a Legal Services Program in Michigan has sent me a copy of a decision by the Michigan Supreme Court (as you well know, they are probably all graduates of the country's greatest law school), ruling against an attorney who failed to complete a case after initially starting a representation. I have enclosed that decision for your information.

I hope that your letter will have some effect. It seems to me that even at an hourly rate, the initial retainer for typing up the papers and obtaining service is a windfall in many cases. I also know that the practice does not provide very good public relations for the Bar.

Very truly yours,
Stanley P. Wagner, Jr.
Pierce County Legal
Assistance Foundation

Last month's suggestion that the Washington State Constitution might limit original jurisdiction of the Superior Court to cases where the demand is in excess of jurisdiction granted to Justices of the Peace brought horselaughs from several Judges and lawyers.

Article IV, §6 of the Constitution reads in part:

> "The Superior Court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, ... and in all other cases in which the demand or the value of the property in controversy amounts to one thousand dollars, *or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts,* ... The superior court shall have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; ..."

The italicized language was added in 1952 by the 28th Amendment. Before the Amendment, one trial Judge interpreted this Section as we suggested - the second sentence refers only to *other* cases not specifically covered in the first sentence. The Supreme Court disagreed, and held that the Superior Court had concurrent jurisdiction with Justice Courts of small cases in the absence of a legislative grant of *exclusive* jurisdiction to Justice Courts. *State* ex rel. Shannon v. *Hunter*, 3 Wash. 92, 27 Pac. 1076 (1891). On further reflection the argument that language added by the 28th Amendment might change this result seems weak indeed.

The Editor's *lapsus noodlus* raises the question: Should not the Legislature grant to Justice Courts exclusive jurisdiction in suits for less than $1,000.00?

Further: Should not double jury trials be eliminated? Why should a party who requests a jury in Justice Court be entitled, on appeal, again to request a jury on a trial *de novo* in Superior Court?

Has the upgrading of Justice Courts progressed to the point where jurisdiction should be raised to $3,000.00, and the *de novo* appeal abolished? Should appeals then go directly to the Court of Appeals? Does this make more sense than a "single system" of trial courts?

Your suggestions please.

H McG

The President's Corner

Ever since the integration of the Washington Bar in 1933 under the State Bar Act, the President of the Washington State Bar Association has been chosen by its Board of Governors. However, as far as I am aware, the Bar has never had as president a lawyer who at the same time was serving as an elected member of the Board of Governors. In other words, the Board has excluded its current membership in choosing a president. On the other hand, with perhaps only two exceptions, the president has had a full three-year term on the Board of Governors before assuming the presidency.

There can be little doubt, if any, that service as a member of the Board of Governors is desirable experience in preparation for service as president. Should such prior service be made mandatory? Is Board experience sufficient preparation if it is not followed immediately by service as president? Is there a better way to choose the president or the president-elect? These and other related questions have come to my mind over and over again during the past year.

The Work Has Changed

The work and responsibility of the Board of Governors, especially that of the Bar president, has shifted dramatically since I began my three-year term as the Governor for the Seventh Congressional District in September of 1968. About one year later we began to shift to the newly created Disciplinary Board the great bulk of the disciplinary work which had previously been the responsibility of the Board of Governors.

However, in the years which have followed, the Board of Governors has been increasingly caught up with a rising tide of other interests, concerns and problems which are of first importance to our State Bar Association. As a consequence, even though the Board has been freed from major disciplinary activity, there has been a steady increase in the demands on the time, energy and dedication of members of the Board of Governors, including, particularly, the president. With these and other considerations in mind, the Board of Governors has taken a fresh look at the positions of president and president-elect and the manner in which they are filled.

We have not as yet formally embraced the concept of a president-elect. In recent years the Board of Governors has, however, chosen its new leader several months in advance of our annual meeting in September, at the conclusion of which the term of office of the new president will begin. This year, for the first time in my experience, the president-elect will have had the experience of sitting with the Board of Governors throughout five of its regular monthly meetings (rather than one or two) before assuming the presidency. In view of this and, I am sure, other unique considerations peculiar to the person of my successor, the Board decided the time was not ripe to move to the full president-elect concept which would have him sitting with the Board for an entire year prior to becoming president.

The Board of Governors also reached a decision as to the manner in which the president (or the president-elect) is selected. The possibility of choosing a president by popular election was seriously considered. This could be undertaken in a variety of ways. Candidates could seek the position and campaign for it. One candidate could be put up by the Board, with one or more others in the field as self-starters, or the field could be limited to two or more selected by the Board, with the membership, in either case, making the final choice. There are, of course, many other possible variations.

Expense a Factor

The concept of candidates overtly seeking the presidency and campaigning for it and the attendant implications of campaign expense and which candidates might or might not be able to raise or otherwise provide the necessary funds met with little favor. The Board was especially concerned about the expense factor because it is already seriously troubled by the increasingly heavy financial sacrifice which attends the presidential year and which cannot help but eliminate an increasing number of otherwise available and eligible prospects for the presidency. In any event, the Board strongly endorsed continuation of the present time-honored practice of leaving the choosing of the president entirely within the discretion of the Board.

I could not support more fully the Board decision as to the selection of the president. In my view our present procedure for the election of members of the Board of Governors other than the president satisfies adequately the need for the general membership in the Association to participate in the makeup of the Board of Governors. The Board works at very close quarters on highly controversial problems and, especially since it has been increased from eight to ten members (including the president), it is of significant importance that the president be, as nearly as may be, persona

grata to all of the other members of the Board. I can conceive of no approach more likely to achieve this important goal than the present procedure whereby the selection of the president is left entirely to the Board of Governors.

"Education" to be Vital

I do not, under present circumstances, disagree with the Board decision as to the president-elect concept. I do believe that it will become increasingly difficult, as Bar membership increases, (all indications are that our present much enlarged total of approximately 5,000 active members will more than double within a relatively few years), and as the problems of the Bar proliferate and become more and more complex, for the president-elect, even if he has had prior service on the Board of Governors, to be sufficiently educated to serve the Association effectively as its leader unless he has served with the Board of Governors during the full year immediately preceding his presidential year. I thus conclude that there will be a change, sooner or later.

Adoption of the president-elect concept on a full-year basis would be one way of solving the problem. However, it has a serious, perhaps a fatal, defect. The current and prospective demands on the elected members of the Board of Governors are increasing steadily and I believe they will continue to grow. A three-year term on the Board is alone a major contribution to the Association. To serve an additional year as president (even without a second additional year as president-elect) will, I think, soon be more than can reasonably be expected of an active member of the Bar who has the other significant qualifications for the presidency such as ability, experience, stature and commitment and, for most candidates, partners who are willing to share the financial consequences of very substantial, if not quite total, abandonment of income-producing activity for a year or more.

Choice From Board Seen

I believe all this will result in the not too distant future in a decision by the Board of Governors to choose the president from among its own number, i.e., the president when chosen will be an elected member of the Board of Governors who is near the end of his second year and who will serve as president during his third and last year. Obviously, to do so would eliminate not only the need for president-elect exposure to Board activities prior to the presidential year, but also concern as to whether a lawyer who is to become president has had prior experience as a member of the Board of Governors.

The most obvious disadvantage inherent in this concept of presidential selection is that the choice for the president would be limited to those already on the Board of Governors who are approaching their third and last year of service. Oregon and California operate on this basis, Oregon with a twelve-man Board and California with fifteen. Arizona, with a fifteen-man Board, does likewise except that it is more commonplace in Arizona than in California, Oregon or Washington for an elected Board member to succeed himself on the Board.

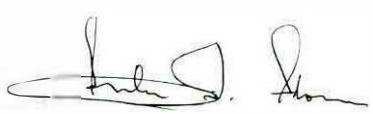
I would be slow to urge that the Bar president be chosen by the Board of Governors from among its own number if there were fewer than twelve elected members of the Board as contrasted with our present nine elected members. I do not consider it to be expectable or desirable that an elected Board member be asked to serve as president short of his third year on the Board, and I would be uncomfortable if there were fewer than four Board members from which to choose.

Board Expansion Feasible

Until a year ago we had an eight-man Board, seven elected members plus a president. We now have ten, the two additional members having been elected from King County. I do not suggest we add to the number of Board members through any belief that twelve heads are better than ten. Conversely, I believe the decision-making process may be somewhat slowed by the addition of two members. On the other hand, I can see the need, sooner or later, for a full year president-elect, thus bringing Board membership to eleven, and I cannot believe that one more will present a serious complication.

Furthermore, it is obvious from the experience of Bar Associations in other states that a governing body of twelve or more is wholly workable. Finally, the present high quality of Board members would, if anything, be strengthened if every candidate for the Board knew that election to the Board would automatically carry with it consideration for the presidency during the third year of service on the Board and that such consideration could not be obtained in any other way.

What do you think of this?



DUE PROCESS OF LAW FOR THE PUBLIC SCHOOL STUDENT

by Charles R. Lonergan, Jr.

Explusion of a public school student in Washington is defined as "the denial of the right of school attendance for an indefinite period of time." Local school boards are authorized to expel pupils by RCW 28A.58.101(3) in accordance with "reasonable rules and regulations prescribing the substantive and procedureal due process guarantees of pupils" issued by the state board of education RCW 28A.04.132.

The rules adopted by the State Board of Education are codified in the Washington Administrative Code and appear in Chapter 180-40 WAC, Pupils. These rules are binding upon local school boards and applicable to expulsion and suspension of students in grades Kindergarten through 12 (WAC 180-40-005, 007). Local school boards are required to adopt "reasonable written rules . . . regarding pupil conduct, discipline and rights" (WAC 180-40-065); "no pupil shall be disciplined, suspended or expelled except for sufficient cause" (WAC 180-40-75).

No expulsion can be ordered without a hearing (WAC 180-40-135). Personal service or certified mail of a written notice to both the pupil and the parent or guardian is required (WAC 180-40-140). The pupil has a five-day period to request a hearing in writing or it is deemed waived (WAC 180-40-140(2)). The notice must advise the pupil of his right to counsel and his right to determine whether the hearing is to be open or closed (WAC 180-40-140). The notice must specify the charges for which expulsion is sought. The Board of Directors of the school district may act as the hearing authority or delegate it. However, the hearing officer may not be a witness. Written findings based solely on the evidence presented are required.

Although the combination of judicial and proscutorial functions in itself does not render a hearing invalid, the possibility of bias of the hearing officer might deprive the pupil of an impartial trier of fact contrary to the due process fair hearing requirement (WAC 180.40-095(4)).

Expulsion Must Be Last Resort

One important limitation on the authority of the school district to expel a student is contained in WAC 180-40-085, which provides:

> "that no pupil shall be expelled unless other means of correction have failed and would not be adequate in bringing about proper conduct."

It seems that this provision would require a showing as of the school district's case for expulsion that no alternative means exists to resolve the problem such as special grouping, home tutoring, curriculum adjustment etc. In *Wharton v. Board of Education, City of Bridgeport* (Decision of New Jersey Commissioner of Education, 1972), it was held since expulsion of a pupil is an extremely drastic action, the school board is required to provide an offer of alternate instruction, either in an evening school or at home for either a regular or an equivalent diploma.

WAC 180-40-065 requires the adoption of "reasonable written rules and regulations regarding pupil conduct", and WAC 180.40.085 provides:

"Refusal to comply with written rules and regulations as established by a school district . . . shall constitute sufficient cause for expulsion."

May a pupil be expelled for disruptive conduct in the absence of a written rule sufficiently specific to avoid the objection of unconstitutional vagueness?

In *Hasson v. Boothby*, 318 F. Supp. 1183 (D.C., 1970), the superintendent's action was upheld in suspending high school students who attended a school dance with the smell of beer on their breaths even though there was no written rule where the students knew it was punishable conduct.

School-Law Seminar Welcomes Attorneys

All interested lawyers are invited to attend a one-day seminar for school attorneys November 29, 1973, at the Ridpath Hotel, Spokane, according to Michael G. Boivin, assistant executive secretary of the Washington State School Directors Association, sponsor. The association is at 200 East Union Ave., Olympia 98501 (206-753-3305).

Generally it has been held that a written rule is not required for the reason that no set of rules can be developed which could cover every form of disruptive conduct. However, at a minimum, a pupil is entitled to have adequate notice that the particular conduct is prohibited. Expulsion based upon even a written rule has been declared illegal on the ground of unconstitutional vagueness, especially where a student's First Amendment freedom is involved. *Meyers v. Arcata Union High School District* 269 Cal. App. 2d 549; See also *Soglin v. Kauffman*, 295 F. Supp. 978, Aff'd 418 F. 2d. 163 (CA7, 1969) overturning an expulsion for "misconduct" as unconstitutionally vague under the First and Fourteenth amendments in the absence of any rules defining prohibited conduct.

With reference to "sufficient cause" for expulsion, if the conduct involves the exercise of one of the "substantive rights" enumerated in WAC 180.40.095 the rule violated must bear "a real and substantial relationship to the direct preservation of their [pupils'] health, their fellow pupils, or the public health and safety or . . . the maintenance of the educational process" [180-40-100].

The rights enumerated in WAC 180-40-095 include freedom of speech, press, peaceable assembly, and the right to petition the government for redress.

WAC 180-40-095 enlarges the substantive rights of students beyond the type of conduct protected in *Tinker v. Des Moines Independent Community School District*, 393 US 503, the leading case. The *Tinker* case protected as symbolic speech under the First Amendment the student's right to wear anti-war armbands because the school was unable to prove this expression caused a material and substantial disruption of the school process.

However, the State Board of Education in its commentary on this section states that the enumerated rights are "not absolute" but "are subject to reasonable regulation by the school authority." The rules also establish the right of students to counsel, an expulsion proceeding, a right not yet generally recognized by the courts.

