
WASHINGTON STATE BAR NEWS



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Executors To Be Trusted?

Editor:

Just read with interest Bob Beschel's summary of the new probate revisions. I think some of them are quite disturbing.

In the past years I have seen several middle western estates of considerable size that were decimated by non-children executors, giving plausible rise to the popular feelings about lawyers, probates and the law in general. I noted that I had never seen this in Washington, and have felt that it was our strict Court supervision, particularly of non-children or spouse executors that prevents such decimation.

It seems to me the new revision opens the door wide to this sort of thing in Washington, and again courts and lawyers will get the brunt of the blame. When non-children or spouse representatives can operate without Court supervision, isn't it pretty open to mistreat these estates? It will be too late after the estate is insolvent, and bonding provision remedies are small help to the ignorant after the damage is done.

I have heard judges complaining for years about what goes on already beyond the control of the attorneys. There is a limit to what they can do. Now it could be murder. Experience has shown that even parents, as a class, are unreliable. Aunt and Uncle executors, as a class, are even far less trustworthy.

T. DAVID GNAGEY
Spokane

On May 1, the United States Senate passed S.B. 354, the National No-Fault Motor Vehicle Insurance Act. Until the final vote, the margin of victory or defeat for the Bill was expected to be close. The margin of victory, 53-42, was a surprise.

The primary sponsor of the Bill was Senator Warren G. Magnuson. The surprising ease with which the proponents of the Bill carried the Senate was due, in no small measure, to the personal power and persuasiveness of Senator Magnuson.

Analysis of the vote in the Senate shows that proponents and opponents of S.B. 354 can be divided neither along "liberal-conservative" nor "Republican-Democrat" lines. Even when the Senators are divided into "lawyers-non lawyers," there is no demonstrable pattern to the voting.

Prospect of ultimate agreement by both Houses of the 93rd Congress is doubtful. Some factors, however, may speed movement of the Bill through the House. Some Congressmen feel that they must put as much distance between themselves and lawyers as possible, particularly after Watergate. Organized lawyer opposition, therefore, may prove counterproductive. Previous opponents of Federal no-fault may now conclude that some Federal no-fault Bill in the next Congress is inevitable, and that a more acceptable Bill can be negotiated with the 93rd Congress than with the 94th. Labor is lobbying strongly to pass the Bill.

S.B. 354 makes substantial inroads into the tort system. General damages may be recovered for bodily injury incurred in an automobile accident only for death, serious and per-

manent disfigurement, other serious and permanent injuries, or ninety continuous days of total disability. The owner of a motor vehicle is required to provide first party insurance coverage which includes *unlimited* medical and rehabilitation expenses and approximately \$25,000 loss of income benefits.

States which enact certain minimum provisions by September 1, 1975, are granted four years from enactment of S.B. 354 to meet its requirements. Included in these interim minimum provisions is *some* threshold limit on general damages recovery *or* a change in the evidentiary rules of practice and proof achieving a similar result; e.g., no pleading or proof of medical expenses paid on a first party basis. States which do not enact such minimum provisions by September 1, 1975, must meet all the Federal requirements within one year of enactment of S.B. 354. If the state Legislatures do not so act, an even more sweeping Federal no-fault plan automatically becomes applicable in the state.

The Justice Department advised the Senate Judiciary Committee, by opinion of April 19, 1974, that S.B. 354 raised "novel and substantial constitutional questions" because it is a greater infringement upon states' rights than previously permitted under our system of Federalism. (*Congressional Record* - April 22, 1974, S 6017). This opinion may lead to some redrafting of the Bill and, in the absence of such redrafting, would offer support for a veto by the President, who has stated a preference for state action.

Batten down the hatches. The winds of change are rising.

HMcG



Lawyers Under Attack

During recent months we have read and heard repeated attacks on lawyers and the legal profession. We have been accused of social insensitivity, of striving to maintain an economically self-serving status quo, of price fixing and of maintaining an exclusionary guild. Moreover, our profession has been charged with a pervasive dishonesty of which Watergate is merely a symptom.

These recurring charges, sometimes balanced with acknowledgment of remedial action, sometimes not, are appearing in such influential publications as the Wall Street Journal, U. S. News and World Report and our daily newspapers.

The originality of the critics ran dry some time ago and repetitiveness as well as a degree of inbreeding has become apparent. Nevertheless, the very repetition of the charges against our profession in even the most establishment oriented publications strongly suggests that the charges are reflections of public attitudes.

Historically, lawyers have had at best an ambivalent respect, and never the affection of the public. It is ironic that the crescendo of criticism is occurring after so many remedial changes have occurred in our profession. What was reasoned and persuasive criticism a few years ago has, in the light of change, increased in some cases to a hackneyed stridency.

Nevertheless, the public's distrust and disrespect is a vital problem about which we must have real concern. Like most of you I've given the problem a lot of thought and have come to some painfully limited conclu-

sions about what we can do about it.

There are some things we shouldn't do. Anger is ineffectual. Public relations gimmickry would be a waste of money and would only reinforce distrust. Reactive efforts to regain the imagined status of the past are futile. Rushing into changes, regardless of merit, to satisfy every critic with a forum is irresponsible.

Valid Criticism Requires Response

What we can do and, I think, the only thing we should do, is to respond professionally. As an organized Bar we must carefully listen to and act upon valid criticism and reject, without apology, invalid criticism. We must, consonant with professional standards, change with the times; and where our professional judgment tells us that it is appropriate, be willing to change in advance of the times. Our Bar has been doing these things with the broad support and involvement of the lawyers of this State.

Our Bar has established a client security fund, it has added lay persons to its Disciplinary Board, it has a dedicated commitment, in people and in resources, to the disciplinary process. Our recent economic survey clearly negates the existence of fee fixing practices. Our Bar expends tremendous energies, and is responsive to all segments of its membership and the public interest, in implementing progressive programs to improve the quality and availability of legal services and the quality of the system of justice. We can make proper use of public relations in informing the public of these things and in answering unjust

charges against our profession, our courts and our system of justice. We need not apologize for our profession.

But the most telling response is the cumulative conduct of individual lawyers. Every lawyer who represents a client diligently, honestly and competently is in a slow and tentative way developing public confidence. Every lawyer who, in conversation with clients and friends about law, judges and other lawyers, maintains professionalism and refrains from the too prevalent habit of denigration is making a positive contribution. Every lawyer who gives his time and talents to community activities is a builder.

Bar Cannot Win Public Affection

But no matter how well we perform individually and as a profession we will never enjoy public affection. Unlike members of other professions we function as adversaries; as independent and aggressive advocates for conflicting interests. To surrender that function would be to deprive the public of our profession's greatest contribution to society.

Attaining the respect of the public is another matter. Even in this time of criticism of our profession, respect underlies the public's attitude and often surfaces. We can develop it into the prevalent attitude by seeing to it that we as lawyers and judges, and our profession as an institution, are deserving of our self-respect.

A JUDICIAL SYSTEM TO FIT THE TIMES

By Tom Russell

In the last five years this publication has had two articles on the Judicial article authored by Superior Court Judges, both in the main directed at opposing a revision of our 1889 judicial article of the State of Washington because it might establish one trial court system (instead of our present four—Superior, District, Justice and Municipal) to do the trial business of the Washington Court System. In 1970, the remarks of then Superior Court Judge Morell E. Sharp were published under the title "A Unified Trial Court?" In 1974, Judge Willard Roe wrote an article entitled "What's Wrong With The Judicial Article?"

The purpose of this article is to recap the past criticisms and suggestions in those articles and to show how the present form of the revised Judicial Article meets them. In addition this article will cover a pragmatic history of the key features of the proposed article as they have worked out in other states that have preceded us in revising their Judicial Article in the 20th Century. Those key features in the present draft include a two-level state-wide trial court system utilizing only law-trained judges, a centralized administrative head of the judiciary, to wit: the Chief Justice, and a Discipline and Removal Commission. In toto the new proposed Judicial Article is what it should

be, a general flexible instrument that lays out the necessary policies for a quality judiciary and for minor changes as the nature of case loads, gravity of the law and technology warrant revisions.