Grounds of Expulsion Must be School Related

Another limitation on the type of conduct that can form the basis of an expulsion is contained in WAC 180-40-110 that "no pupil shall be expelled . . . for the performance or failure to perform any act not related to the ordinary operation of the school or school sponsored activities or any other aspect of the educational process".

In *Bunger v. Iowa High School Athletic Association*, 197 NW 2d 555 (Iowa, 1972) the court held a "no beer" rule prohibiting students from

(Continued on Page 26)

Charles R. Lonergan, Jr., of Siderius, Lonergan and Crowley, Seattle.

Mandatory CLE? The CPA's Now Are Doing It

Mandatory continuing professional education? It is being studied or proposed in legislatures and elsewhere throughout the country, including among bar associations. The Washington State Bar's Board of Governors has approved in principle the concept of compulsory CLE participation by all lawyers and asked the CLE Committee to come up with a feasible plan (see The Board's Work, this issue of the Bar News). The following article explains the new requirement of continuing education for certified public accountants in this state.

Certified public accountants in the State of Washington will now be required to formally continue their education as a condition to renew their annual permit to practice.

We join 11 other states who have imposed similar requirements through legislation or regulation under State Boards of Accountancy, including legislation in the western states of California, Colorado and Hawaii. Thus CPA's become one of the first major professions to embrace mandatory continuing education.

To answer the "why," we asked Russell A. Davis of Seattle, Executive Director of the Washington Society of CPA's (membership about 2,000), who was successful in getting the continuing education bill through the last legislature, and William R. Gregory, a Tacoma CPA who served on the national (AICPA) committee that studied the matter for nearly three years and led the movement in the State of Washington.

Idea Relatively New

Although it may be said that all the professions encourage their members to continue their education by participation in professional development courses, the concept of compulsory or required continuing education is a relatively new and predictably controversial one. The idea was first proposed to the CPA profession in 1968 by the then president of the American Institute of CPAs, the national organization of the CPAs.

The objective of the proposal was to recognize the ever-increasing demands on the CPA profession, the rapidly expanding fields of knowledge to which accountants were finding it necessary to address themselves, and the fact that a significant number of CPAs were not partaking of professional development courses being offered by the profession. In short, it was recognized that continuing education was the alternative to obsolescence.

Furthermore, it was felt that requiring all CPAs in public practice to engage in some kind of continuing education would do much to eliminate a growing incidence of substandard practice in the profession.

Profession Favored Idea

The national study made by the AICPA ad hoc committee revealed a substantial part of the profession favored the idea of making continuing education mandatory and of the several approaches was heavily in favor of implementing the requirement by state legislation. State legislation or regulation possessed the one element that overshadowed the advantages of any other approach — it possessed teeth. An ethics provision, membership in either the national or state organizations, or special recognition, such as a fellowship designation in an academy, do not reach all practicing CPAs nor do they possess the muscle that a reregistration condition possesses.

Surveys were also conducted in the State of Washington and the results were very similar to the responses in the national survey — a mandate for the requirement *now* and the conclusion that State regulation or legislation was the most effective and better way. After several public hearings by the State Board of Accountancy and much exposure through the Washington Society of CPAs newsletters and membership meetings, Davis was given the authority to submit a bill at the 1973 legislature. Despite a rather unusual legislative environment in which to operate, the bill moved through both houses and was signed into law in April 1973 to become effective in July 1974.

120 Hours in Three Years

The new law suggests that the guidelines recommended by the AICPA be followed but leaves

(Continued on Page 31)

THE SIX-MAN JURY: MORE JUROR PARTICIPATION, BUT VERDICTS THE SAME

Two University of Michigan studies support the view that reduction of jury size from 12 persons to six will not affect the outcome of court cases.

The studies found that:

— Based on actual cases at the Wayne County, Mich., Circuit Court, where civil juries were reduced from 12 members to six in 1970, there were "no statistically significant differences" between verdicts reached in the two jury settings.

— In mock trials conducted at the U-M, there were "no significant differences" in the verdicts and fact-finding capacities of six and 12-member panels. The study also found that reduction of jury size did not serve to hasten jury deliberations.

— In the mock trials the six-member jurors were found to "participate rather than remain silent significantly more often" than the 12-member jurors.

Findings of the studies are announced in the spring issue of The University of Michigan Journal of Law Reform, a student-edited legal journal of the U-M Law School. The survey of cases at the Wayne County court was supported by a grant from the American Bar Foundation.

Journal editor William Newman, a U-M law student, notes that the studies are the first attempts to examine six and 12-member jury deliberations by using principles of statistical and sociological research.

The studies were undertaken to determine the effects of a 1970 U.S. Supreme Court ruling which permitted the use of fewer than 12 jurors in a criminal case. Since then, at least 57 federal district courts — as well as many state and county courts — have adopted local rules reducing the size of civil juries from 12 members to six.

In one study Joan B. Kessler, a U-M doctoral student in speech communication, found a "statistically significant difference" in juror participation, with six-member juries being much more likely to have 100 per cent participation in the deliberation process.

She found that in six out of eight experimental trials, all members of the smaller juries participated in the deliberation process. By contrast, there was full participation in only one of eight trials with 12-member juries.

"From a small-group communication view-

point," Mrs. Kessler wrote, "the six-member jury may be superior to the larger group, as the small size may encourage greater overall juror participation."

Mrs. Kessler's study included experiments with a total of 144 undergraduate U-M speech students, who served on six and 12-member panels in deciding a videotaped mock trial. Based on an actual automobile negligence case, the trial experiments featured a resident in orthopedics from U-M Hospital who testified as an expert witness, two law students who acted as attorneys, and an experienced trial lawyer who served as judge.

Mrs. Kessler's study also found "There were no significant differences between the verdicts, time of deliberation and numbers of issues discussed in the two different-sized panels." In addition, she discovered that "the six-member jurors are not significantly more satisfied with the deliberative process than the 12-member jurors."

The U-M researcher noted that a major reason for reducing jury size was to decrease the time of jury trials. But in fact, Mrs. Kessler found that in the mock trials, the mean deliberation time was somewhat higher for the six-member juries.

In studying juror satisfaction, the researcher found that 53.1 per cent of the participants in the 12-member juries said they were "very satisfied" with the proceedings, compared to 33.3 per cent of the six-member jurors.

One explanation, she reasoned, is that "more controversy" occured in the six-member settings, where more members participated in the proceedings and "the diverse ideas of the minority" were more likely to be voiced.

"The added controversy in the six-member juries seems to have led to more difficulty in reaching consensus, and consequently to less satisfaction with the group product," she wrote. "Perhaps, in a real trial situation the six-member jurors would take more time to resolve the conflict and ultimately reach a decision. Presumably, the jurors would then be more satisfied in a smaller group."

In terms of verdicts, the study found that with six-member juries, six cases were decided in favor of the defendant and two ended in hung juries. The results for the 12-member juries were seven cases in favor of the defendant and one hung jury.

The other study, conducted by Lawrence R. Mills, a U-M law student, found "no statistically significant differences" in the proportion of verdicts rendered in favor of plaintiffs and defendants, and in the amounts of money judgements that were awarded.

Mills' study was based on a statistical analysis of automobile negligence and other civil cases (not including divorce cases) conducted at the Wayne County Circuit Court from March 1 to Aug. 31, 1969, and from March 1 to Aug. 31, 1971 — before and after Michigan eliminated the 12-member jury requirement for civil cases.

Mills' data revealed some "observed" differences, such as higher damage awards in automobile negligence cases heard by six-member juries. However, the researcher attributed these to "pure chance" or to such other factors as a 10 per cent rate of inflation which had an obvious effect on damage claims in the two periods covered by the study.

Among the findings:

— For both the six and 12-member juries, the median trial duration was three days in automobile negligence cases and four days in other general civil cases.

— For the six-member juries, the percentage of verdicts in favor of plaintiffs was 49.2 per cent in automobile negligence cases and 61.5 per cent in other civil cases. For the 12-member juries verdicts in favor of plaintiffs were reached in about 52 per cent of cases in both categories.

— Damage awards ranged from $152 to $225,000 in cases heard by 12-member juries and from $500 to $315,000 for those of six-member juries, but most of the awards fell into a range under $10,000. The median amounts awarded in automobile negligence cases were $4,400 for 12-member jury cases and $6,662 in six-member jury cases. The median amounts for the other general civil cases were $14,750 in 12-member jury cases and $12,965 in six-member jury cases.

Mills emphasized that "the comparison of data from the 12-member jury cases with data from the six-member jury cases reveals some differences between them, but these disparities may not result from the change in jury size.

"An important rival explanation is that there is no real difference between the two different-sized juries, and that the observed differences between the two samples arose purely by chance."

Mills noted that "even if the two samples in the study were taken solely from 12-member jury cases, the limited size of the samples would cause some differences between them simply as a chance occurrence." □

The Board's Work

Extracts from the minutes of the meeting of the Board of Governors June 14-16 at Sun Mountain Lodge, Winthrop, Wash., with all members present:

Long Range Planning Session

The Board spent Thursday, June 14, in a long-range planning session relating to the Bar Association and its future. The discussions generally were based around the questons (1) What are the Bar Association's principles and goals (2) How do we implement these principles and achieve these goals and (3) What is around the corner for the Bar Association in relation to its needs, correlated with the demands made upon the Association by its membership, by the public and by others with a stake in the Bar Association's future.

Compulsory CLE Participation

The Board approved the concept of compulsory CLE participation by the members of the Bar Association and referred the matter to the CLE committee with the charge that the Board would like to see such a plan implemented within three years and that the CLE Committee should recommend a specific proposal as soon as such a proposal can be properly prepared after a thorough investigation. The vote was 8 to 1 with Mr. Short voting "no".

Judicial Advisory Poll

A. It was voted that the Association conduct a Judicial Advisory Poll of lawyers residing in each County or District where there is a contested election for positions on the Superior Court Bench later this year. Results will be made public in advance of the election. If a similar poll is conducted in King County by the Seattle-King County Bar Association, no poll will be conducted there by the State Bar.

B. It was voted that the Association conduct another Judicial Advisory Rating Poll of Superior Court Judges not related to the election setting; this poll will be after the elections in 1973 or early in 1974.

C. The "contested election" poll and the advisory rating poll were referred to the Courts and Judicial Selection Committee with a charge that it should make recommendations to the Board concerning the form and timing of both such polls, and relating to what Courts the poll should apply, if any other than the Superior Court.

Lay Membership On Disciplinary Board

The Board recommended to the Supreme Court the adoption of a new rule providing for the addition of two non-voting, lay members to the Disciplinary Board on a trial basis for one year. The two lay members would not participate in trial hearings but would attend the Disciplinary Board's regular meetings and participate in the discussions fully in an advisory capacity. Lay participation was recommended for a one year trial period only, and that at the end of one year the experience would be reviewed and a decision made whether to recommend that the program be expanded, extended or terminated. The two lay members of the Disciplinary Board would be named by the Supreme Court for one year terms. The vote on this motion was 7 to 2, with Messrs. Day and Ripple voting "no".

Section By-Laws

It was voted that the proposed By-Laws of the Patent, Trademark and Copyright Section, the Taxation Section and the Young Lawyers Section be approved.

Pro Bono Publico Participation

It was moved by Mr. Pritchard and seconded by Mr. Curran that the Board pass a Resolution endorsing and encouraging expanded participation by the members of the Association in Pro Bono Publico programs. The motion did not pass, with four votes for the motion and five votes against.

The Legal Assistants Program

It was decided that the Chairman of the Legal Education Liaison Committee should express to Dr. John C. Mundt, Director of the State Board of Community College Education, the Committee's concern and the Board's concern that all legal assistant programs developed in the community colleges in the State be coordinated with the Washington State Bar Association, with the specific request that any new programs be referred to the Association to the end that such programs may be developed in a unified, coordinated manner.

Legal Assistance For Indigent Mental Patients

The proposal by Dean Richard S.L. Roddis for an extension fo the LAMP program to include the providing of legal services to indigent mental patients was approved.

Judicial Liaison Committee

Judge Willian H. Williams of the Spokane County Superior Court, Judge Thomas G. McCrea of the Snohomish County Superior Court and Judge Lloyd W. Bever of the King County Superior Court met with the Board to discuss mutual problems and concerns with emphasis on proposed Judicial Reform and the details of current pending legislation regarding the same.

The President and the President-Elect

A. An oral and written report on the subject of the selection of a President for the Bar Association and the possibility of selecting a President-Elect was presented to the Board by Mr. Novack, as chairman of a sub-committee to study those subjects.

B. It was moved by Mr. Pritchard and seconded by Mr. Curran that the President be elected by the popular vote of the membership. Two members voted for the motion (Messrs. Pritchard and Curran) and seven members voted against the motion.

C. It was moved by Mr. Pritchard and seconded by Mr. Curran that the Board should consider the committee's report by sections in seriatim. The motion failed, with four members voting for the motion and five members voting against.

D. It was moved, seconded and carried that item number three in the Committee's report relating to the enlargement of the Board of Governors would be deleted in the Board's final consideration of the report.

E. It was then voted that the subcommittee report, with Item No. 3 eliminated, be adopted by the Board. The vote was 8 to 1, with Mr. Pritchard voting "no".

The Bar Examination

The Board decided applicants should be allowed to take the bar examination automatically up to and including four times on the applicant's own motion, if otherwise qualified, but that thereafter no application would be accepted from an applicant who had failed the examination four times, since there would be no "probable cause" to believe that there was any future likelihood that the applicant would be able to pass the examination, and that to allow the applicant to continue to take the examination after four failures would be an injustice to the applicant and perhaps consitute an interference with the examining process. It was agreed that this rule, if approved by the Supreme Court, would apply to all those persons who up to the date of the adoption of this rule by the Supreme Court had taken the bar examination three times or less. The vote on the motion was 6 to 3 with Messrs. Pritchard, Curran and Hoff voting "no".

Legislative Study Committee

The report of the Legislative Study Committee was accepted. A copy was to be furnished to the Chairman of the Legislative Committee and to other former Chairmen of the Legislative Committee with a request that each comment on the report, the work of the Legislative Committee and the future effectiveness of the committee in light of the new circumstances surrounding the legislature itself.

Legal Ethics Opinion

A proposed Legal Ethics Opinion relating to the use of an attorney's name in legal notices was amended and approved (the opinion appears elsewhere in this edition of the *Bar News*.)

□

Bar Convention Features All-Star Lineup

Joe Garagiola
Chesterfield Smith
Kay Starr
Ted Sorensen

There, in no order but alphabetical, are the ingredients for a highly successful State Bar Convention. And they will be some of the headliners at the Washington State Bar's annual meeting September 6-8.

Garagiola, as great a favorite with women as with men, packs a lot of perceptive philosophy and fascinating facts into his familiar nonstop brand of humor; he will be the convention's midway "light" break, speaking at the Friday luncheon.

Smith, of Lakeland, Fla., became ABA president earlier this month. He is a pretty good, drawling, country humorist himself, and is noted for his honesty, candidness and non-lily-gilding in discussing issues of importance to the Bar. He will address the Thursday luncheon.

And Kay Starr is a well established favorite on stage, screen, etc., as a talented, charming and beautiful vocalist. She will headline the entertainment at the big Friday night "gala" evening of sumptuous banquet, music, dancing and entertainment.

Ted Sorensen now practicing law in New York City, was a bright light of the Kennedy presidential administration and has been one of the most articulate and vivid biographers of the Kennedy era. He will address the Young Lawyers luncheon Saturday, September 8.

In addition to the four national-fame headliners, the convention will feature a full CLE bill of fare that promises to be one of the best in years, with something to suit every taste and practice: Legislation, Evidence, Law Office Management, new criminal rules and federal rules of evidence and divorce practice under the state's new law—all will be presented by outstanding speakers and writers.

And then there is the popular annual feature, the Saturday morning *Teach In-Speak Out* panel program, presenting an even dozen speakers on a wide variety of carefully chosen subjects of general and compelling interest to the Bar. And please note the time change: The program begins at 9:30 a.m. Saturday, and it will be well worth the getting up and out for. (The full lineup of CLE speakers appears in the centerfold in this issue of the *Bar News.*)

If you have not already made advance registration for the convention, please do so immediately —advance registration assures that you need stop only briefly by the desk to pick up badge, tickets, gifts, books, etc. Room reservations must be made directly with the Vancouver hotels.

Resolution Proposed For Bar Convention

A proposed resolution concerning the right of action of a standing committee of the association has been prepared for possible submission at the business session of the State Bar Convention in Vancouver, B.C., September 6-8.

The proposed resolution, submitted by the Americanism Committee through its chairman, Charles V. Moren, and any others submitted before the convention will be the subject of a public hearing at a Resolutions Committee meeting at 11 a.m. Thursday, September 6, at the Regency Hyatt, Vancouver.

Resolutions Committee chairman is Richard H. Riddell, Seattle. Members are Jackie L. Ashurst, Seattle; Russell V. Hokanson, Seattle; George W. McCush, Bellingham; Hal D. Murtland, Tacoma; Harold A. Pebbles, Olympia; Darrell E. Ries, Moses Lake; Joseph J. Roller, Tacoma; Charles Scanlan, Spokane; and Jerome R. Walstead, Longview.

The resolution proposed by the Americanism Committee is as follows:

RESOLVED: That it shall be the policy of the Washington State Bar Association that any duly constituted standing committee of the Washington State Bar Association be entitled to act or take action, including communicating with any member of the public, within the scope of such committee's jurisdiction as defined by the Board of Governors, subject to such committee's giving not less than two weeks advance notice to the President of the Washington State Bar Association of proposed action in areas where the *committee* has reason to believe substantial controversy exists or will arise in connection with such proposed action, and giving the President of the Bar Association power to delay such proposed action until completion of the next regularly set meeting of the Board of Governors of the Washington State Bar Association if he feels delay and/or further consideration should be given the matter either by the State Board or the Committee involved.

The New LRS: Serving the Public and the Bar

The State Bar's new Lawyer Referral Service referred 1,091 potential clients to lawyer-panel members in the year ended June 30, 1973.

The service is operated from the Bar Office in Seattle by WATS line throughout the state except in King, Pierce and Spokane Counties. Those three counties have local lawyer-referral services operated by the local bar associations.

David J. Whitmore of Wenatchee, chairman of the State Bar's Lawyer Referral Service Committee, said that of the 1,091 referrals actually made, reports on 875 matters were made back to the Bar Office staff by the lawyers to whom they were referred.

Client Relationships Formed

"And of that 875, almost 400 indicated further legal services beyond the initial interview would be required," Whitmore said. "In 117 cases, the estimated additional fees required would be up to $100, in 204 cases the fees were estimated at between $100 and $500, and in 58 matters the fees were contingent or were expected to exceed $500 or were not subject to immediate estimate."

Under the LRS program, a person who thinks he may have need of a lawyer's services telephones the Bar Office, toll free; the LRS operator, Kathleen Vincent, discusses the matter and seeks to ascertain that the caller's problem is a legal matter and that he definitely needs and wishes to see an attorney.

A specific time appointment then is made for the potential client with an attorney in his own area who is an LRS panel member.

"Every effort is made to hold down the number of so-called 'no-shows,' persons who have an appointment made and then change their minds and do not keep it," Whitmore said. "Such persons are a problem to all the nation's 300 lawyer referral services, and figures show that our efforts to screen the callers are more effective than those of many other services."

Majority Pay Fees

Those keeping the appointments are charged $10 each for the initial half-hour of legal consultation. Whitmore noted that 575 of the 875 lawyers reporting said the fee was duly paid.

"The more than 180 lawyers who have been serving the Lawyer Referral Service deserve special commendation from the Bar and the public," Whitmore said. "Though we have mentioned that the service does result in some economic benefits for some attorneys, we believe and in fact know that most lawyers are serving as a public service in the highest professional tradition—trying sincerely to make legal services more conveniently available and attractive to that certain portion of the public which for one reason or another is reluctant to approach lawyers.

Many Members Sign Again

"Though panel membership costs each lawyer $15 a year to help defray some of the costs of operation, the majority of the 180-plus panel members again are signing up for the membership in the new LRS billing year.

"The Board of Governors also deserves the highest commendation of the public and the Bar for its generous willingness to continue to have the greatest portion of the costs of operation paid from general association funds as a service to the public and to the entire bar.

A "Positive PR" Program

"In addition to providing a vital public service and fulfilling a professional obligation, we believe the LRS also results in a positive public relations credit for the entire bar. The public, through our many Yellow Pages ads and otherwise, will come to know that the Bar is eager to make the first move to assure that anyone can contact a lawyer at a nominal cost and have any fears of lawyers or exaggerated fees put to rest.

"In addition, for each referral the Bar Office receives several calls from persons who have problems or questions which do not turn out to be potential legal matters—and we make every effort to help those persons, too, in answering their general questions or directing them to other possible sources of help, or just lending a sympathetic ear."

Panel is Substantial

Whitmore noted that the 180-plus membership on the panel has been a substantial proportion of the general-practice lawyers of the state's bar, after eliminating the big King, Pierce and Spokane County bars and lawyers other than those in predominately private practice.

"We would hope that every eligible lawyer will be moved by his public and professional spirit to join the panel," Whitmore said. "Look in your local Yellow Pages — and if you see the State Bar LRS one-inch advertisement under Attorney Reference Service just ahead of the Attorney column, you are most sincerely urged to join the panel."

279 Are Employed as Legal Interns

A record 279 legal interns were employed in law offices throughout the state at the start of this summer.

The State Bar Association supervises the three-year-old program which provides for the limited practice of law by third-year law students and recent law school graduates. The interns may appear in district, justice and municipal courts and under certain circumstances in Superior Court and may do in law offices almost everything lawyers do.

Since the pilot program began in June 1970, 832 persons have registered as legal interns and received the limited licensing from the State Supreme Court. More than 100 are usually employed during the school year itself and the number greatly increases during the summer vacation break in the law schools.

King, Spokane Leaders

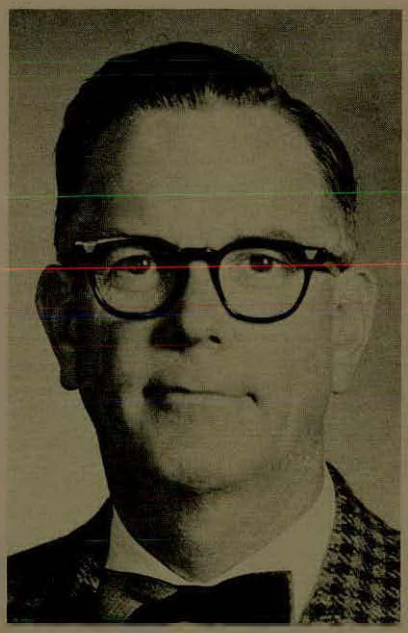
Of the 832 who have served as legal interns, 450 have been employed in King County, 151 in Spokane County, 54 in Whitman County (mostly University of Idaho law students), 40 in Snohomish County, with the 111 others spread elsewhere throughout the state.

A substantial number of interns are regularly employed in public law offices — public defenders, prosecuting attorneys, legal aid and legal services.

The program is designed to benefit the public, courts, and legal profession as well as provide a valuable clinical-education experience for the students.

Experience Aid in Exam

Figures prepared by the Legal Internship Committee and staff for the Board of Governors show the value of the clinical-education experience for the law students. Eighty-nine per cent of the 166 legal interns who took the July 1972 Bar Exam were successful, as compared with the 73 per cent of the 244 who had no legal-intern experience. In the February 1973 exam 69 per cent of the legal interns passed compared with 58 of the non-interns.



Richard H. Riddell

John E. Heath, Jr.

Heath and Riddell to Become Governors

The two new members of the Board of Governors are lawyers with strong track records of service to the Bar.

John E. Heath, Jr. of Spokane, a member of the firm of Witherspoon, Kelley, Davenport & Toole, is a past president of the Spokane County Bar Association and has been a frequent contributor as panelist-author on continuing legal education programs.

And his reputation as a lawyer barely overshadows hss fame, at least n local circles, as a talented and versatile thespian, playwright, singer, composer and lyricist for the Spokane Bar's series of sketches, skits, musicals, operettas and what-have-you.

John will succeed John J. Ripple of Spokane as the Fourth Congressional District's representative on the Board.

Elected by attorneys residing in the First Congressional District was Richard H. (Dick)Riddell of the Seattle firm of Riddell, Williams, Voorhees, Ivie & Bullitt.

He is a former president of the Seattle King County County Bar Association, and has served that bar also as chairman of the committees on public relations, nominatinns, and law-office management and economics. He now is chairman of the State Bar's Resolutions Committee. He will succeed Kenneth P. Short of Seattle.

Heath and Riddell will take office during the State Bar Convention in Vancouver, B.C., September 6-8, to serve three-year terms.

State Bar Sections Set First Meetings

Joined a State Bar section yet?

Hundreds of lawyers have. And many of them will be attending the initial, mostly organizing, meetings of the new sections during the State Bar Convention Vancouver, B.C.

The Board of Governors amended the Bar's By-laws, effective last February 28, to permit establishment of sections. Since then the action has been busy on several fronts as the groundwork for getting the sections actually organized and operating was being prepared.

Approved by the Board of Governors in its May and June meetings were the by-laws creating the **Sections of Family Law, Taxation,** and **Patent, trademark and Copyright Law** and the **Young Lawyers Section.** Organizing chairmen of those sections are Homer Crollard, Family Law; Orland M. Christensen, Patent, Trademark and Copyright Law; Irwin L. Treiger, Taxation, and Curtis L. Shoemaker, Young Lawyers.

Scheduled for later-summer consideration and probable approval by the Board were the by-laws for the new **Sections of Criminal Law** (Frank L. Sullivan, temporary chairman); **Anti-trust Law** (Douglas Beighle and several others, organizers); **Corporation, Business and Banking Law** (D. Wayne Gittinger and several others); **Administratative Law** (Clyde H. MacIver); **Creditor-Debtor Rights** (Joseph A. Barreca); **Real Property, probate and Trust** (Alan H. Kane), and **Trial Practice** (Leon Wolfstone, F. Lee Campbell and others).

Sections, which have been established for years in some other, larger state bars and the American Bar Association, make it possible for participation of far more lawyers in association activities than the committee system has permitted. Most of the new sections formerly were committees, with perhaps a dozen to two dozen members; now each section may have a virtually unlimited membership, open to all lawyers with an interest in the subject and in joining the section.

And many lawyers obviously are interested; in a recent survey of the Bar almost 250 lawyers indicated interest in joining the Section of Real Property, Probate and Trust, and almost that many in other sections.

First Meetings at Convention

The sections have scheduled organizational meetings in connection with the State Bar Convention in the Regency Hyatt in Vancouver, B.C., Sept. 6-8. Meeting at 3 p.m. Wednesday, Sept. 5, will be the Section of Taxation. The Sections of Trial Practice and Real Property, probate and Trust will meet at 4 p.m. Meeting at 4:30 p.m. Thursday, Sept. 6, will be the seven other sections.

Criteria Considered By COG IN Nominating Members to Committees

This year for the first time COG (the Committee on Organization and Government of the Bar) has made the preliminary recommendations of committee memberships to the Board of Governors, which does the actual appointing of all committee members.

In addition to the establishment of the 11 new sections of the Bar, about four dozen committees remain in operation. And applications from lawyers throughout the state for membership on committees still far outnumber the available positions, COG reported.