Change Focused on Two Areas

In 1970, Judge Sharp was concerned with the following items: He didn't feel merging the trial court systems into one trial court was the answer to the duplicitous trials now encountered under the contemporaneous trial de novo system where every misdemeanor has the right to receive (or improve his plea bargaining position with the prosecutor by threatening to request) a second complete new trial in Superior Court with or without a jury of 12. Judge Sharp found electronic recording of the first trial and appeals on that record would solve any problems that may exist with the present method. Judge Roe in his 1974 article also urged against unifying the courts as an answer to the current system, and went on to condemn the electronic Court recording systems now in operation in this state and elsewhere in the country as too expensive (his top estimates for a machine and special operator for each court totaled \$46,250). Judge Roe felt there was no current problem and no satisfactory alternative to the current situation. The new judicial article does not rule out trial de novo, nor does it enshrine it as a constitutional precept in case a future legislature confirms a different method of appeal. In short we can have

the de novo system if the arguments of Judges Sharp and Roe have continuing merit or switch to a different system if that system has more merit and has compensating advantages. The proposed article simply says everyone is entitled to a right of review in all cases except minor civil ones and that trial de novo does not constitute that review so appeal on the record from a trial de novo will still be possible. In fairness to electronic recording as an up and coming alternative for the recording of misdemeanor trials, the Whatcom County District Court already has ordered such a system and as opposed to a prior article's estimates, the price of the machine and equipment capable of in-put from four different microphone locations is \$3,000 and is simply operated so that the judge has a control panel or an ordinary court clerk can operate the machine. Whatcom County does not figure there will be any appreciable increased cost for operation. The only cost they are expecting is

*James Russell Lowell said:
New occasions teach new duties
Time makes ancient good uncouth
We must upward still and onward
Who would keep abreast of truth.*

transcribing and they, like Oregon and the Federal magistrates, may decide that it is a litigant's expense to be met by making the tape available to the interested party for transcription at their convenience.

System of Limited-Jurisdiction Courts

Judge Sharp, in his article, advocated as the alternative to a single-level trial court, a statewide system of a limited-jurisdiction court, called the District Court. Judge Roe feels that if any change should be made from the present system of three types of limited jurisdiction courts (justice of the peace, District and Municipal) it should be to abolish all of them and put their functions in the jurisdiction of the Superior Court Commissioners. Happily in the proposed article either system could be available, again depending on the nature of the judicial system and caseload in the future. While the Article will constitutionally enshrine a two-level trial system, a state wide superior and district court system, it will provide that the District Court shall have exclusive jurisdiction over misdemeanors and such other civil and criminal jurisdiction as the legislature shall provide. There is no constitutional requirement for any other specialty courts but there is allowance for

the legislature to create some when and if a need should arise for another layer of courts. Obviously the mood of the proposed judicial article is towards Judge Sharp's proposal, a state-wide unified District Court system that can grow in jurisdiction if and when situations require it. If California's judicial history is a precursor to judicial system change, what we can expect would be a District Court system hearing gross misdemeanors, misdemeanors and civil cases up to \$10,000 claims, in the near future. On the other hand if Judge Roe's idea of expanding the role of the Superior Court Commissioner and abolishing the role of the separate trial court system has some merit, the function of the proposed District Court system could be eviscerated by defining misdemeanors down to low penalty levels suitable perhaps for offenses like parking violations and spitting on the sidewalk and legislatively putting all other crimes in the Superior Court under the title "infraction" or "minor offense" or felony if the offense warrants the title. Having suggested this as a possibility, I also suggest that such a legislative move is improbable in the next 10 years, and yet this new article will last until the year 2059 A.D. if it equals the life of its 1889 predecessor, so who can predict whether the possible may become probable in X number of years. At least for the next generations, we are not locking them into any one system as our nineteenth century pioneer forefathers did to us.

A Career Judiciary

Judge Sharp was concerned with any system that would produce a career judicial system where younger lawyers would start with minor cases and if they excel or at least meet some minimum requirements would be eligible for promotions in the ranks. Judge Sharp warned that such a system would produce civil-service mentality or perhaps judicial strikes for better wages. I don't know about the first problem but I'm sure the second alternative is looking more attractive to the 1974 judiciary after the people spoke so loudly through Initiative 282. At any rate there is nothing that promotes a career judiciary in the new article, assuming for the sake of argument that the idea of a trial run for superior court judges in hearing misdemeanors before appointment, is such a bad idea. Actually I think we would get fewer surprises in judicial personalities in the judicial selection process and on the bench under such a system but that is better left for a later debate.

Workload Distribution

Both Judge Sharp in 1970 and Judge Roe in 1974, acknowledge that the distribution of workload among trial court judges is inconsistent, uneven, and unfair. Both recommend that the legislature should use its power to redistrict. Both recommend that the Districts be reorganized to even the case load. The proposed judicial article would allow the supreme court by rule to set judicial district borders for all the trial courts. This seems like a wise move in the reflection of the legislative history which is clearly *not* to take any initiative in redefining district lines to equalize workload. The last major districting was done by the legislature nineteen years ago. From that date to this the only move they have made is to de-regionalize the former tri-country Cowlitz-Skamania-Klickitat district by splitting off Cowlitz County as a separate district. Without at all questioning that move, the pattern of the legislature has not been to regionalize or equalize or, for that matter, do much in this field at all, which would argue for the new article's proposal to put the power in the proposed administrative head of the court system, the Supreme Court.

Judge Sharp was opposed to an idea Judge Lyle Truax of the Clark County District Court had proposed, namely that judicial assignments and divisions be clustered under four specialties—family law, criminal law, civil law, and administrative law. The proposed article in allowing the supreme court to set boundaries among courts and the legislature to adjust jurisdiction among courts is flexible enough to allow either a continuation of the present arrangement or adopting Judge Truax's proposal or a multitude of other models, again as experience and conditions warrant. The current constitution is much more restrictive as to placing original jurisdiction only in one court.

Law-trained Justices

Judge Sharp was not particularly alarmed that lay justices would continue to sit in misdemeanor and civil cases. Judge Roe doesn't praise or condemn them but implicit in his suggestion that all limited jurisdiction courts be replaced by superior court commissioners is some indication that there should be a change in the future. The proposed article ends the era of the layman on the bench trying to be a judge. Since I think this is one of the major strengths of the new article let me capsulize why this is a needed trend. We started this state

with a lot of land and a few lawyers. So the idea of bringing accessible judicial offices manned by law-trained judges to settle our frontier local disputes was out of the question. Equally foolhardy in the 1880's would have been the requirement that litigants should ride hours or days through the forests, plains or deserts to reach a law-trained judge at the county seat to hear a twenty-minute case. So the natural choice for that time and those circumstances was made. That decision was to have hundreds and hundreds of lay justices of the peace in every village, hamlet and town, along the highways and byways to render justice as they saw fit, without aid of law training or law books for that matter. The 1889 judicial article still in effect set no minimum requirements to be a justice of the peace. From that time to the present a lot has changed; the travel time shrunk when the automobile replaced the horse and buggy, thus obviating the need for street corner (or barnyard depending on locale) justice that was necessary in the nineteenth century. The law has certainly changed since those days and matters that every limited jurisdiction judge must pass on, e.g. the U.C.C. sales and secured instruments provisions, search and seizure law, the new landlord-tenant act, the implied warranty of habitability of leased premises, the requirements of the Bill of Rights as to confrontation, joint defendants, guilty pleas, sentencing, revocation of probation, preliminary hearings and so on, are a struggle for even law-trained judges to keep up with and administer, much less laymen that don't have copies of these laws, don't understand the legal precepts on which they are based nor have access to legal minds to explain them. And yet not much has changed in the make-up of our limited jurisdiction judges. Today more than half of our 238 limited jurisdiction judges are laymen. And their situation hasn't changed much as witnessed by the January, 1974, comment in a survey published by the Court Administrator's office.

Thomas B. Russell is an Assistant United States Attorney for the Western District of Washington. After graduating from Stanford Law School in 1964, he served as a Deputy Prosecutor for King County and was a partner in a private law firm before being elected Judge of the North-East District Court in King County. At the conclusion of the term he was appointed to his present position by the Attorney General of the United States.

In 1972-73, Mr. Russell started a program of education for the National College of the State Judiciary in Reno which provided training for over 1500 trial judges. In the process he visited 29 states discussing with judges and administrators their court operations and the art of judging.

. . . Most of the municipal courts and many of the justice courts in the State are courts in name only, if we think of a court as having a judge, court clerks, courtroom, etc. In most of these courts, the judge operates out of his home or holds court in the city hall, fire station, or in his place of business. In these cases, a "court" is really just an individual person appointed or elected as a judge. One such court surveyed, had a judge being paid a modest salary for the last three years although a case had not been filed in his court during that time period.

Does it matter if people's legal disputes are presided over by untrained laymen serving part-time as judges with neither the skill, background, circumstances nor time to render a decision according to law and to properly provide correctional and rehabilitative programs for those convicted of crimes, when the criminal matters are misdemeanors and the civil cases are under \$500? I happen to think that anyone who uses our judicial system for settlement of his disputes is entitled, in this day and age, to the best we can produce—not only law-trained, but judges of quality in their perceptions, knowledge, research and ability to communicate and adjudicate among people. But from whatever philosophical bent your approach, the issue of who should preside over the "people's courts" as they are called, we can hardly argue with the proposition that these cases should be decided in accordance with the law and those decisions based on the precepts that

we all acquired in our profession. Nor can we argue with the statistical reality that to all extent and purposes these limited jurisdiction courts are the major trial courts of this state, and the appearance, example and principles they set will be the basis for our citizens' assessments of the quality of all our courts. For example, in 1973, about 790,000 out of the total 890,000 cases filed in all our trial courts were filed in the courts of limited jurisdiction. About 76,000 out of the 86,000 cases tried in all our courts were tried in our courts of limited jurisdiction.

Change Only After Thorough Research

Let us pass to what Judge Sharp phrases as his "deepest concern," that any suggestions or forms for a new judicial article be well researched and considered on the basis of need and facts. It would be a comfort to Judge Sharp and others to know that the subject of a new Judicial article has been discussed in Olympia and elsewhere in the state for over ten years. Specific proposals and ideas have been researched, reviewed and debated by the interest organizations including the Superior Court Judges Association, the Washington State Magistrates Association, the State Bar Judicial Article Committee, the Judicial Council, members of the Supreme Court, the Citizen's Committee on Washington Courts, and the League of Women Voters for four full years now, and that in the last year or so the Senate Judiciary Committee which is the originating vehicle for the present proposed article had devoted in excess of thirty hours of public hearing to the draft in addition to their own executive deliberations and research, under the very conscientious chairmanship of Senator Pete Francis of Seattle. One can't recall any other piece of legislation subject to so much research, review and revision to settle reasonable differences.

Centralized Administration of Courts

Judge Roe touched on his opposition to the centralized administration of the courts. Centralized administration has been a feature of all of Washington's proposed judicial articles and still survives the current proposed article. It leads to a discussion of the strengths of the new article, of which supervisory and administrative powers in the Chief Justice for all the court system is one. Centralized supervision would bring to the courts, lawyers and litigants of all 39 of our counties at least three things that don't exist: greater



judicial coverage in areas where the backlog builds up, greater uniformity of resources and innovations particularly in the court-related correctional and rehabilitative services, and greater efficiency and accountability in the courts' processes and procedures. In all three of these areas this state is spotty and uneven among the judicial districts because all three hinge on the interest and involvement of the judges in each district. What the new article would produce is a system of distribution and supervision of the "product", efficient court processing and procedures without the complete current dependence on the make-up of the judges, who at present are not elected or appointed on the basis of their expressed interest or proven abilities in any one of these three areas. A statewide survey was recently conducted by John P. Boyd Associates of Olympia on the operations of our trial courts. Their report (*Operational Status Survey of the Washington State Judicial System*, January, 1974, available through the Court Administrator's Office in Olympia) states: "the main point, however, is that the fragmented responsibilities for court operation are creating (1) non-uniform and sometimes erroneous administrative procedures. . . ." In support of that conclusion we can find, cited in the report, examples among superior, district and municipal courts of funds not being properly disbursed, and persons acting as judicial officers although not so authorized under law. Does the state in general have a legitimate administrative interest in making sure the business of justice is being conducted fairly, efficiently and legally in any given county? I think so. Beside the fact that justice is everyone's business, because our business enterprises and personal enterprises and travel can take us into any county, is the obvious right that stems from the fact that the taxpayers of all the state, pour about \$1,200,000 of state tax money into the salaries, benefits and maintenance that keeps each of our 28 superior court districts afloat.

Well finally one must wonder, does this centralized administration work, or does it have more disadvantages than advantages. All those states that have opted for this system, and they include states with court systems spread out over large land masses with dotted metropolitan centers, just like ours, have stayed with it. None have returned to the individual fiefdom or regionalized authority approach. States like ours that enjoy such a system include Oklahoma, Kansas, North Carolina, Wyoming, Colorado, and Idaho.

Commission for Discipline and Removal

Another key feature of the new article would be the Discipline and Removal Commission. This body, composed of an appellate court judge, a superior court judge, a district court judge, two lawyers and four lay citizens, can recommend to the supreme court that a judge be removed, suspended or otherwise disciplined for misconduct in office, willful and persistent failure to perform his duties, or for existence of a permanent disability interfering with the performance of his duties. There is a demonstrated need for such a new approach to weeding out the mistakes on the bench. I've checked with the ethics committees of our judicial associations to see if there were recent complaints about judicial performance and what were the nature of the complaints. In short summary, there are complaints about judges. The categories of most frequency are: delay in producing a decision in the case; abruptness, rudeness, or discourtesy in some cases to the point of inhibiting the presentation of one party's side of the case; and intoxication. Surely all of these are matters that deserve investigation and remedy if they are real. Yet at present, we have no tool to meet these lawyers' and citizens' complaints. The ethics committees are powerless, the electoral system doesn't weed them out, as some of the gravest offenders are in a group who are, in reality, unbeatable, not because of their merit but because they have name familiarity, a long period of incumbency or other forms of political clout. Most other states have, at present, progressed beyond us in adopting such a commission form of discipline and removal and again, in their number, are states much like ours in their make-up, Nebraska, Kansas, the Carolinas, Idaho, Wyoming, and South Dakota.

Thus in 1974, we have headed toward the legislature a worthwhile proposed article, one that is hammered out of the crossfire of sometimes diametrically opposed suggestions and one which is produced from a consensus of the interested and informed groups that have been working on it for a good number of years.

One hope, not too obscurely set in this article I am sure, is that the lawyers, then the legislature and then the voters, will support this modernization of our court structure to meet today's new challenges and abilities with a system that will come as close as our human limitations allow, to insure justice, before, during and after trial and appeal to those who are users of our judicial system. □

Consumer Case Indexing Project

by Thomas L. Boeder

The last several years have seen dramatic development in state trade regulation law under RCW 19.86, the Washington Consumer Protection Act. When originally passed in 1961, the Act was viewed primarily as an antitrust statute incorporating the basic provisions of federal antimonopoly legislation. Reported cases relating to the Consumer Protection Act were sparse in the 1960's and invariably dealt with the antitrust aspects of the statute.

The absence of appellate decisions under the unfair and deceptive practices or "consumer protection" section of the statute (RCW 19.86.020) also reflected the emphasis of the state Consumer Protection Division on individual complaint processing rather than consumer protection enforcement actions. The resulting resolution of large numbers of individual consumer problems found widespread public approval in the era of Ralph Nader where consumer protection was often seen more as a social crusade than as a specialized area of law. However, due to the absence of a substantial volume of Attorney General enforcement litigation and consequent dearth of appellate law, the scope and potential impact of the legal remedies under the Act remained for some time a matter of informed speculation.

In recent years, however, two important developments have resulted in a changed emphasis in state consumer law — a change of basic importance to the private bar. First, the Attorney General's Consumer Protection and Antitrust Division has shifted its primary effort to enforcement actions designed to establish the outlines and limits of the legal remedies under RCW 19.86. Second, the Legislature has attempted to bring the private bar into the consumer protection effort by providing a strong, private remedy under the Consumer Protection Act. RCW 19.86.090. Consequently, the direction of consumer protection in Washington is increasingly shaped by litigation,

both public and private. The result is a vitalization of this new area of law and an increasingly important role for the private bar. While consumer protection appears to be losing some of its appeal as a fad (one of the "relevant" areas of endeavor for laymen, public interest lobbyists and eager young attorneys) a small but significant body of consumer protection case law has been establishing in Washington which provides a firm foundation for effective use of RCW 19.86 as a potent weapon in the service of a broad range of clients as well as the public in general.