COG established certain criteria in making its recommendations to the Board of Governors for committee appointments. Among them:

—Membership on a committee is limited to three years; hence a number of members have been "graduated" from some committees.

—Members should serve on only one committee.

—Lawyers expressing interest in the recent bar committee preference poll were given priority.

—Staggering of terms of committee members brought about some shuffling of memberships; some former members were removed for lack of attendance at meetings.

—In some cases the sizes of committees were altered in light of committee experience and sometimes on recommendation of the committees or their chairpersons themselves.

COG reported that of the large number of applications for committee memberships, COG was able to recommend only about 350 appointments to available positions.

Three Fall Seminars Provide Variety

Two big October legal-education seminars and one in December are scheduled for members of the Washington State Bar.

October 6: **Public Interest Law Seminar,** 9 a.m. to 4 p.m. in the HUB Auditorium, University of Washington, Seattle.

October 25-26: **Estate Planning Seminar,** in cooperation with the Estate Planning Council of Seattle and the University of Washington law school; 9 a.m. to 4:45 p.m. both days, at the Washington Plaza Hotel in Seattle.

December 1, 8 and 14: **State Taxes: Substance, Administrative Remedies, Trial Practice**; 9 a.m. to 4 p.m., December 1 at the Evergreen Inn in Olympia, and December 8 in the Olympia Hotel, Seattle, and December 14 (Friday), from 1 to 6 p.m., in the Ridpath Hotel, Spokane.

Speakers at the **public Interest Law Seminar** will include John Aslin, Seth Armstrong, J. Richard Aramburu, Betty J. Bracelin, William L. Dwyer, Roger M.D Leed, Charles J. Merten of Portland and J. Anthony Kline of San Francisco. Emphasis will be on practical aspects of environmental law, federal civil rights litigation, discrimination in employment, class actions and consumer protection, among others.

The **Estate Planning Seminar** is an expansion of the annual seminar presented for the last 17 years by the Estate Planning Council of Seattle, and University of Washington Law School; the council has as members lawyers, chartered life underwriters, certified public accountants and trust officers.

The first day's program will emphasize the basics in law, trends and practice of importance to most lawyers, and the second day's sessions will expand into slightly more sophisticated areas.

Speakers the first day will be leading figures from the professions in Washington state concerned with estate planning. The second day's program will be presented by outstanding attorneys from throughout the United States whose practices emphasize aspects of estate planning. Chairman of the entire seminar is Malcolm A. Moore of Seattle, in conjunction with Ted Kibble, president of the Seattle Life Underwriters.

The speakers (attorneys unless otherwise indicated) are scheduled to include:

Alan D. Bonapart, San Francisco; William P. Cantwell, Denver; John R. Cohan, Los Angeles; Fred J. Dophiede, C.L.U., director, Continuing Education, American Society of C.L.U.s, Bryn Mawr, Pa.; Hilton B. Gardner, C.P.A., Tacoma; James B. Gilchrist, Trust Officer, Seattle-First National Bank, Seattle; Frederick R. Keydel, Detroit; Ted Kibble, C.L.U., Seattle; Scott B. Lukins, Spokane; Kenneth L. Schubert Jr., Seattle; Edward Schlesinger, New York City; S. Alan Weaver, Tacoma; and Malcolm Moore.

John T. Piper of Seattle is chairman of the **State Tax Seminar.** Speakers will include Michael L. Cohen, Seattle; James Ferber, Tacoma; Graham H. Fernald, Seattle; Harley H. Hoppe, Seattle; James R. Stanford, Olympia; S.E. Tveden, Olympia; and E. M. Sandy Murray, Tacoma.

Contributing editors are Prof. William R. Anderson and Max Kaminoff of Seattle and Timothy R. Malone of Olympia. Consultants are Michael B. Hansen of Tacoma and Robert S. Muckle-stone of Seattle.

The seminar will blanket the field of state taxation — sales and use, B and O, property, excise — and discuss basic structures, important exemptions, constitutional limits, procedures, administrative practice, and appeals and remedies.

In Memoriam

Joseph J. Morgan, 57, senior officer of the Everett Abstract & Title Co. since 1968, died June 12. He formerly practiced in Seattle. A Seattle native and graduate of the University of Washington Law School, he was a member of Phi Alpha Delta law fraternity.

E. C. Prestbye, 81, retired Federal Land Bank attorney, died May 16. He was graduated from University of Montana Law School and practiced in Athena Ore., 13 years before joining the Land Bank in Spokane in 1933. He became chief counsel in 1957 and retired in 1962.

James M. Ballard, 79, who practiced in Seattle more than 40 years, died July 8. A graduate of the University of Washington Law School, he had offices in the Central Building and Smith Tower. He moved to Mount Vernon in 1955 and continued practice, and later was employed by the Skagit County prosecutor's office before retirement in 1965.

Washington State Bar Association Annual Meeting PROGRAM

WEDNESDAY — September 5, 1973

9:00 A.M. Meeting of Board of Governors
12:00 Noon Registration
3:00 P.M. Taxation Section
4:00 P.M. Trial Practice Section
4:00 P.M. Real Property Section

THURSDAY — September 6, 1973

8:00 A.M. Registration
10:00 A.M. To Noon

NEW CRIMINAL RULES
Chairman:
Frank L. Sullivan, Seattle
Speakers:
David Boerner, Seattle
John L. Farra, Aberdeen
Murray B. Guterson, Seattle
L. Carl Maxey, Spokane

WHAT HAVE THEY DONE TO US LATELY?
A Review of Recent Legislation, the Role of the Legislature, and the Lawyer-Legislator
Chairman:
James A. Andersen Jr., Seattle
Former Senate Republican Leader
Speakers:
Senator R. Frank Atwood, Bellingham
Republican Caucus Chairman
Senator Martin J. Durkan, Issaquah *Democrat, Chairman Ways and Means Committee*
Representative Walt O. Knowles, Spokane *Democrat, Chairman House Judiciary Committee*
Representative Kenneth O. Eikenberry, Seattle *House Republican Whip*

11:00 A.M. Resolutions Committee Meeting
12:00 Noon Luncheon
Presiding: *Kenneth P. Short,* Seattle, Retiring member Board of Governors, First District
Speaker: *Chesterfield Smith,* Lakeland, Fla., President, American Bar Association

2:00 - 4:00 P.M. **LEGAL INSTITUTES**

EVIDENCE UPDATE
Chairman: Associate Dean Charles Z. Smith, Seattle
Speakers:
Irving M. Clark Jr., Seattle
Paul R. Cressman, Seattle
William A. Helsell, Seattle
Hugh Miracle, Seattle
William Wesselhoeft, Seattle

DIVORCE: PRACTICE UNDER THE NEW STATUTE, RECENT DEVELOPMENTS IN OLD PROBLEMS
Chairman: Hon. Robert A. Winsor, Seattle
Speakers:
Homer Crollard, Yakima
Evelyn L. Foster, Olympia
Hon. Nancy Ann Holman, Seattle
Robert F. Phillips, Spokane
Richard H. Riddell, Seattle
Professor Luvern V. Rieke, Seattle

4:30 P.M. Local Bar Presidents Meeting
4:30 P.M. Criminal Law Section
4:30 P.M. Patent Law Section
4:30 P.M. Young Lawyers Section
4:30 P.M. Creditor-Debtor Section
4:30 P.M. Anti-Trust Section
4:30 P.M. Administrative Law Section
4:30 P.M. Corporation Law Section
4:30 P.M. Family Law Section

6:30 P.M. University of Washington Class of 1948 Reunion - Cocktails & Dinner
Contact: Andy Engebretsen
American College of Trial Lawyers - Cocktails & Dinner
Contact: DeWitt Williams

University of Washington Class of 1970 Reunion
Contact: Michael Redman
Willamette Law School Alumni No-Host Cocktail Party
Contact: Kenyon Luce
Gonzaga Law School Alumni - No-Host Cocktail Party
Contact: Richard Mah
Georgetown University Law School Alumni - No-Host Cocktail Party
Contact: John Duggan
Harvard Law School Alumni - No-Host Cocktail Party
Contact: Mike Liles

FRIDAY — September 7, 1973

7:30 A.M. **Breakfast Meetings:**

7:30 A.M. Phi-Delta-Phi Breakfast
Contact: William McGonagle
Michigan Law School Alumni Breakfast
Contact: Donald Skinner
University of Washington Law School Alumni Breakfast
Contact: Dean Charles Z. Smith

7:45 A.M. George Washington University Law School Alumni Breakfast
Contact: Oscar Zabel

8:30 A.M. Registration

9:00 A.M. **ANNUAL BUSINESS MEETING**
Presiding: Charles I. Stone, President, Washington State Bar Association
Report
Washington State Bar Association, Charles I. Stone, President
Resolutions Committee — Richard H. Riddell, Chairman
Awards
New Business
Presentations:
New Members of the Board of Governors
New President of the Washington State Bar Association
Hawaii Drawing

12:00 Noon **Luncheon**
Presiding: John J. Ripple, Spokane, retiring member, Board of Governors, Fifth District.
Speaker: Joe Garagiola, television and sports personality

2:00 to 4:00 P.M. **LEGAL INSTITUTES**

THE LEGAL ASSISTANT, NEW WONDER-CHILD — How, When, Who
Chairman: Grant J. Silvernale, Kirkland
Speakers:
Stephen E. DeForest, Seattle
Dennis Gaasland, Seattle
Georgia Hinton, Seattle
Robert S. Mucklestone, Seattle
Suzanne Smith, Seattle

NEW FEDERAL RULES OF EVIDENCE
Chairman: John C. Coughenour, Seattle
Speakers:
John Gavin, Yakima
Hon. Morell E. Sharp, Seattle

6:30 P.M. No-Host Cocktails
7:30 P.M. Dinner, Show, Dancing, featuring
1:00 A.M. the beautiful and talented Miss Kay Starr

SATURDAY — September 8, 1973

8:00 A.M. Christian Legal Society Breakfast
Contact: William Ellis

9:30 A.M. To Noon **TEACH IN — SPEAK OUT**
PRESIDING: John N. Rupp, Seattle
Speakers: (In order of appearance)
Betty B. Fletcher, Seattle
The Seattle-King County bar — A Year in Retrospect

(Continued on page 32)

Around the State

PIERCE REPORT
By KENYON E. LUCE

The Pierce County Bar Association Lawyer Referral office has moved and is now located on the second floor of the County-City Building, 930 Tacoma Avenue South, in Tacoma, Washington, telephone FU 3-3432.

William N. Goodwin, Jr. has joined the law firm of Healy & Godderis with offices at 1507 Puget Sound Bank Building, Tacoma, Washington.

Marshall D. Adams has taken offense to the news item appearing in the June issue regarding the athletic pursuits of the Bar Association. He feels that the same is both inaccurate and misleading and in fact a down-right fraud. He says that we failed to convey the fact that the young lawyers were unable to find a suitable pitcher from its group and had to rely on the services of a 50-year old man. He reminded us that before he would sign the contract to play with these kids, he insisted upon a "no-cut" clause to age 60. He is demanding equal time.

Here it is, "Old Lawyers."

LEWIS REPORT
By DONALD F. PIETIG

After a long silence, Lewis County has accumulated some exciting news which we are sure you will all be happy to hear.

John Panesko, of our Bar, is happy to report that his son, **John J. Panesko,** is interning in his office this summer. John will be returning to the University of Washington for his third year after which he plans to go into practice in Chehalis in his father's office. Old John, or is it John, Sr. (we are going to have a problem with that), says that he plans on retiring at that time, but young John reports that his dad is an excellent teacher and that he is going to try keeping him around. Son John is married to Stephanie, and we extend our enthusiastic welcome to them both.

Jim Turner recently opened a new office at 1066 Chehalis Avenue, shortening his walking distance to the courthouse by about one block.

The Chehalis firm of Campbell and Hall also has an intern in their office, **Mike Roewe**. Mike, like young **John Panesko,** is a native of Lewis County. Mike will be returning to Gonzaga for his third year. Mike, it's good to have you back in town.

Dan Agnew, of Cunningham and Agnew, recently returned from a trip through Switzerland, Spain and France. Dan, we want to hear all about it.

YAKIMA REPORT
By RANDY MARQUIS

Fifth Judge Sworn In:

Newly appointed judge, **Howard Hettinger,** was sworn in by Presiding Judge **Carl Loy** on July 16, 1973. Incidentally, Judge Hettinger and the former Julie M. Wilson, owner-operator of Westpark Sporthaus, formed a new marital community at Friday Harbor, Washington, on June 29, 1973.

Bar Business:

President **J. W. "Bill" McArdle** has announced an important new committee whose function it will be to investigate the Yakima County public defender program to determine whether or not our program meets the standards set down by the U. S. Supreme Court and the Washington State Supreme Court and the new criminal justice act. This investigation is being conducted at the request of the Yakima County Commissioners. The following members were appointed by President McArdle and will report to the County Commissioners by September 15, 1973: **Robert I. Bounds,** Chairman, (part time public defender), **Jeff Sullivan** (part time public defender), **Jon Harlan** and **Tom Dietzen** (Prosecuting Attorney's office), Judge **Carl Loy** (Presiding Judge of the Yakima County Superior Court), **Thomas Grady, Jr.** (Presiding Judge of the Yakima County District Justice Court), **Mike Schwab** (with special expertise in the area of indigent defendants), **Robert J. Willis** and **Robert R. Redman** (practicing attorneys), Court Administrators **Vern Fishback** of the Superior Court and Col. **George James** of the District Justice Court are alternate members to the committee.

BENTON-FRANKLIN REPORT
By NEAL J. SHULMAN

Two Tri-City attorneys, **Daryl Jonson** and **Brice Horton,** have been appointed by the Benton County Commissioners as the county's first District Court Judges, under a district court plan which will become effective August 31.

Judge Jonson, a Richland corporate attorney, will sit as Judge of Department No. 1 in Richland, while Judge Horton, a Kenne-

wick attorney, will sit as Judge of Department No. 2 in Kennewick. Both have previously served as interim municipal court judges in the cities of Richland and Kennewick respectively, pending adoption of the District Court Act in Benton County.

Judge Jonson is a graduate of the University of Missouri Law School while Judge Horton obtained his law degree from American University in Washington, D.C. Both received the highest of recommendations from the Benton-Franklin Bar Association.

With the advent of the district court and the new rules recently promulgated by the Supreme Court, both Benton and Franklin Counties are currently considering the adoption of a public defender program. Superior Court Judge **Albert J. Yencopal,** District Court Judge **Fred Staples,** Chief Deputy Prosecutors from Benton and Franklin Counties, **Curt Ludwig** and **Stan Moore,** part-time public defender's **Michael Pickett** and **Bill McCormick,** Superior Court Administrator **Jim Boldt,** and other interested public officials met in July at the Black-Angus in Pasco to consider such a program.

With summer upon us, Kennewick attorney and part-time Deputy Prosecutor **Phil Rodriques** is vacationing in New York. Richland attorney **Don Stancik** will soon be leaving for a vacation in Idaho, while Kennewick attorney **Dan Hurson,** substituting for vacationing judges, has been serving as a pro-tem judge in the Benton-Franklin Superior Court.

The Benton-Franklin Bar Association is looking forward to the State Bar Convention in Vancouver, B.C., and hoping for a good turn out at that convention to renew acquaintances with fellow attorneys throughout the state.

WALLA WALLA REPORT
By **JOHN BIGGS**

Two new members have joined the Walla Walla County Bar Association. **Rodney M. Reinbold** is the new Legal Advisor to the Real Estate Division, Walla Walla District Office, U.S. Army Corps of Engineers. Mr. Reinbold is a 1972 graduate of the University of Idaho School of Law.

Paul R. Licker, a member of both the New Jersey and Washington Bars, is stationed in Walla Walla with the Prison Legal Services Project. Paul is a graduate of American University, College of Law, Washington, D.C. Paul was recently instrumental in negotiating a settlement between striking inmates at Washington State Penitentiary and the prison administration.

We wish to welcome both Mr. Reinbold and Mr. Licker to Walla Walla.

KITSAP REPORT
By **HELEN GRAHAM GREEAR**

"When I, good friends, was call'd to the bar,
I'd an appetite fresh and hearty,
But I was, as many young barristers are,
An impecunious party.
I'd a swallowtail coat of a beautiful blue,
A brief which I bought of a booby,
A couple of shirts and a collar or two,
And a ring that look'd like a ruby!"

The Seattle Gilbert and Sullivan society's presentation of the famous pair's mini-opera TRIAL BY JURY will be history when this report reaches print, but I hope many lawyers will have seen Gilbert & Sullivan's delightful spoof of the legal profession soon to be presented at the Seattle Center.

Kitsap County has a number of young lawyers joining the ranks of the Kitsap County Bar but none of them are impecunious parties! **William M. Crawford** (U. of W. Law School '72) has become associated with **James Munro,** mainly in his work as Kitsap County Public Defender. A classmate, **Warren Sharp,** has joined the staff of the Kitsap County Prosecuting Attorney. I understand that the Bremerton City Attorney's office has taken on a new lawyer and also an intern, but have no particulars. The Prosecutor's office also has an intern, name unknown.

The announcement of a Trident facility at Bangor has speeded up changes in the Silverdale area, and several attorneys are practicing there. **M. Chandler Redman** spends half his time in the Smith Tower office of Sullivan, Redman & Butler. **Michael Koch** (former Deputy Prosecuting Attorney) has also opened an office there. **William McGonagle** has become associated with Jean Sherrard and Associates of Winslow, which gives him more time to enjoy his Bainbridge Island home and his hobby, sailing, than when he commuted to Bremerton.

Traveltime is upon us, and two members have just returned from Europe. **Merrill Wallace** and wife travelled to Scandinavia, and **Gary Cunningham** and wife flew to England where they rented a car and toured the north of England and Scotland; then a ferry trip from Dover to Calais and

some glowing days in Paris. Ah me! Then Normandy and Brittany, and finally back to Bremerton, U.S.A. Gary astutely took his funds in English pounds, so the vicissitudes of the dollar did not affect the Cunninghams. There's an idea. How about Swiss francs?

We had a Bar dinner meeting on June 25, and discussed legal aid in Kitsap County (gratuitous) and should we help people get divorces for free? Our Legal Aid answering service now has a telephone staffed by the Kitsap Community Action Board and the legal services are rendered on a rotating basis. I shall never understand the difference in the demands made upon the legal and medical professions.

The Kitsap Bar picnic will be held at **James Munro's** lovely Bainbridge Island home toward the end of July. Children will race for prizes and play with the boats and the ponies while their elders sit under the trees and gorge themselves on good food. Our annual picnics are wonderful family occasions.

I have omitted a number of personal notes, but more later!

THURSTON-MASON REPORT

By STEPHEN J. BEAN

The month of July will find at least three major changes in the Thurston and Mason County legal profession.

Gerry L. Alexander, formerly of the firm of Parr, Alexander, Cordes & Sutherland, departed the firm on Monday, July 16th, to assume the position of Thurston-Mason County Superior Court Judge, as per his recent appointment by Governor Evans.

Tom McPhee, formerly of the Attorney General's Office, will join Gerry's old firm.

Finally, as of July 1st, **Ed Shaw,** of the firm of Shaw & Holn, has left the private practice to join the public sector. He will become the executive officer for the Utilities & Transportation Commission. This means that if you aren't happy with the amount of gas you're getting, you should feel free to call Ed. There must be a lack of communication between attorneys in this town, because as **Ed Shaw** decides to bag the private practice, **Bill Britton** decides that he wants to enter the private practice. So those of you who are defending Drunk Driving cases in the Thurston County District Court, you are hereby put on notice that after September 1st, you won't have **Bill Britton** to kick around anymore, as he's going to open his own office in the Evergreen Plaza Building.

SEATTLE-KING REPORT

By GERALD G. TUTTLE

Stephen A. Mack, formerly with Webster, Croum, McCann, Bass and Mack writes indicating that he has deserted sunny Seattle for Naples, Florida, to practice with **Robert R. Hagaman.** Why anyone would want to leave this area to live in the hurricane belt, I don't know.

Houger, Garvey, Schubert & Barnes report that effective August 1, **John R. Allison** will take up residence at the firm's Washington, D.C. office, and **E. Charles Routh** will journey to Tokyo as liaison attorney with the Japanese firm of Tasuku Matsuo. Two more moves that I don't fully understand.

Walter H. Hagemann, Ballard attorney, was recently elected to the University of Washington King County Alumni Club Board of Trustees for a term of three years. Walt is presently a director of the Ballard Kiwanis Club and a director of the Ballard Chamber of Commerce.

Elizabeth J. Bracelin, Jan Peterson, William R. Creech and **Christopher E. Young** announce the formation of a partnership for the practice of law under the firm name of **Peterson, Bracelin, Creech and Young** with temporary quarters at 1600 Smith Tower. The new partners plan to move to 2500 Smith Tower as soon as their new quarters have been prepared for them.

Robert A. O'Neill has been appointed by the King County Council as a Commissioner to the King County Housing Authority. The Housing Authority administers federal and state monies to provide dwelling accommodations to persons of low income.

Paul C. Gibbs of Williams, Lanza, Kastner & Gibbs has been appointed a member of the Accident Prevention Committee of the Defense Research Institute of Milwaukee, Wisconsin.

Frank W. Soderling, Vice President and Chief Legal Counsel to Security Title Insurance Co. has been elected to that Company's Board of Directors. Mr. Soderling has been with Security Title since his law school days in 1948.

John P. Harris, Chief Assistant Corporation Counsel and **Peter LeSourd** have announced their candidacy for the post of Corporation Counsel. **A. L. Newbould,** who has held that position since 1963, has announced that he will not seek reelection.

Frederick Paul and his son, **Blair F. Paul,** have formed a partnership for the practice of law under the name Paul & Paul. **Frederick Paul's** brother, **William L. Paul, Jr.,** and **Stewart P. Riley** have opened offices at the same address.

SNOHOMISH REPORT

By HENRY S. CHAPMAN
RUDOLF V. MUELLER

Mr. **Jay Carey,** graduate of Western Washington State College and Willamette University College of Law, recently announced that he is now engaged in the general practice of law in Arlington, Washington. Mr. Carey was a title examiner for Pioneer National Title Insurance Company in Bellingham, Washington.

Michael W. Herb and **Donald Hugh Hedges** recently announced their association in the general practice of law under the firm name of Herb & Hedges. Their office is located in Lynnwood, Washington.

Lynnwood attorney **Leo Gese** was recently elected chairman of the Snohomish County Housing Authority Board of Commissioners for a one-year term.

A program that has oriented a lot of interest throughout the state is the Legal Assistant classes being held at the Edmonds Community College. The program is going into its second year after having a registration of approximately 400 students last year. The proposed curriculum for this fall includes classes in employment law, social law and criminal law, which is expected to draw a considerable increase in its enrollment figures over last year.

GOVERNMENTAL LAWYERS

By TOM CARR

The Governmental Lawyers Association, under new leadership, is definitely on the move. Newly elected president **Bob Wallis** has already announced firm plans for holding an October 12 workshop on Administrative Law for the benefit of governmental lawyers and others interested in the field. Wallis also reports that a major goal during the coming year will be the expansion of membership throughout the state.

In addition to Wallis, other newly elected officers in the Association include: **Bill Rosatto,** 1st Vice-President; **Bill Howard,** 2nd Vice-President; **Angelo Petruss,** Treasurer.

Elsewhere in Olympia, there have been a number of recent promotions within the Office of the Attorney General. Senior Assistant Attorney General **Richard A. Mattsen** has been promoted to chief of Attorney General Slade Gorton's staff advising the Department of Social and Health Services. Replacing Mattsen as chief of the section advising the Department of Motor Vehicles will be Assistant Attorney General Jeff Lane.

Darrel L. Peeples has been promoted to the Office's General Trial Division. Peeples, a former WSU basketballer, will undoubtedly give the new division a "Mutt and Jeff" look, since his physical stature is in perfect counterpoint to that of diminutive Deputy Attorney General Malachy Murphy, who heads the division.

Glenn M. Barns of Seattle has been named chief attorney for the Veterans Administration in Washington and Alaska. He succeeds **Beverly S. Wilkerson** who retired after more than 30 years of government service.

Barns attended Whitworth College, the University of Washington, and graduated from Gonzaga University Law School, Spokane, in 1941. He entered private practice at Chewelah, Wash., and served with the U.S. Army in the European Theatre during World War II.

He joined the Veterans Administration in 1946 and two

Newly promoted to the General Trial Division of the Office of the Attorney General, Darrel Peeples shakes hands with boss Slade Gorton.

years later was named assistant chief attorney in Seattle.

Elected to the offices indicated at the Seventeenth Annual Meeting of the Washington State Association of Municipal Attorneys (WSAMA) on June 22, 1973 in Spokane were:

Robert R. Hamilton, City Attorney of Tacoma, President; **John J. Madden,** Chief Assistant Corporation Counsel of Spokane, First Vice President; **Ralph I. Thomas,** City Attorney of Kirkland, Second Vice President; **Douglas D. Peters,** Town Attorney of Selah, representing cities over 2500 population; **John L. Farra,** Corporation Counsel of Aberdeen, representing cities between 2500 and 50,000 population; **William H. Wilson,** City Attorney of Mukilteo, "At Large"; **Dr. Ernest H. Campbell,** Co-Director, Municipal Research and Services Center of Washington, Secretary; and **G. Thomas Dohn,** City Attorney of Ellensburg, Immediate Past President of WSAMA.

SKAGIT REPORT

By **PAUL N. LUVERA JR.**

Skagit County Bar President **Eugene C. Anderson** of Anacortes recently organized a county seminar on the new legislative enactments. Each member of the bar was assigned a relevant statute to report on. The seminar was a great success.

It has been reported that **David Yamashita** of Mount Vernon has developed into an excellent golfer. He was seen playing in a recent Seattle tournament. His "friends" point out, however, that it is only because he is on the course more than he is in his office.

K. R. St. Clair and **Paul Luvera** of Mount Vernon attended a medical malpractice seminar in Las Vegas. Luvera safely returned, but we are still looking for Ken!

Boynton Kamb has been active as the City Attorney of Mount Vernon, as well as maintaining his usual heavy volume of work.

James Ballard of Anacortes died in July. Jim practiced law in Mount Vernon after moving up from Seattle until his retirement some years ago and will be missed by all who knew him.

Skagit County Prosecutor, **Earl Angevine,** and Deputies **Gil Mullen** and **Bill Nielsen** conducted an excellent seminar for local lawyers on the new Criminal Rules. The seminar was informative and very beneficial. A very large attendance of lawyers indicated the degree of interest in this subject.

Since **Richard Schacht** of Mount Vernon took up golf seriously his secretary has been advising everybody on Thursday afternoons that he is busy in Court and making up other less plausible excuses.

James G. Smith of Mount Vernon recently returned from his annual automobile vacation trip to the East Coast.

William Stiles of Sedro Woolley installed a brand new swimming pool just in time for the rainy summer season we have been having in Skagit County.

Alfred McBee of Mount Vernon served as Judge Pro Tem during Superior Court Judge **Walter J. Deierlein's** recent vacation to Greece, Italy and other European Countries.

John Ward of Sedro Woolley finally gave in to his partner's bad influence and is sporting a new mustache.

Al Rode of Burlington maintains a law office on Orcas Island or at least he says that is why he goes to Orcas once a week.