Illegal Lottery is an Unfair Trade Practice

The first decision by the Washington Supreme Court in an Attorney General enforcement action under RCW 19.86.020 was in the case of *State v. Reader's Digest Association, Inc.*, 81 Wn. 2d 259 (1972), app. den. 411 U.S. 945. This was an action by the State alleging *inter alia* that the Reader's Digest Sweepstakes was a lottery under state law, and therefore, its conduct as it affected Washington residents was an unfair trade practice in violation of RCW 19.86.020. The trial court ruled that the sweepstakes was not a lottery and the state appealed. Although the central holding of the Supreme Court was on the lottery issue, the decision's importance to consumer protection law goes well beyond this narrow area. (The Court's lottery holding has been largely superseded by subsequent legislation.)

In holding that since the sweepstakes was a lottery it was *per se* an unfair trade practice, the Court established a rule of vital importance to both state and private consumer actions; i.e., "what is illegal and against public policy is *per se* an unfair practice." 81 Wn. 2d at 270. Thus, a consumer protection plaintiff in Washington who established unlawful activity by a firm in the course of its trade has also proven an unfair practice in violation of RCW 19.86.020.

The *per se* rule supplies an extremely useful guideline to trial courts in an area where precise,

case-by-case definition under state law of what constitutes an unfair practice is generally lacking. Moreover, the *Reader's Digest* court went further toward filling the apparent definitional void under .020 when it directed trial courts to look to federal trade law for useful precedent in defining what is unfair. Finally, and most importantly, the *Reader's Digest* decision upheld the "unfair and deceptive practice" standard against the defendant's argument that such a test was unconstitutionally vague.

Consumer Protection Not "Strictly Construed"

Less than eight months after the *Reader's Digest* opinion, the Supreme Court rendered its second decision in a 19.86.020 enforcement action. *State v. Ralph Williams' North West Chrysler Plymouth, Inc., et al.*, 82 Wn. 2d 265 (1973). Although the Ralph Williams case came to the Court on what amounted to a dismissal for mootness prior to trial, the Court's decision covers a broad range of vital issues under the Consumer Protection Act, shedding light on a number of basic questions of interpretation under the statute.

As described in the Court's opinion, the *Ralph Williams* case involved allegations by the Attorney General that a broad range of business practices by the former Seattle car dealership were unfair and deceptive in violation of RCW 19.86.020. The State further sought to impose liability for the allegedly unlawful practices on Ralph Williams, Inc., a California corporation, and Ralph Williams individually. Shortly after suit was filed the Seattle dealership ceased doing business; and, as a result, the trial court dismissed the state's action concluding:

" . . . (1) that the state's action was moot because North West was 'an inactive, defunct, corporate shell'; (2) that an injunction may not lie because the defendants were unlikely to return to business in this state; (3) that the civil penalty claim fails because civil penalties are dependent upon the entry of an injunction and no injunction may lie; (4) that the restitution remedy for aggrieved citizens is unconstitutional; and (5) that the defendants are to be awarded attorney's fees because they are 'prevailing parties'." 82 Wn. 2d at 268.

The Supreme Court in a lengthy opinion reversed the trial court on all grounds and remanded the case for trial.

In concluding that a factual issue was raised as to whether an injunction would lie against defendants, the Court adopted the important principle of federal trade law that:

"Mootness exists in the issuance of injunctions only where events make it absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur. Voluntary cessation of allegedly illegal conduct does not moot a case because there is still a likelihood of the illegal conduct recurring." [citations omitted] 82 Wn. 2d at 272.

The Court also emphasized the possibility of independent application of the statute's various remedies in holding that (1) issuance of civil penalties under 19.86.140 is not dependent on issuance of an injunction, and (2) separate from any injunction issue, jurisdiction lies to consider whether a defendant's acts constitute violations of consumer law (an important goal of an Attorney General action in view of the *prima facie* effect of such a judgment in subject private actions. RCW 19.86.090, .130). The decision also upholds the constitutionality of the restitution remedy against the argument that pursuit of the remedy by the Attorney General constitutes a gift of public funds in violation of art. 8, § 5 of the Washington Constitution.

Finally, the Court reaffirmed its holding in *State v. Reader's Digest* that the "unfair and deceptive practice" standard in 19.86.020 is not unconstitutionally vague stating that this conclusion was not changed by the existence of a penalty remedy in the statute. In an observation of great significance to future consumer cases, the Court said:

"This argument [the alleged unconstitutional vagueness of .020] is premised on the assertion that RCW 19.86 is a penal statute and thereby

Thomas L. Boeder is Chairperson of the Seattle-King County Bar Association Young Lawyers Section, Consumer Protection Committee and a member of the State Bar's Antitrust Section and the American Bar Association General Litigation Section. He was graduated magna cum laude from Yale University in 1965 and obtained his law degree from Yale Law School in 1968. Following duty with the First Infantry Division Judge Advocate General in Vietnam, Mr. Boeder became a member of the Washington Bar and an Assistant Attorney General with the State Attorney General's Consumer Protection and Antitrust Division where he has worked since 1970.

must be strictly construed. The existence of penalties in an act, however, does not make the act quasi-criminal in nature. The legislature has wide discretion in the choice of remedies to promote compliance with a law, and providing for fines in a civil proceeding does not convert the proceeding to a criminal or penal one. [citations omitted] Therefore construction of RCW 19.86 is not governed by the strict rules pertaining to penal statutes." 82 Wn. 2d at 278.

The primary significance of the *Reader's Digest* and *Ralph Williams* decisions and the other appellate decisions under 19.86 which are becoming increasingly frequent is the strong support of the general principles of the Consumer Protection Act which they embody. There can be no doubt that the Supreme Court has clearly endorsed liberal construction of the Act by state courts in order that the statute's beneficial purpose to protect the public may be served. (Cf. RCW 19.86.920.)

Individual Plaintiff May Obtain Injunction on Behalf of Public

The Court has further strengthened the role of private consumer actions in accomplishing this result by its holding in *Hockley v. Hargitt*, 82 Wn. 2d 337 (1973) that a private plaintiff suing under 19.86.090 may obtain an injunction on behalf of the public even if the violations enjoined would not directly affect the individual plaintiff's own private rights. Moreover, the temporary cloud



over effectiveness of consumer protection enforcement caused by the 3d Appellate Division's sweepingly broad interpretation of the Act's exemption provisions, *Dick v. Attorney General*, 9 Wn. App. 586 (1973), has been dispersed by the recent decision of the Supreme Court (25 April 1974) and passage of HB 1276 amending the exemption section itself. Detailed analysis of this important but technical issue is beyond the scope of this brief article. The important net result of the events described above, however, has been to retain within the scope of 19.86, the state's central consumer protection statute, areas also covered by the numerous state regulatory statutes which apply to virtually every area of trade of commerce. A contrary result would have replaced the Consumer Protection Act's strong remedies and effective scope with a patchwork of older, narrower, and frequently less effective statutes whose central thrust is licensing not consumer protection — a disastrous result for both public and private consumer protection enforcement.

Consumer Protection Case Index

In order to assist members of the bar in familiarizing themselves with this increasingly important area of Washington law the Consumer Protection Committee of the Young Lawyers Section of the Seattle-King County Bar Association is establishing an indexing project for consumer protection law actions. The purpose of the project is to provide a central useable source of information on consumer protection actions, particularly in King County Superior Court. Since law in this area is new, much important information and precedent is in Superior Court files not readily accessible to attorneys working in consumer protection. The indexing of such actions not only would allow interested attorneys to benefit from the accumulated expertise of the consumer protection bar, but also would allow coordination of efforts by attorneys involving identical or similar parties and issues.

Members of the bar will be asked to provide basic information regarding each consumer protection action filed or defended by them. A sample information form can be found at the end of this article. A separate form should be completed for each consumer action in which an attorney has been involved, and forms should be sent to the Young Lawyers Section, Consumer Protection Committee, Seattle-King County Bar Association, 320 Central Building, Seattle, Washington 98104. The completed forms will be kept in a

looseleaf notebook in the King County Law Library and appropriately indexed for handy reference. Additional forms may be obtained from the Bar Association office or from the King County Law Library.

The Committee anticipates that implementation of this project will contribute to accomplishment of one of its primary goals — the enhancement of quality, efficiency and professionalism in consumer protection litigation.