Robin and **David Welts** of Mount Vernon were featured in the local newspaper as participants in the Annual Seattle Golf Club-Victoria Golf Club Tournament.

This is the last article your reporter will have to write for the Bar News, as David Welts of Mount Vernon, Skagit County Bar Vice President, takes over the duties this month.

EAST KING REPORT

By **BARBARA E. REARDON**

Mr. **Richard P. Beaudry** and Mr. **Lyle E. Neeley** are associated in the practice of law at 818 Business Center Building, Bellevue, Washington. Mr. Neeley formerly practiced at Kirkland, Washington and joined Mr. Beaudry at the above address as of May 1, 1973.

THURSTON-MASON REPORT

By **STEPHEN J. BEAN**

The members of the Thurston-Mason Bar Association were saddened by the death of **Oliver R. Ingersoll** on July 21, 1973. Oliver was 71 years of age and practiced in Thurston-Mason County for many years. He was not only a fine gentleman and attorney, he was also a good citizen, as shown by the fact that the Olympia High School Football Stadium was named after Mr. Ingersoll some three or four years ago. It is not often that a public institution is named after a living individual, but Oliver had done so much for the education of the students of the Olympia School District for so many years, that he was the only logical choice. He will be missed in many ways. □

McLAUCHLAN AT LARGE

Judge John C. Bowen and Mrs. Bowen, Seattle.

Judge Byron L. Swedburg, Bellingham.

Edwin Ray Hazan, Jr., Donald A. Dawson, James A. Holman, Thomas D. Loftus, Seattle.

Ed Merges, Seattle

Judge Charles T. Donworth and Mrs. Donworth, Olympia; Judge Francis E. Holman, Seattle.

Due Process for Students
(Continued from Page 7)

riding in an automobile where there was an alcoholic beverage to be unreasonable and beyond the authority of the school board. The alleged offense took place during the summer months.

The commentary on this section issued by the State Board states: "This section is intended to define the jurisdiction of the school authoritites to include 'all activities . . . integral to the educational program . . . . all extracurricular activities . . . sports, field trips, etc.'" WAC 180-40-095(1) also prohibits denial of educational opportunities because of "pregnancy, marital status, previous arrest or previous incarceration".

WAC 180-40-110 reflects judicial decisions denying school districts the power to discipline for off-campus conduct unrelated to operation of the school. See for instance *Howard v. Clark*, 299 NYS 2d. 65, involving suspension for arrest of high school students for criminal possession of hypodermic instruments occurring away from the school.

The extent to which a school can limit a pupil's freedom of expression on penalty of expulsion is defined by its ability to prove the pupil's conduct would materially and substantially disrupt the work and discipline of the school. The *Tinker* case held that the fear of disruption by a school authority was not proof of adequate grounds to discipline students for wearing anti-war armbands since this was symbolic speech protected by the First Amendment. However, where the evidence established a reasonable probability of disruption, the right to impose restrictions (hair length) was confirmed in *Ferrell v. Dallas Independent School District*, 261 F. Supp. 545 (Tex. 1966) Aff'd. 392 F. 2d. 697.

The same rule has been applied to verbal or written expressions.

Some Limitation of Free Speech and Assembly Permitted

Since First Amendment rights are to be applied in the light of the special circumstances of the school environment ". . . reasonable restrictions on the freedoms of speech and assembly are recognized in relation to public agencies that have a valid interest in maintaining good order and proper decorum". *Goldberg v. Regents*, 57 Cal. Repts. 463 where the court recognized there are some fighting words not protected by the First Amendment because they infiict injury by their very utterance, and upheld suspensions for having

> "repeatedly, loudly and publicly used certain terms which when so used clearly infringed on the minimum standard of propriety and the accepted norm of public behavior of both the academic community and the broader special community."

The court upheld dismissal of the student for distributing a publication of a cartoon depicting a policeman raping the Statue of Liberty and the Goddess of Justice, the contents of the paper were obscene and not protected by the First Amendment. (*Papish v. Board of Curators*, 331 F Supp. 1321 (D.C., Mo., 1971) affirmed 464 F 2d. 136 (CA 8). However, an expulsion based upon a student's possession of a publication containing the most famous Anglo-Saxon word was declared invalid in *Vought v. Van Buren Public Schools*, 306 F. Supp. 1388 (D.C. Mich., 1969).

The First Amendment protects a student's right to publish and distribute newspapers even though extremely critical of school authorities, on or off the school grounds and whether during school or non-school hours. A student cannot be expelled for these activities absent a showing of material and substantial disruption. *Sullivan v. Huston Independent School District*, 307 F. Supp. 1328 (D.C. Tex., 1969). Where the paper urged students to destroy "all propaganda the central administration publishes" and accused the dean of having a "sick mind" and where there was no disturbance created, the expulsions were held invalid under the first and fourteenth amendments *Scoville v. Board of Education*, 425 F. 2d. 10 (C.A. 7, 1970).

If the publication is an official school paper, the school can exercise a greater degree of control. School authorities can require compliance with state law, the prevention of libel, obscenity or statements giving rise to religious bigotry. See *Panarella v. Birenbaum*, 302 NYS 2d. 427 (1969).

A school board does have the authority therefore to make reasonable and nondiscriminatory regulations of the exercise of First Amendment expressions as to time, place and the manner of exercise. In *Eisner v. Stamford Board of Education*, 440 F 2d. 803 (Ca. 2, 1971), the court held a school board regulation requiring prior submission and approval of all printed or written matter constitutionally deficient since it failed to specify the manner of submission, the exact party to whom the material must be submitted, the time within which a

decision must be rendered. *New Left Education Project v. Board of Regents*, 326 F. Supp. 158 (Tex., 1970) held unconstitutional a rule restricting commercial and noncommercial solicitation on campus, except as authorized by the administration as over-broad in affecting First Amendment rights without the proper guidelines. Vacated in 404 05 541 because of improper convening of three judge court.

A rule prohibiting distribution of printed material without prior consent of the principal was an invalid prior restraint because there were no guidelines or procedural safeguards for review. *Quarterman v. Byrd*, 453 F. 2d, 54 (CA 4, 1971).

In *Riseman v. School Committee*, 439 F. 2d 148 (Cal., 1971) the court affirmed an injunction for a junior high school student against enforcement of a regulation prohibiting the advertisement or promotion of any non-school organizations without the consent of the school board. The court found that the regulation was vague and over-broad, and did not reflect any effort to minimize the adverse effect of prior restraint.

Where expression phases into action, First Amendment protection gives way to a school's right to regulate according to the requirements of public health, safety, morals, and welfare. Picketing and parading have been held to be protected by the First Amendment as a method of expression in other than a school context. When does a student demonstration become action rather than expression? Probably a very little violence will forfeit First Amendment protection. An "unusual degree of commotion, boisterous conduct, collision with the rights of others, and undermining authority. . ." accompany distribution of freedom buttons (justified refusal to grant an injunction against ban on wearing buttons) in *Blackwell v. Issaquena County Board of Education*, 363 F. 2d. 749, 754. Occupancy of buildings, sit-ins, blocking entrances, damaging shrubbery, throwing eggs, rocking automobiles, exceed pure free expression and probably are not immunized from expulsion by constitutional guarantees of free freedom of speech.

It has been suggested that school authorities "may be able to impose much more severe restrictions on the demonstrative activity at the high school level (and presumably at the elementary school level) conducted during school time because of its responsibility to use limited student time most efficiently." 81 Harvard Law Review 1045, 1132.

Where a demonstration (expression) is constitutionally protected as in the newspaper cases cited above, the requirement for advance permission with no standards is probably invalid. However, a school can require advance notice and approval if the standards are specific and narrow in order to implement regulations as to time, place and manner, i.e., for traffic control or to limit the place of a demonstration to certain open areas or portions of a building.

WAC 180-40-105 requires protection of constitutional rights not specifically enumerated in the code promulgated by the State School Board. The constitutional basis of a student's right to dress as he pleases (including hair) has been found to exist in the First Amendment right to symbolic free speech, in the equal protection laws of the Fourteenth Amendment, and in the right to privacy which is within the penumbra of the First Amendment and protected from government (school district) intrusion. (*Griswold v. Connecticut*, 381 U.S. 479). See *History and Future Development of School Grooming Codes*, 31 Oh. St. L. J. 351.

In *Breen v. Kahl*, 419 F. 2d. 1034 (Ca. 7, 1970) expulsion for violating this rule was held unconstitutional:

> "Hair should be washed, combed, and worn so it does not hang below the collar line in the back, over the ears, on the side, and must be above the eyebrows. Boys should be clean shaven; long sideburns are out."

The court rejected the argument that discipline necessitated this regulation. But in *King v. Saddleback Junior College*, 445 F. 2d 932 (Ca. 9), the court said, "This Court could not care less" about the dress code regulating the length of hair for male students, and held the code was not violative of due process, and there was no "substantial constitutional right which is being infringed".

In any event a student's right is not absolute and if the school district can justify a regulation because of obscenity, disruption, physical danger, damage to property, health or sanitary reasons, or the lowering of student performance, disciplinary action will be sustained. However, the regulation must be adopted to and causally related to the object. The fear of disruption is not enough. A rule prohibiting disorderly conduct may be adequate where a rule requiring a student to cut his hair in order to prevent disruption is overly broad. The conventional test of balancing of the individ-

ual's right with the government's (school district's) in the area sought to be controlled, is applied. A school district can always enact regulations interferring with individual rights where reasonably necessary for the protection of all students in the school. The burden of proof is on the school district to show the reasonableness of the rule.

The principles developed by these cases probably represent a fair prediction of what school boards and the courts will do in applying the State Board of Education rules in an expulsion case to exercise of First Amendment rights by students.

Search and Seizure

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures but authorizes search where there is probable cause. The exact nature of the right of students to "be secure in their person, papers, and effects against unreasonable searches and seizures" under WAC 180.40.095(3) must be determined. Civil actions against offending teachers for unlawful search have been filed and evidence has been suppressed in criminal cases where unlawfully obtained. A search by police authorities is different than search by a principal, who is making a search of school lockers. Should evidence wrongfully obtained from a student's locker be admitted in an institutional proceedings of the school for the purpose of expelling the student?

The right recognized in the State Board Code probably is subject to waiver just as the Fourth Amendment right is, and a student who empties his pockets at the direction of the principal may not be able to complain of an unlawful search. The few cases that have arisen recognize the limited right of school authorities to conduct searches when there is a reasonable ground to suspect the presence of contrabrand. *Overton v. New York*, 229 N.E. 2d. 596 a criminal case (1967) stated that school authorities had the right to inspect lockers and that the right "becomes a duty when suspicion arises that something of an illegal nature may be secreted there [student's locker]". Where the school retains dominion over the lockers by keeping the keys it is perhaps in a stronger position to assert this right of search than where the locker is rented and the student has exclusive control. The limited authority of a school district is usually justified on the basis of implied parental consent or *in loco parentis*. A high school principal's search of a student's jacket on reasonable suspicion of contraband was held as not a violation of constitutional rights under the theory of *in loco parentis State v. Baccino*, 282 A. 2d., 869 (Del. Super. Ct., 1971)

In *State v. Stein*, 456 P. 2d. 1 (Kan., 1969), also a criminal case, the court upheld the inherent authority of the school to inspect lockers as in the *Overton* case and refused to suppress evidence. Because of the ever-recurring problem of student thefts and drug traffic, the right to inspect student lockers probably will be upheld. However, the requirement of a reasonable search presumably would preclude a blanket search of all lockers. It can plausibly be argued that in a school district disciplinary proceeding required to be in conformity with standards of due process, evidence obtained in violation of WAC 180-40-095 (3) should be suppressed.

"Prosecution" Must Prove Expulsion Case

Because the State Board Code requires generally minimum due process procedure requirements for an institutional hearing (WAC 180-40-195(4)), although not specifically stated, it must be concluded that substantial evidence is necessary in order to justify an expulsion. In a student expulsion, it has been held the student must be afforded the basic presumption of innocence of wrongdoing until his guilt has been established by direct, competent evidence of misconduct. *In the Matter of DeVore*, 11 Ed. Dept. Rep . NY Comm. Dec. No. 8469.

Also, it can be argued "the opportunity to question witnesses" (WAC 180-40-140 (3) means the right to confront and cross examine witnesses, although no subpoena power exists. In *Tibbs v. Board of Education*, 284 A 2d. 179 (N.J., 1971) it was held that in an expulsion proceeding the accused student deprived of his constitutional right to be confronted by and to examine witnesses, and if this opportunity is not available, their statements should not be considered or relied upon by the board even though the witnesses refused to attend for fear of physical reprisal. Since student disciplinary proceedings are not criminal in nature there seems to be no basis for claiming protection against self incrimination, or double jeopardy.

The school district is required to keep a record of the hearing and an appeal to Superior Court may be filed within thirty days from the final decision of the school board. However, no stay

(Continued on Page 29)

Legal Ethics Opinion

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Legal Notices Publication of Lawyers' Names Restricted

Publication of the name of a lawyer or law firm at the head of a legal notice in a newspaper is improper, under an opinion of the State Bar's Legal Ethics Committee approved in June by the Board of Governors.

The classified-advertising managers of the state's daily and weekly newspapers have been informed of the ruling.

The text of the opinion follows:

Inquiry has been made as to the ethical propriety of publishing or permitting to be published in newspapers of general circulation, legal notices in which an attorney's or firm's name and address appear at the head of the legal notice as well as at the foot or end of such legal notice.

A survey, conducted to determine the nature and scope of such practice, reveals that the practice is widespread, and generally involves a dual listing, once at the head of the legal notice and secondly at the foot or end of the notice. It is also noted that in many instances bold-face type is used.

It further appears that the questioned practice originated with the publishers and does not appear to have generally been at the behest of the attorneys. It is inescapable that attorneys whose names have appeared at the head of legal notices have been aware of the practice and, at least, have permitted it to continue.

The Washington State Bar Association's Code of Professional Responsibility (adopted January 1, 1972) provides in Disciplinary Rule DR 2-101 (B) that "A Lawyer shall not publicize himself. . . as a lawyer through . . . newspaper . . . advertisements . . . nor shall he authorize or permit others to do so in his behalf . . . This does not prohibit limited and dignified identification of a lawyer as a lawyer as well as by name: (1) * * * * * (2) In public notices when the name and profession of a lawyer are required or authorized by law or are reasonably pertinent for a purpose other than the attraction of potential clients."

It is the opinion of the Ethics Committee that publication of the name of an attorney or firm of attorneys at the head of a legal notice in a newspaper or the like violates both the letter and the spirit of Canon 2 and of Disciplinary Rule DR 2-101(B) (1) of the Code of Professional Responsibility and is improper.

It is the further opinion of the Committee that to publish the name and address of an attorney or firm of attorneys at the foot of such legal notice is proper, because it is "reasonably pertinent to a purpose other than the attraction of potential clients."

It is every lawyer's responsibility to take appropriate action to avoid others' publicizing him as a lawyer by listing his name at the head of a newspaper advertisement in the nature and form of a legal notice. Such action by each lawyer is clearly required by DR 2-101 (B).

If the listing at the head of a legal notice is considered to be a "professional card" used for identification purposes, it is the opinion of the Committee that such publication is further improper under DR 2-101(A)(1) which specifically provides that professional cards "may not be published in periodicals, magazines, newspapers, or other media." Legal notice publications are not law lists or legal directory listings.

In respect of the practice of publishing the name and address of an attorney or law firm in connection with a legal notice in bold-face type, the Committee is of the opinion that this is not "in dignified form" [see DR2-102 (A)]. The practice is further proscribed for the same reasons that DR 2-102(A)(5) provides that permitted listings "shall not be in distinctive form or type."

(Continued from Page 28)

of imposition of expulsion is provided during the appeal. (WAC 180-40-155).

Finally, it should be pointed out that students have filed actions pursuant to 42 USC §1983 alleging deprivation of procedural due process in expulsions, and in cases involving First Amendment rights. Problems arise concerning federal abstention, exhaustion of administrative remedies, and the weight to be given by district court to the record developed before the school board. In *Griffin v. De Felice*, 325 F. Supp. 143 (DC., La., 1971) where punishment was meted out along racial lines, students were not required to exhaust state administrative remedies prior to invoking federal jurisdiction. But in *Press v. Pasedena Independent School District*, 306 F. Supp. 550 (DC. Tex. 1971) the court invoked the abstention doctrine and denied injunctive relief pending an appeal by a student suspended for wearing a pantsuit in violation of school dress code when she failed to exhaust state administrative remedies.

Law School News

UPS A "MIRACLE"

"All of us feel the creation of the school has been nothing short of a miracle," said U.S. District Court Judge George Boldt June 28-29 at the first meeting of the University of Puget Sound Law School Board of Visitors.

Boldt, speaking before 28 of the 32-member technical advisory group, added that the school's recent accreditation by the American Bar Association is "unprecedented in law school performance." Boldt called the attendance of almost all of the members an indication of the "remarkable degree of community support that has made possible the formation of the first new law school in the state in 60 years."

Since the meeting was the first for the group, primary tasks included reviewing the past year of the school, appointing members to special committees and outlining recommendations for the upcoming academic year. Boldt said the meeting also gave the board a first view of the school which he termed a "tremendous asset to the community and the entire state."

A preview of the year showed that the UPS Law School examined some 370 students at the end of the first year. Second year faculty will increase to 12 full-time professors from last year's 6, with part-time faculty numbering 15, an increase of 10.

Temporarily housed in a leased office building at the intersection of South Tacoma Way and Steilacoom Boulevard, a permanent home for the law school on the main campus is a priority of the school.

Dean Joseph Sinclitico, the school's first dean, was singled out by chairman Boldt and praised for his efforts in the school's difficult formative stages.

Members of the UPS Law School Board of Visitors include William Allen, chairman emeritus, Boeing Company; Robert Beale, attorney at law; Connie Bolden, state law librarian; George Boldt, U.S. District Court; Norton Clapp, chairman of the board, Weyerheauser Co.; Kenneth Fisher, president, Fisher Mills, Inc.; Mrs. Marian Gallagher, law librarian, University of Washington; Thomas Gleed, president, Gleed and Co.; Joseph Gordon, Sr. attorney at law; and Joshua Green, Jr. chairman of the board, Peoples National Bank of Washington.

Others are Gerald Grinstein, attorney at law; Orris Hamilton, Washington State Supreme Court; Nancy Ann Holman, King County Superior Court; Lembhard Howell, attorney at law; Henry M. Jackson, United States Senate; Edgar Kaiser, president, Kaiser Industries; Warren G. Magnuson, United States Senate; Edward Novack, attorney at law; Reno Odlin, chairman of the board, Puget Sound National Bank; Llewelyn Pritchard, attorney at law; John N. Rupp, vice president and general counsel, Pacific Northwest Bell; and Dean Gordon Schaber, McGeorge School of Law, University of the Pacific.

Completing the roster are Alfred Schweppe, attorney at law; Robert Sheeran, vice president, Merrill, Lynch, Pierce, Fenner and Smith; John F. Sherwood, attorney at law; Daniel Smith, vice president and general counsel, Weyerhaeuser Co.; Hardyn B. Soule, Pierce County Superior Court; Gordon Sweany, president Safeco Corp.; Jack E. Tanner, attorney at law; Peter K. Wallerich, chairman of the board, North Pacific Bank; George Weyerhaeuser, president, Weyerhaeuser Co.; and Eugene Wright, United States Court of Appeals.

GONZAGA NAMES NEW DEAN

The Rev. Francis J. Conklin, S.J., has been named Dean of the Gonzaga University School of Law. He has been acting Dean since January 9, when Lewis H. Orland, who had been dean for five years, resigned.

Father Conklin, a native of Butte, was graduated from Gonzaga in 1948, and remained for a master's degree in 1949. He finished first in his class of 300 at Georgetown Law School in Washington, D.C., in 1961, and holds the degrees of master of laws (LL. M.) and doctor of laws (J.S. D.) from Yale University.

***

Gonzaga Law School is offering nearly 30 seminars during the coming academic year to expand elective course offerings to law students.

To be taught by practicing attorneys, the seminars are available to upperclassmen and limited to 12 to 15 students per semester.

***

Less than 40 per cent of the entering freshman class at Gonzaga School of Law will be Washington residents. While Washington accounts for 38 per cent of the 350 men and women, Californians, the next-largest contingent, will comprise only 11 per cent. New York is third. The remainder are from 36 other states, and were selected from over 1500 applicants. Enrollment of women students has doubled, from 31 last year to 60 in 1973, reflecting a national trend.

Mandatory CLE?
(Continued from Page 8)

it to the State Board of Accountancy (a five-man Board made up of members of the profession) to implement them. Essentially these guidelines call for 120 hours of continuing education in a three-year period and define programs which qualify as "formal programs on learning which contribute directly to the professional competence of an individual" CPA.

Formal programs include correspondence or other individual self study programs, as well as the usual professional development seminars, technical meetings and university and college courses.

Davis and Gregory concluded that the requirement is a very positive step for the CPA profession; that it is a recognition by the profession of its obligation to its clients and the business community, and that in the present-day environment of consumerism the move was timely and appropriate.

> The 1973 amendment to RCW 18.04.290-300:
>
> (2) Every person practicing public accounting shall as a prerequisite to annual renewal of such permit, submit to the Washington state board of accountancy satisfactory proof of having, during the preceding three years, completed fifteen days or an accumulation of one hundred twenty hours of continuing education recognized and approved by the board: PROVIDED, That this subsection shall not apply to applications for renewal until three years after the effective date of this 1973 amendatory act: PROVIDED, That this requirement may be waived by the board for good cause.

Although voluntary participation in continuing education may be philosophically more palatable, the hard facts are that there are a significant percentage of CPAs who do not participate — but will now.

It is also recognized that "forced" attendance at professional development courses is not a panacea and does not automatically impart wisdom or even knowledge. Nevertheless, it cannot be denied that such exposure is educationally stimulating, creates opportunities for exchange of ideas, and contributes in some fashion to the professional competence of an individual.

With the CPA profession taking the initiative, will other professions, including law, follow? ☐

THE COURT OF APPEALS

By JOSEPH A. THIBODEAU, *Commissioner*

It is the settled rule in this state that an appeal lodges jurisdiction of the action exclusively in the appellate court and that the lower court has no jurisdiction other than to do those things necessary or specially provided by statute for making the appeal effective. (See CAROA 15).

The question which has caused some concern is: What is the proper procedure for remanding a cause back to the superior court once the notice of appeal has been filed and the appellate court has exclusive jurisdiction?

CR 60(a) provides:

"Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is filed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court having jurisdiction of the cause."

The above rule was interpreted in the recent case of *Malott v. Randall*, 7 Wn. App. 753 (1972). In that case, counsel attempted to correct the findings of fact, conclusions of law and judgment directly in the superior court without first obtaining permission of the appellate court. The opinion concluded that if an appeal is pending and a correction under CR 60(a) is desired, a motion to remand must be filed in the appellate court giving proper notice to opposing counsel under CAROA 53 and noting the matter for hearing on the next available motion calendar. If the relief requested is granted, the appellate court will then enter an order remanding the cause to the superior with appropriate guidelines for disposition.

It has also been held that leave of the Court of Appeals is necessary, in light of CAROA 15, before a petition for a new trial in superior court may be filed under CR 60(b) once notice of appeal has been filed in the Court of Appeals. *Palmer v. Cozza*, 2 Wn. App. 900, 471 p.2d 102 (1970); *State v. Hatch*, 4 Wn. App. 509, 510, 482 P.2d 340 (1971). Without such leave, the superior court,

after the filing of a notice of appeal, has no jurisdiction to consider such a motion.

For other cases wherein the court considered a motion to remand see *Doss v. Schuller*, 47 Wn. 2d 520 (1955) and *State v. Christie*, 5 Wn. App. 395 (1971).

SUPREME COURT PRACTICE

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

Following the last legislative session and the July 16, 1973 effective date of those laws without emergency clauses which were passed in the 1973 extraordinary session, several questions regarding the effect of several laws arose. One of particular interest to members of the Bar is ch. 157 Laws of 1973 1st Ex.Sess. which considerably changed divorce proceedings within the state.

It was called to the court's attention prior to the July 16, 1973 effective date that the legislation made no provision for the continuation of actions filed pursuant to RCW 21.08 prior to the July 16, 1973 effective date. To alleviate the obvious problems the Court adopted on June 28, 1973 SPR 94.05. The text of the new rule follows:

PROPOSED RULE SPR 94.05

(a) Domestic Relations.

Actions filed pursuant to RCW Chapter 26.08 prior to July 16, 1973 shall be governed by RCW 26.08.010 through RCW 26.08.230, except that:

(1) Election to Proceed Under New Act.

Prior to July 16, 1974 in actions filed pursuant to RCW Chapter 26.08, where a final judgment of the trial court has not been entered, and where the court has personal jurisdiction over both parties and both parties consent, the court may order the pleadings to be amended to conform to chapter 157 Laws of 1973 ex. sess., and the matter shall thereafter proceed as though originally filed under that act.

(2) Termination of Election.

After July 16, 1974, any further proceedings in actions filed pursuant to RCW Chapter 26.08 shall be governed by chapter 157 Laws of 1973 ex. sess., and the court may order the pleadings to be amended to conform thereto.

(b) Termination of Temporary Orders.

(1) Temporary orders issued pursuant to the provisions of RCW Chapter 26.08 which would not terminate prior to July 16, 1973 shall continue in full force after July 15, 1973 until the date of their termination as though originally issued pursuant to chapter 157 Laws of 1973 ex. sess.

(2) Payments for support or maintenance ordered to be made to the clerk of the court pursuant to chapter 157 Laws of 1973 ex. sess. shall be considered in arrears if not received by the clerk of the court within thirty calendar days of the day on which the order provides payment is due.

(c) Supersession.

Legislation enacted after the effective date of this rule providing for the continuation or termination of pending actions commenced pursuant to RCW 26.08 prior to July 16, 1973, shall supersede this rule.

Annual Meeting Program
(continued from page 19)

Curtis L. Shoemaker, Spokane
The Young Lawyer — The Year That Was
Arthur D. Swanson, Renton
The Trial Lawyer
Malcolm L. Edwards, Seattle
The New Appellate Rules
Betty J. Bracelin, Seattle
How is the Establishment Doing?
Donald A. Cable, Seattle
Certification of Specialists
Donald E. Clocksin, Seattle
Landlords, Tenants and Lawyers
Robert F. Hauth, Olympia
276 and All That
Richard F. Broz, Seattle
No Fault — Where Are We? Mandatory v Voluntary
Neil J. Hoff, Tacoma
The New Comparative Negligence Law
Hon. Erle W. Horswill, Seattle
Where Lawyers Go Wrong — at Trial
Hon. Robert F. Brachtenbach, Olympia
Where Lawyers Go Wrong — On Appeal

12:00 Noon *Young Laywers Luncheon*
(All attorneys and their ladies or gentlemen are invited.)
Speaker: Ted Sorensen, New York City

Twenty Years Ago

Three cents postage. This stamp was issued by the Boston, Massachusetts, Post Office commemorating the 75th convention of the American Bar Association.