CONSUMER PROTECTION CASE INDEX

County _____ Date Filed _____
 Cause Number _____ Class Action

Plaintiff(s) _____

v.
 Defendant(s) _____

Plaintiff's Attorney _____
 Address _____ Telephone _____

Defendant's Attorney _____
 Address _____ Telephone _____

Type of Case (Please check appropriate category or categories):

- | | |
|--|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Advertising <input type="checkbox"/> Antitrust <input type="checkbox"/> Appliances <input type="checkbox"/> Automobiles <ul style="list-style-type: none"> <input type="checkbox"/> Rental <input type="checkbox"/> Sales <input type="checkbox"/> Banks <input type="checkbox"/> Campgrounds <input type="checkbox"/> Chain Distributor Schemes <input type="checkbox"/> Collection Agencies <input type="checkbox"/> Consumer Credit Protection Act <input type="checkbox"/> Credit Cards <input type="checkbox"/> Door to Door Sales <input type="checkbox"/> Employment Agencies <input type="checkbox"/> Franchises <input type="checkbox"/> Furniture <input type="checkbox"/> Home Improvements <input type="checkbox"/> Interest and Late Charges <input type="checkbox"/> Judgment Execution <ul style="list-style-type: none"> <input type="checkbox"/> Attachment <input type="checkbox"/> Garnishment | <ul style="list-style-type: none"> <input type="checkbox"/> Land Sales <input type="checkbox"/> Landlord-Tenant <input type="checkbox"/> Lease <input type="checkbox"/> Loans <input type="checkbox"/> Mail Order Sales <input type="checkbox"/> Mobile Homes <input type="checkbox"/> Price <input type="checkbox"/> Receivership <input type="checkbox"/> Repairs <input type="checkbox"/> Repossession <input type="checkbox"/> Retail Installment Sales <input type="checkbox"/> Schools <input type="checkbox"/> Securities <input type="checkbox"/> Travel <input type="checkbox"/> Truth in Lending <input type="checkbox"/> Warranties <input type="checkbox"/> Other (Please Specify) |
|--|---|

Remarks:

The Consumer Protection Case Index is maintained by the Consumer Protection Committee of the SKCBA YLS and is available to members of the Bar at the King County Law Library in the King County Courthouse.

MAIL TO:
 Consumer Protection Committee
 Seattle-King County Bar Assoc.
 Young Lawyers Section
 320 Central Building
 Seattle, WA 98104

An Interamerican Court of Human Rights— Why Not?

**By Edward E. Henry, Judge
King County Superior Court**

If a human being whose rights have been violated cannot obtain relief in his own country, why not provide an international court where relief can be sought?

After visiting a session of the European Court of Human Rights in Strasbourg, France, one is impressed with the thought that if it works so well in Europe, why can't we also have one in the Western Hemisphere.

The European Court of Human Rights consists of a number of judges equal to that of the members of the Council of Europe. There were 18 judges who were members when I visited the court last year.

The court is not automatically competent to hear a case because its jurisdiction must have been accepted by the contracting parties concerned. 11 of the 16 contracting states have now accepted the jurisdiction of the court as compulsory (Austria, Belgium, Denmark, Federal Republic of Germany, Iceland, Ireland, Luxemburg, Netherlands, Norway, Sweden and the United Kingdom). The other contracting parties may accept the jurisdiction of the court in a particular case.

Now that the European Common Market is becoming stronger and the Council of Europe having more influence on the affairs of the European nations, the European court will become more important in enforcing human rights as Europe becomes more effectively unified in programs and culture.

The program underway in Europe apparently led to the American Convention on Human Rights signed at San Jose, Costa Rica, November 22, 1969. This is a remarkable document and those who participated in its drafting are to be

commended and should be supported in their endeavors. The document was signed by representatives of Chile, Columbia, Costa Rica, El Salvador, Equador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Uruguay and Venezuela.

It sets forth in detail an American Convention on Human Rights and provides for enforcement by an Interamerican Court of Human Rights that shall have its seat at a place determined by the state parties to the convention.

The procedure for invoking the jurisdiction of the court is similar to that set up for the European Court of Human Rights.

Interamerican Commission on Human Rights

Before the jurisdiction of the court can be invoked, the complaint must be made to the commission. The commission investigates the complaint and determines whether or not the matter should be brought before the Court of Human Rights for determination.

It has been the experience in Europe that oftentimes the Commission after its investigation has been able to settle the matter by making certain recommendations to the appropriate bodies of the state involved and oftentimes redress has been affected without the necessity of trial.

The writer attended the World Peace Through Law Conference at Belgrade, Yugoslavia, in July of 1971, at which Resolution No. 19 was adopted which calls upon state members of the Organization of American States to ratify the American Convention on Human Rights concluded in Costa Rica on November 22, 1969.

Let us hope that the nations of the Western Hemisphere can set up such a court in the near future. Those who are interested should write their Senators urging support of such a program. □



The Board's Work

Resolutions-at-Annual-Meeting Procedures Amended

Extracts from the minutes of the meeting of the State Bar Board of Governors at Victoria, B.C.
April 19 and 20, 1974

The Board voted to amend Sections 3, 4 and 5 of Article VII of the By-Laws, relating to meetings of the Washington State Bar Association and Resolutions presented at such meetings, so that the said sections 3, 4 and 5 shall be effective immediately, to read as follows:

ARTICLE VII

Section 3. SPECIAL MEETINGS

Special Meetings of the Washington State Bar Association may be called as follows:

(a) By the President, on a majority vote of the Board of Governors present at any meeting of said Board.

(b) By the Executive Director, on written request of five hundred (500) active members of the Washington State Bar Association.

If no action is taken on such request within five (5) days after receipt of the same, the special meeting may be called by any active member of the Washington State Bar Association.

Special Meetings may consider only such matters as are set forth in the notice of the meeting.

Section 4. NOTICE OF SPECIAL MEETING.

Notice of a special meeting shall state the time and place of the holding of such meeting, and shall be given to the members of the Washington State Bar Association either by mail or in the public press at least five (5) days prior to such meeting. Said notice shall state generally the matters to be considered at the special meeting, shall include the full text of any proposed resolution and an explanatory written report (the sum of which shall not exceed one thousand words), and shall be signed by the Executive Director or in case of his failure to act, by any other person designated as hereinabove specified.

Section 5. RESOLUTIONS.

A. *Annual Meetings.* Any member may present to the Resolutions Committee at least twenty (20) days before the annual meeting any written resolution pertaining to (a) the legal profession or the Association, (b) any report of any officer or section or committee of the

Association, or (c) other matter on which the organized bar's view would be enlightening and persuasive to the public for consideration at such meeting. All such resolutions shall be accompanied by a written report explaining the resolution. The resolution and report shall not exceed a combined total of one thousand words.

Any member may present to the Resolutions Committee any resolution and/or supporting report(s) considered by the House of Delegates of the American Bar Association at its annual meeting that same year. Provided however any such ABA considered resolution must be presented to the Committee in writing and no later than the time of its public hearing held prior to the annual meeting as hereinafter stated.

Resolutions and reports received by the Resolutions Committee at least sixty (60) days prior to the annual meeting shall be published in the Washington State Bar News prior to such annual meeting. Notice of the purpose, function, and personnel of the Resolutions Committee, and a solicitation of written responses and comments on proposed resolutions by members of the Association shall be published in the same edition of the Washington State Bar News.

Not more than eleven (11) nor less than seven (7) days prior to the first day of each annual meeting, the Resolutions Committee, shall hold a public hearing on resolutions which have been submitted. At such hearing the proponents and opponents of any such resolution shall be given a reasonable opportunity to be heard.

At the conclusion of such public hearing on each such resolution, the Resolutions Committee shall recommend approval or rejection of any such resolution (with amendments if deemed appropriate).

The Resolutions Committee shall make available at the annual meeting copies of all resolutions on which it has so acted and shall there report orally and/or in writing upon each such resolution, giving its recommendations, proposed amendment(s) thereto, or comments thereon. Non-ABA considered resolutions presented fewer than twenty (20) days prior to the opening day of any such annual meeting, may only be considered with the consent of two-thirds (2/3) of those present and voting at the annual meeting.

Each resolution shall be open to debate and a vote taken thereon. The President shall report to the Board of Governors the action taken on each such resolution for final disposition by the Board, should such action be required.

B. *Special Meetings.* Subject to the notice provision in Article VII, Section 4, any resolution proposed for consideration at a special meeting will not be considered by the Resolutions Committee, but shall be presented and debated at the special meeting itself.