The State Bar convention held in Bellingham was a big success, scholarly as well as socially. The lady members, led by **Betty Taylor Howard,** presented the musical comedy, "Don't Call Me Madam." Under the able leadership of President **Philip D. Macbride** many instructive addresses were made. Among the lecturers were **J. P. Tonkoff**, Yakima; **Clarence J. Coleman**, Everett; Judge **Frank P. Weaver**, Supreme Court; Professor **J. Gordon Gose**, University of Washington Law School; **Alfred J. Schweppe, Harold Shefelman, A. R. Kehoe, Roger L. Shidler, Andrew M. Williams, Robert W. Graham, Charles S. Burdell, Robert H. Weinstein, Dean George N. Stevens, Lowell P. Mickelwait, Paul Cressman, John Davis, Eugene A. Wright,** Judge **Frank D. James**, and **DeWitt Williams**, of Seattle.

F. A. Kern, Ellensburg was named the new President. **William J. Wilkins** was elected President, Superior Court Judges Association.

Editor **John N. Rupp** conducted a session on "Telephone Manners in a Law Office." All present laughed and also learned.

Births

President Eisenhower appointed **William B. Bantz** of Spokane and **Charles Moriarty** of Seattle as U.S. District Attorneys.

Dave Ellison, referred to by reporter **Stanbery Foster** as slaver of the Trust Department of Seattle-First National Bank, Olympia, was promoted to a better position with the Metropolitan Branch, Seattle.

William C. Klein, former assistant attorney general, opened in Vancouver, Washington, referred to as the banana belt by Supreme Court Justice Simpson.

Richard O. White, Code Revisor, Olympia, invited the bar members to tell him where and when he is wrong.

In Seattle **Henry W. Cramer** appointed Superior Court Judge.

The new partnership of Harlow, Ringold and Wilson was announced.

Lucas A. Powe opened in the White-Henry-Stuart Building.

James T. Johnson joined Kellogg, Reaugh, Hart & Towne.

Robert Elias, formerly of Portland, joined Pomeroy, Yothers, Luckerath & Dore.

Patrick Sutherland opened at 304 Spring Street.

Edwin R. Roberts and **Henry Heckendorn** were appointed assistants by Attorney General Don Eastvold to serve in his new Seattle Office.

Unquestionably the best time to buy anything was at least a year ago.

David J. Williams

Judges James B. Gober, Chehalis; Melvin B. Love, Bellevue; and Donald A. Eide, Auburn at the National College of the State Judiciary, Reno, Nevada. The judges were among 87 participants from 27 states who recently participated in a two-week judicial education program.

Kenneth P. Short, James Gay, and Bradley T. Jones, Seattle.

Lawyer/Public

Months of meetings, questionnaires and exchanges of ideas between a committee of the Superior Court Judges' Association and the Washington State Bar Public Relations Committee have produced a set of suggested court-related guidelines for judges and lawyers. The guidelines are not intended to be an addition to the Code of Judicial Conduct or to the Code of Professional Responsibility. Rather, they should be considered as supplementary to those Codes.

The so-called "input" from both sides was remarkable in that the comments on preparation, courtesy and conduct applied to the lofty and lower side of the courtroom.

However, the overwhelming cry from the bench was that lawyers were simply not prepared when they went to court; this opinion was fortified by the judges' contact with jurors. (The Bar Committee respectfully suggests that as judges participate in more trials than any lawyer, their opinion on the lack of preparation is probably true.)

GUIDELINES FOR LAWYERS

The joint guidelines for lawyers are:

1. *Preparation.* Interview your witnesses and before trial, acquaint them with the exhibits from which they will testify. A pretrial exchange of exhibits between counsel should be encouraged. Submit trial briefs on all but the most elementary problems.

2. *Voir Dire.* A common criticism of lawyers voiced by jurors and judges is the questioning of prospective jurors. Seek to be direct and businesslike; avoid repetitious questions, complex interrogation, and a condescending manner.

3. *Courtroom Conduct and Courtesy.*

3.1 Be punctual.

3.2 Avoid colloquy with opposing counsel; direct objections and arguments to the court. Shun personalities. Be courteous to all.

3.3 Always stand when addressing the court, except for a short objection.

3.4 Dress tastefully.

3.5 Litigation is not a game — do not give the impression that it is.

3.6 Disrespectful remarks about the judge or opposing counsel give the legal profession a black eye.

3.7 Exercise your power of subpoena carefully and courteously. Except in an emergency, give the witness plenty of warning and call him to the stand within a reasonable time after he arrives.

3.8 Be circumspect about approaching jurors after the verdict. A contact with the juror at his home should only be made in exceptional circumstances.

3.9 It is totally unprofessional to "bait" the judge.

3.10 If a case is settled, immediately notify the court and your witnesses.

GUIDELINES FOR JUDGES

The joint guidelines for judges are:

1. *Running the Show.*

1.1 In a jury trial, explain to the jurors the general nature of the case and introduce the lawyers and the parties. Take pains to explain that lawyers have a right to conduct voir dire examination and that if questions may seem to be personal, do not be offended. Explain to the jurors that there must be no contact with the lawyers or litigants; and that even a casual greeting in the hallways, elevators or street should be avoided during the trial. After the verdict is in, explain the right of the attorneys to contact the jurors, but see to it that the jurors are not unnecessarily detained.

1.2 At the beginning of a case, explain to the litigants why the lawyers are being called in chambers.

1.3 Make sure that the jurors can hear the testimony.

1.4 Read the trial briefs before coming on the bench.

1.5 Run a tight ship, but keep the guidelines pertaining to conduct and courtesy in mind.

2. *Conduct and Courtesy.*

2.1 Unless contempt is being strongly considered, don't criticize the lawyer in the courtroom; do it in chambers.

2.2 Be slow to anger.

2.3 Do not give the appearance of sleeping on the job.

2.4 Facial expressions or demeanor may convey to the jury an impression of the court on the testimony or statements of counsel and may constitute a comment on the evidence which will not show in the statement of facts.

2.5 Be prompt in convening court. If some unavoidable conflict will result in delay, explain.

2.6 Informality should be minimized in any courtroom, metropolitan or otherwise.

2.7 If matters are taken under advisement, and some must, get out the opinion as promptly as possible. (The Judges' Committee respectfully refers to the salary affidavit which must be made under RCW 2.08.100.)

□

Seattle Hearing Aug. 28 on Revision of Federal Appellate Court System

The prestigious Commission on Revision of the Federal Court Appellate System will hold a public hearing in Seattle Tuesday, August 28.

The commission is conducting a series of hearings, two of them on the West Coast, in connection with its continuing studies of ways to improve the federal appellate system. Among proposals, for instance, is division of some of the present circuit courts and establishing of new courts.

Chairman of the commission is Senator Roman L. Hruska of Nebraska; vice chairman is Judge J. Edward Lumbard, former chief judge of the Second Circuit. Among the illustrious members of the 14-person commission are leading judges and lawyers and congressmen and senators.

The commission, with A. Leo Levin as executive director, has offices in the Court of Claims Building Washington, D.C.

All lawyers, judges and others wishing to be heard at the Seattle hearing at 10 a.m. August 28 at the United States Courthouse are asked to notify the commission in advance so that appearances may be properly scheduled.

Tax Institute Due

The 1973 Northwest Tax Institute, featuring seven speakers from New York, Washington and San Francisco, will be held Sept. 23-26 at the Red Lion Motor Inn, Pasco. Interested attorneys may obtain information from the sponsoring Washington Society of Certified Public Accountants, 347 Logan Bldg., Seattle 98101, 206-624-7246.

National Survey Shows Gross Legal Fees Up

A survey of 204 selected law firms shows that median gross legal fees per lawyer bear a direct relationship to community size. The special study was conducted by the management consulting organization of Altman & Weil, Inc., Ardmore, Pennsylvania.

In cities of over 1 million, participating firms showed median gross receipts of $66,614 per lawyer. In cities of more than 250,000 and less than one million population, median gross was between $53,000 and $59,000 and firms in smaller towns reported a median gross figure of $47,800 per lawyer.

Because of lower operating costs, the difference in net was less than the divergence in gross. In the largest cities, median per lawyer income reported was $41,700 or 63¢ of each fee dollar, while in the towns of under 250,000 people the median lawyer was left with $32,400 or 70¢ of each fee dollar. Data are for 1972.

The following figures are for the median firm in a city of 500,000 to 1 million population: Gross receipts per lawyer $52,852 (100%), nonlawyer employment costs $6,109 (11.6%), occupancy $2,889 (5.5%), library $1,123 (2.1%), other expenses $3,094 (5.9%).

The studied firms were asked to provide information regarding each employment offer made to 1973 law school graduates. Some 247 offers were reported, averaging $13,300. The highest individual offer reported is $20,000.

Florida Bar Journal

John D. Cartano and Chester C. Adair, Seattle.

Calendar

Christian Legal Society Breakfast

The Seattle chapter of the Christian Legal Society is sponsoring a breakfast at the State Bar Convention on Saturday, September 8 at 8:00 a.m.

Speaker for the breakfast will be James M. Houston, Principal of Regent College, Vancouver, British Columbia. Until 1970 Dr. Houston was a fellow of Hartford College and Bursar of the University of Oxford.

Anyone interested in attending the breakfast, please contact William H. Ellis, 4400 Seattle-First National Bank Building, Seattle, phone number 624-1600.

Legal Services Center Director's Post Open

The Legal Services Center which serves Seattle-King County is accepting applications for the position of director.

The director will supervise approximately 30 attorneys, 10 paralegals, and 25 clerical personnel. The program receives funds from the City, County and State as well as from OEO-Legal Services. The Director will have complete administrative responsibilities for the program according to the politices determined by the Board of Directors.

Prior experience in a legal services program is preferred. The salary is $20,000. The position becomes vacant September 1, 1973, upon the resignation of Gregory R. Dallaire. Interested persons should send resumes to Tom A. Alberg, President, Legal Services Center, 1900 Washington Building, Seattle 98101.

Sept. 6-8	WSBA Convention. Regency Hyatt, Box 8650, Station H, Vancouver, 1, B.C.
Oct. 6	Public Interest Law Seminar. Hub Auditorium, U of W, Seattle. Sponsored by WSBA and SKCBA. Dick Wirtz, Paul Silver, and Doug Hebbell, Co-Chairmen.
Oct. 25-26	Estate Planning Seminar, Washington Plaza Hotel, Seattle. Cosponsored by Estate Planning Council of Seattle and WSBA
Dec. 1	CLE Seminar, Evergreen Inn, Olympia, Washington State Taxes: Substance, Administrative Remedies, Trial Practice. John T. Piper, Chmn; Speakers: Michael L. Cohen, James Ferber, Graham H. Fernald, Harley H. Hoppe, James R. Stanford, S.E. Tveden, E.M. Sandy Murray; Consultants: William R. Anderson, Michael B. Hansen, Robert S. Mucklestone.
Dec. 8	CLE State Tax Seminar, Olympic Hotel, Seattle
Dec. 14	CLE State Tax Seminar. Ridpath Hotel, Spokane.

Wanted: 1973 or 1972 Martindale-Hubbell Law Digest. Also ALR 3rd, 29 to date. Contact: S.V. Carter, Box 306, Morton.

For Sale: R.C.W.A. current, might deliver ALR 1-175; ALR 2nd 1-60. Robert Castrodale, Grand Coulee.

Wanted: Washington Digest, ALR 2nd 61-100. Stenocord Dictating machine. Robert Castrodale, Grand Coulee.

Office space: Share modern reception area and library and occupy 10' x 15' office in Norton Building. Bob Keating. MAin 2-8861.

For Sale: 12 MTST partially used tapes in good order and condition. Call Elvin P. Carney at 622-8020.

Wanted: Issues of the Washington Law Review, Volume 25 (1950) — Volume 47 (1972), together with all current indexes. Call James W. Frits, 486-0707 (AC 206).

Books for Sale: Up-to-date Wright & Miller, Criminal Volumes of *Federal Practice and Procedure* for $35.00; Lawrence Linville, 624-2521.

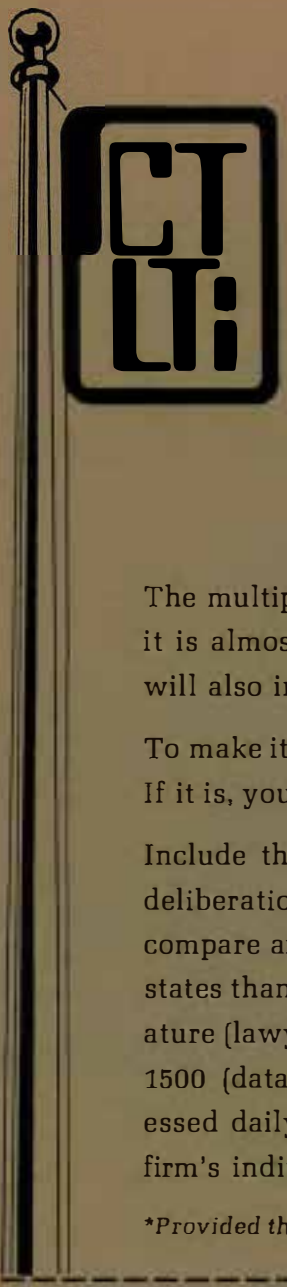
For Sale: 33, 120-inch magnetic tapes for an IBM MTST. None is more than 30 months old and some are as new as 9 months. $5.00 each. David C. Hutchinson, Vancouver.

For Sale: ALR (2a) complete, Vol. 1-3 ALR 3d; John B. Mason, Lopez, 486-2649.

For Sale: Complete set, RCW loose-leaf; James M. Danielson, Wenatchee, 509-662-2146.

Office space available: Two large offices, full or part-time, available in elegant Grand Central On-the-Park Building. Library, secretary and dictating equipment provided. Contact Paul & Paul, (206) 622-0925.

Books for Sale: Complete and current set of *RCWA* and *Washington Digest*. Call (206) 454-8115.



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