Action taken at the special meeting on any such resolution shall be reported by the President to the Board of Governors for final disposition in the same manner and with the same effect as though it were the action of an annual meeting.

Mid-Year Legal Education Seminar Series

A Mid-Year Legal Education Seminar Series in Palm Springs, California in January of 1975 has been approved. Arrangements are being made for the necessary facilities and appropriate seminar speakers and programs.

Economic Survey of the Bar

A detailed summary article is being prepared for publication in the Bar News with reference to the Economic Survey recently completed under the supervision of the Law Office Practice Committee of the Bar Association. Copies of the entire survey will be made available for a reasonable charge.

Law-Focused Education—Regional Conference

The Board gave approval for the Washington State Bar Association to serve as a co-sponsor for a Regional Conference on the subject of Law-Focused Education in the public schools to be held in Seattle in the Autumn of 1974. The Bar Association will contribute up to \$3,000.00 toward the financial commitments of such a conference, conditioned upon two-thirds of the conference cost being borne by the ABA and the remainder of the matching funds being provided by other interested organizations, associations, individuals or entities.

Compulsory Mal-Practice Insurance

The Board authorized the Insurance Subcommittee to continue to work toward a presenta-

tion of a viable program providing for compulsory malpractice insurance to be implemented by and for the membership of the Bar Association.

Judicial Council

Edmund B. Raftis, Seattle, was appointed as the Bar Association's representative to the Judicial Council to fill the vacancy created by the resignation of Kenneth P. Short.

Corrections Committee — Proposal to Petition Congress — Re: McNeil Island Federal Penitentiary

Richard W. Pierson, Chairman of the Corrections Committee, and John T. Piper, a member of the Committee, appeared before the Board to discuss a proposal to petition Congress to investigate the McNeil Island Federal Penitentiary.

The Board voted to petition the members of the Washington delegation in Congress to arrange and/or conduct a Congressional Inquiry into McNeil Island Federal Penitentiary.

Young Lawyers Section — Request — In Re: Initiative 294

Fred Noland presented a request of the Young Lawyers Section that the Section be authorized to publicly participate in the gathering of signatures necessary for the presence of Initiative 294 on the ballot in November of 1974. The request was presented on the basis that the participation would be in the name of the Young Lawyers Section only and that the participation was not necessarily based on approval of the merits of the Initiative, but rather on the premise that the public should have a chance to vote on the matter.

A motion authorizing participation failed, there being three (3) votes for the motion and four (4) votes against the motion.

Group and Prepaid Legal Services Committee

Charles I. Stone, Chairman of the Group and Prepaid Legal Services Committee, appeared before the Board to discuss the status of proposed legislation and the development of the program in this field.

It was voted that William L. Weigand of Yakima and Charles E. Ehlert of Seattle be named as members of the Group and Prepaid Legal Services Committee. □



Around the State

SNOHOMISH REPORT

By JAMES A. SIMONTON

Missed reporting a great event in the activities of **Storrs and Theresa Clough** when they recently took a cruise on the Caribbean.

Judge Nollmeyer's retirement June 1st required a nomination of candidates to the governor and now we have the second nomination to consider in that **Judge Al Holte** has announced his resignation. He plans to join the Pioneer First Federal Savings & Loan Association as an Executive Vice President.

At the last meeting of the local bar Sheriff **J. J. Harvey** was the main speaker, discussing his new plans for the department and how to eliminate problems in the jail.

Right now with spring slightly postponed the golfing lawyers are scheduling a tournament for June with **Dennis Jordan** and **Arnie Young** at the helm. Wish us luck.

SEATTLE-KING REPORT

By GERALD G. TUTTLE

Charles D. (Seth) Armstrong announces that he has moved his practice from Tacoma to the Tower Building, Seattle.

Richard W. Seed, Kenneth W. Vernon, Benjamin F. Berry and **Robert Baynham** announce their continued practice of Patent, Trademark and Copyright Law under the new firm name of **Seed, Berry, Vernon and Baynham**.

Lycette, Diamond & Sylvester announce that **John T. Petri** and **William J. Cruzen** have joined the firm as associates.

LeSourd, Patten, Fleming & Hartung and Chadwick, Mills & McLaughlin have merged. The new firm will continue under the name of **LeSourd, Patten, Fleming & Hartung** at 1300 Seattle Tower.

Preston, Thorgrimson, Ellis, Holman & Fletcher take pleasure in announcing that **Michael B. Crutcher, C. Kent Carlson, Emanuel L. Rouvelas**, (D.C. Bar only) have become partners in the firm and that **David L. Beller, J. Markham Marshall, Alan L. Wicks, H. Blair Bernson, Ronald E. Cox, George A. Finkle** have become associates of the firm.

As of May 1, 1974, **Thomas P. Keefe, Jr.** will be associated with former Judge **Cornelius C. Chavelle** at his offices at Suite 3200, Seattle First National Bank Building, Seattle, Washington, 98154.

Mark K. Wexler a June, 1973, graduate of the U. of W. Law School, who has been serving as law clerk and bailiff for Judge **George Revelle**, hangs out his shingle for solo private practice on June 3. His office is at 3737 Bank of California Center.

Hugh Miracle and **Howard P. Pruzan** announce that **William F. Nelson** has become a member of the firm now named **Miracle, Pruzan & Nelson** and that **Thomas W. Top** has become an associate of the firm.

SOUTH KING REPORT

By CHARLES R. BRANSON

The honored guest and speaker at our April meeting was **John D. Spellman**, King County Executive. The principal subject of discussion was the possibility of the establishment of the full-time Superior Court in South King County.

President **Ken Ingalls** announced the results of the election of officers for 1974-75. They are as follows:

President, **Donald G. Holm**;
Vice President,

Richard C. Conrad;

Secretary,

Robert C. Van Sicken;

Treasurer, **Daniel A. Farr**;

Trustees: **Charles R. Branson, Ernest F. Crane, Robert Kuvvara, Robert E. Stead, Richard P. Thompson**.

SKAGIT REPORT

By DAVID A. WELTS

Law Day in Skagit County continues to be a most significant observance, highlighted by public ceremonies in open Court on May 3rd conducted by Judges **Walter J. Deierlein, Jr.**, and **Harry A. Folliman** for a packed house. The Bar Association provided speakers for all County schools and we proved again that its tougher to talk to those kids than to Judges and Juries.

Who wants to be Prosecutor? **Earl Angevine** and Chief Deputy **Gil Mullen** are leaving office to form a private partnership. That leaves Deputy **Bill Nielsen** who now qualifies as a relic from some other age because he won't change his politics to get the appointment.

We held an evening meeting on April 29th. It was all business though, and **Pete Lewicki** came up from Seattle to tell us about Incorporating, Pension plans and Profit-Sharing plans. After hearing the facts and their reasonable inferences, it was moved and seconded that we open the door and invite in the IRS, for surely they would not be far away.

I don't know what the Legislative Mini Session did for you but for Skagit County it assured, by inaction, the continuance of a system of three part-time District Court Judges as opposed to one full-time Judge.

Anacortes comes under scrutiny in this month's report. We have six lawyers over there, see. So **Jim Anderson** and his wife go to Venezuela and back for \$80.00 (she's a stewardess, he says). **Ben Driftmyer** and wife go to Hawaii; **John Cheney**, who has no wife, goes to Hawaii with someone, but not **Driftmyer**, who says he didn't know Cheney was there 'til he got back. It gets better.

Gene Anderson (District Court Judge) and **Steve Mansfield** (City Attorney) go to Reno with the Police Chief! When approached by your reporter, **Bill Wells** (that makes six) will say only that he hurt his back mowing the lawn. No wonder they ain't the County Seat!

KITSAP REPORT

By **WM. J. KAMPS**

Terence Hanley has been appointed to the Kitsap Superior Court Bench to replace **Oluf Johnsen** who retired May 1st. **Judge Hanley** was sworn into office on May 3rd by an en banc panel of judges comprised of **Robert J. Bryan**, **Jay W. Hamilton**, **Oluf Johnsen**, **Frank W. Ryan** and **Joseph H. Johnston**. Judge Hanley was graduated from the University of Washington Law School in 1957 and practiced for 17 years with the firm of **Arthur & Hanely** in Bremerton.

The Kitsap County Law Wives Association was formed May 2nd. **Karen** (Wife of **Phil**) **Best**

and **Jane** (Wife of **Myron**) **Freyd** were the moving forces behind the new association. The group will meet twice a year and include the wives and widows of attorneys or judges from Kitsap County.

Douglas Fox has moved to Alaska where he will be working for the Anchorage Public Defender's Office. His former office has announced that **Chris Bell** has been named a partner in the firm and that the firm will do business under the name and style of **Schultheis, Maddock & Bell**.

BENTON-FRANKLIN REPORT

By **NEAL J. SHULMAN**

With the month of May upon us, spring has once again descended upon the Tri-Cities. With the famous Tri-City sun shining brightly and temperatures at times reaching the 80's, our fellow attorneys throughout the state are cordially invited to drop in and share with us the swimming, golfing, and many other outdoor spring and summer activities available throughout our area.

In spite of the spring weather, **Ed Critchlow**, Richland attorney, chose to spend the last few weeks vacationing in Alaska. A little like going from one extreme to the other.

The Benton-Franklin Bar Association sends its congratulations to **Louise Sheely** of the Benton-Franklin Legal Aid Association who was recently admitted to the Washington Bar.

Richland attorneys have considered petitioning District Court Judge **Daryl Jonson** to hold court in the Judge's recreation room rather than the court room in City Hall. Judge Jonson is the

owner of a new home, which in turn boasts a new pool table in the recreation room.

The May meeting of the Benton-Franklin Bar Association will be held at the Hanford House, in Richland. Out-of-town attorneys are cordially invited to attend any of the association's luncheon meetings. Should you contemplate being in the Tri-Cities area, you may contact **John Crawford**, association secretary for the dates and places of future meetings. John can be reached through his office located at 211 Williams Boulevard, Richland, 99352.

YAKIMA REPORT

By **RANDY MARQUIS**

Jerry Talbott, chairman of the 1974 Law Day Committee for the Yakima Bar, put together a television package which was well received. The package consisted of two panels moderated by **Don Meighan**, KYVE TV public affairs director, designed to educate the public as to the law and the procedures thereof. The first panel interview was piped into area high schools and junior high schools. Members of the panel were **Cathy Campbell**, Deputy Prosecuting Attorney, **Andrew Hamilton**, Yakima police officer, **Cam Hopkins**, Juvenile Court Commissioner and Yakima attorney, **Alan McDonald**, trial attorney, and **Dorothy Plath** of the League of Women Voters.

The concluding panel interview was aired over KYVE TV on prime time in the evening. The panel members were **Jon Harlan**, **Doug Lambarth**, Director of Spokane County and Eastern Washington Legal Services Pro-

grams, **Don Schussler**, Yakima attorney and city councilman, and **Robert Redman**, trial attorney. The spontaneity of the program was genuine as panel members were called upon to answer unrehearsed questions telephoned in by the general public.

Other attorneys carried out speaking engagements at a number of Yakima schools.

GRAYS HARBOR REPORT

By **JOHN L. FARRA**

The Grays Harbor Bar Association recently decided that July 12, 1974, will be the date of the Annual Grays Harbor Bar Association Salmon Derby. Any members of the State Bar Association that are interested in attending this annual event should contact **J. K. Hallam**, Aberdeen, P.O. Box 343. The Committee putting this annual event on consists of **Jerry Hallam**, Aberdeen, **Curtis Janhunen**, Aberdeen, **Ted Zelasko**, Aberdeen, and **Warner Pyohonen**, Montesano. These individuals spend a tremendous amount of time on putting on this event and it has never failed to be a success.

The Prosecutor's office recently announced that **Dave Edwards** has joined the Prosecutor's staff. He recently successfully passed the State Bar Examination and was sworn in as an attorney on May 1st at a ceremony held in Montesano at the courthouse. Congratulations is offered to Dave by this writer.

Greg Staeheli, a member of the Grays Harbor County Prosecutor's office recently left that office and took a position with the Spokane Prosecutor's office. Greg was a great contribution to Grays Harbor and his charm and wit will be missed.

This writer recently noticed that Westport has a new Police Court Judge, **Jerry Hallam** of Aberdeen. Mr. Hallam succeeds **John Wolfe** as the Westport judge.

It is my understanding that Mr. and Mrs. **Jack Burtch** of Aberdeen, were off to Greece for a vacation. When Jack returns and tells me of his adventures in Europe, I will transmit them to this journal. It is presumed that **Greg DeBay**, Jack's associate, will keep the office rolling in Jack's absence.

It was recently announced by the County Commissioners of Grays Harbor that the proposed changes in the courthouse will take place. It was also announced by the County Prosecutor, **Curtis Janhunen**, that he will move his office to Montesano and that all of the Prosecutor's staff will be located in the County Courthouse in Montesano.

EAST KING REPORT

By **Barbara E. Reardon**

Ten Eastside high schools were represented at the Law Day luncheon sponsored by the East King County Bar Association. Each high school was invited to send five students who had evidenced an interest in the legal field, to attend as guests of the East King County Bar in its commemoration of Law Day on May 1.

The Association was pleased with the turnout of 109 who heard Judge **Robert Utter** of our Supreme Court speak on the topic chosen for the day's celebration, "Young America Lead the Way". Judge Utter advised the students of the means by which they, as citizens, and hopefully

future attorneys, could join with members of the Bar in making the major decisions or changes of today work to provide a higher quality of life for tomorrow.

Hugh McDowell, Eastside attorney, gave the invocation and **Jim Dailey**, President of the East King County Bar, presented **Bill Kinzel** with a plaque for his contributions as President of the Association last year. Co-chairmen of the day's event, **Richard Chapin** and **Leslie Wahlstrom**, are to be congratulated. Mr. Chapin introduced **Levy Johnston**, who brought us current on the practice of law in Montlake Terrace.

We must report the Association's April 22nd luncheon at "The Gallery" in Bellevue, at which we were honored with the presence of our guest, **Joseph Thibideaux**, Chief Clerk of the Court of Appeals, who informed those present as to the Proposed Rules for Appellate Procedures.

ISLAND COUNTY REPORT

By **TED ZYLSTRA**

Harold E. Baily and **Marvin C. Buchanan** have been re-elected to serve as President and Secretary of the Island County Bar Association.

The annual convention of the Island County Bar Association will be held at the Harrison commencing on May 10, 1974.

GOVERNMENTAL LAWYERS

By **JOHN A. HOGLUND**

Activity and involvement characterized the Olympian corps of the bar. The monthly

luncheon was highlighted by an excellent presentation of the proposed rules of appellate procedure promulgated by the Appellate Rules Task Force to the Washington Judicial Council. Attorney **Carl Teglund** of the Seattle firm of Kessler, Teglund & Urmston delivered the concise analysis of the rules.

Law Day festivities were carried to the community under the direction of AG **Jim Pharris**, who organized fifteen Olympia lawyers to speak to classes of thirteen area high schools. The Law Day luncheon, which drew 75-80 attorneys, was jointly sponsored by the GLA and the Thurston-Mason County Bar Association. The event was generously underwritten by the Capital Savings and Loan Association and the delightful keynote speaker was **Shirley Goedert**, the Treasurer of CS & L. The capstone of this year's Law Day celebration was the announcement of the Liberty Bell Winner for Thurston and Mason Counties by Superior Court Judge **Gerry Alexander**. The Liberty Bell Committee decided to select a non-lawyer who had contributed significantly to the community's understanding of our law and justice system. The 1974 winner is **Jacqueline Amburgey**, an instructor of consumer and business law at the Olympia Vocational Technical Institute.

Capitol footnotes of personal significance are the following: Supreme Court Law Clerk **Tracey Rosellini** (J. Hale) has departed Olympia to join the Seattle law firm of Moschetto & Alfieri; **Jim Humphrey** passed the bar and is now an AG with DSHS; AG **Dennis Reynolds**, formerly with the Torts Div. has transferred to the Liquor Board.

Will Information Sought:

The original wills and some Community Property Survivorship Agreements of the following individuals, were left for safe-keeping at James Gordon & Sons, a realtor in Georgetown, now out of business.

Any members of the bar who recognize a client's name should advise Hennings, Maltman & Weber, Seattle, where the instrument can be sent.

Wills and Community Property Survivorship Agreements

Walter T. and Lillis M. Badgro, dated 9/13/52;
Robert D. Cayze, dated August 6, 1935;
Ingibjorg and Gunnar B. Christianson, dated August 24, 1967;
Harry M. and Munday B. Cloke, dated November 13, 1957;
Anna Ethel Cook, dated 10/31/61;
Anna Dipaolo, dated November 24, 1949;

Margaret Pearl Dowd, dated March 20, 1953;
Winnifrid Edith Boitano Romani Fall, dated August 21, 1940;
Ernest H. Floyd and Cecilia V. Floyd, dated October 19, 1956;
Edward J. and Gladys M. Gilpin, dated 11/17/55;
Emilie Whelhelm Karoline Haarmann, dated October 15, 1934;
Earl C. and Agnes Hokenson, dated July 2, 1940;
Maude Mae McNatt, dated January 5, 1937;
Hugh M. Martin, dated December 31, 1948;
George O. Palmer, dated June 23, 1946;
Cecil and Pauline Paul, dated January 26, 1957;
Robert N. Sarver, dated May 17, 1944;
William G. and Carol E. Werkmeister, dated August 31, 1961; John J. Wood, dated July 12, 1945.

Lawyer Placement Service

by David L. Broom

1. Northwest Washington Legal Services seeks Executive Director. Main office is in Everett. \$16,000 to \$18,500 per year salary.
2. Prosecuting Attorney for city in King County, handling prosecution of criminal and traffic cases in District Court and appeals to Superior Court or higher. \$1,169-\$1,253.
3. Legal Services position open in project at state prison. Position involves preparation of habeas corpus writs, litigation against Washington State for prison conditions and litigation to change Washington State prison system.
4. Attorney in Southeast Washington city seeking new man for partnership and eventual take-over of practice.
5. Two man firm in Southwest Washington seeking third man on overhead-sharing basis with possibility of phasing into existing practice. Will furnish some referral work to get started.
6. Large firm in Seattle seeking attorney for federal income tax planning and litigation. Must have advanced tax degree or be CPA.
7. Deputy prosecutor (civil) position open in Southwest Washington county. (\$10,000.00-\$16,000.00 to start based on experience.)



UPS Appointment

A law graduate of George Washington University Law School and former colonel in the Marine Corps will become assistant professor and assistant dean for placement and grants-in-aid at the University of Puget Sound School of Law.

Bruce F. Meyers, 1948 graduate of the University of Washington, formerly was a trial attorney with Reed, McClure, Mocerri and Thonn, Seattle. He is a graduate of the Naval War College, School of Naval Warfare and is a veteran of World War II, Korea, and Vietnam.

A former White House aide under President Kennedy, the lawyer served as a legislative assistant to the Secretary of Defense, 1960-63, and is a former commanding officer of the Marine Corps Basic School, a graduate school of officer students. He retired from the Marines in August 1970, following 28 years of service.

A member of the Order of Coif, Phi Delta Theta and Phi Delta Phi legal fraternity, Meyers is a member of the Washington State, Virginia State and the American Bar Associations.

Meyers appointment was effective April 15.



Bruce F. Meyers, Assistant Dean

Gonzaga Report

Law Medal Award

The Honorable Richard E. Chambers, chief judge of the United States Court of Appeals for the Ninth Circuit in San Francisco, was the 1974 recipient of Gonzaga University's Law Medal. The Law Medal was presented to Judge Chambers at Gonzaga's 87th Commencement Exercises in Kennedy Pavilion on May 12.

The Very Rev. Richard E. Twohy, S.J., Gonzaga's president, said the selection committee unanimously agreed that the Law Medal would go to Judge Chambers this year "for distinguished service to the federal judiciary, through the magnificent and exemplary manner in which he has organized the judicial system under his supervision."

The Law Medal was awarded last year to Alfred J. Schweppe, former dean of the University of Washington Law School, who is now a practicing attorney in Seattle. The first recipient of the Law Medal was Archibald Cox, who at the time of the award was the solicitor general of the United States.

A native of Danville, Ill., Judge Chambers is a graduate of the University of Arizona and got his law degree at Stanford University. He started practicing law in Tucson, Ariz. in 1932 and continued until 1954 except for four years of military duty with the Army Air Force in World War II. He was appointed to the Court of Appeals in 1954 and has served continuously since that time. Judge Chambers is a member of the American Law Institute, the American Bar Association, Phi Gamma Delta and the Order of the Coif, University of Arizona.

Tax Program

Nine graduating seniors from Gonzaga University School of Law have already been accepted for graduate work in Taxation at three eastern Law Schools.

Admission for graduate work has become an extremely competitive process in the past year, as the result of a nation-wide emphasis on advanced degree work in this field. For example, in the past no more than two Gonzaga graduates in any one year have been enrolled in graduate programs leading to the Masters Degree in Taxation.

Francis Conklin, Dean, stated that the Gonzaga Law School is actively working toward pro-

viding one of the premier tax programs of any law school on the Pacific Coast. There are presently nine full or part-time faculty members offering various legal courses relating to federal taxation at Gonzaga. Included in the nine are three instructors holding advanced taxation degrees from New York University, three instructors who are present or former Internal Revenue Service personnel and one instructor who is both a Certified Public Accountant and an attorney.

The tax curriculum at Gonzaga Law School will probably continue to expand if the present emphasis on taxation continues to grow as it has in the past.

Gonzaga Law Review

The Gonzaga Law Review has recently added an additional issue and now publishes 3 issues per year. One of the issues will be devoted entirely to a special topic of timely concern to the Washington practitioner. This year, scheduled for publication in May, the special issue will address the Occupational Safety and Health Act (OSHA) and its Washington counterpart — The Washington Industrial Safety and Health Act (WISHA). Several leading authorities are writing lead articles on important aspects of OSHA/WISHA, including Robert D. Moran, Chairman of the OSHA Review Commission. The articles will be supplemented by various student comments, analyzing all aspects of the two Acts and essentially providing a practitioner's guide to OSHA/WISHA.

The other two regular issues will follow the format and content of past issues of the Review. Of particular importance to the Washington practitioner is the semi-annual survey of Washington Law. This survey contains critical student notes on significant recent legislative enactments and court decisions.

The first issue of this school year, Volume 9:1, was published in February and contained excellent articles on jurisdictional problems in Washington, the New Washington Dissolution Act, the applicability of the fifth amendment privilege against self-incrimination in compulsory psychiatric examinations, and an extremely thoroughly researched article on endangered species — documenting the law in all 50 states and analyzing the present problem.

Issue 9:3 is scheduled for publication in June 1974. Judge James R. Browning of the Ninth Circuit Court of Appeals is writing, what will cer-

tainly be, an outstanding article on *Furhman v. Georgia* and the possible reinstatement of the death penalty. This will be supplemented by a timely article on strict liability in tort as it applies to the pharmaceutical industry.

The Law Review is especially interested in attracting the attention of the Washington practicing attorney since the established objective of the Review is "to present the legal profession [primarily the Washington reader] with commentaries on matters of current legal interest." Additionally, the success of any law review is dependent, in part, on its subscriber's participation. It was designed to be a forum for the presentation of current legal problems. For this reason we invite all members of the legal profession to submit manuscripts for possible publication. In addition we would solicit all interested individuals to subscribe to the Law Review by writing to the Gonzaga Law Review, Gonzaga University School of Law, Spokane, Washington 99202. Subscription rate is \$9.00 per year.

University of Washington

Land-use Planning and Regulation Program

The University of Washington offers attorneys the opportunity to attend a special noncredit course entitled "Comparative Land Use and Regulation." The three instructors will be Sir Desmond Heap, recently retired Corporation Counsel for the City of London and, perhaps, the outstanding authority on English land-use planning; Professor Richard D. Shinn, Chairman of the Department of Urban Planning; and Professor Robert S. Hunt, Associate Dean of the School of Law.

Attorneys requesting additional information should telephone Professor Shinn at 543-4190 or Dean Hunt at 543-4552.

Attorneys Invited To Summer Law School

Attorneys interested in attending summer quarter courses at the University of Washington Law School should telephone 543-4555 for information on registration and for catalog descriptions of the courses, which were listed in the May issue of the *State Bar News*.

Summer quarter is divided into two terms: June 17 through July 24 and July 25 through August 30. Each course meets daily. The fee for one course is \$80; for two courses, \$161; for three or more courses, \$188. □



SUPREME COURT PRACTICE

By **WILLIAM M. LOWRY**

Supreme Court Clerk

The number of rule changes may have given rise to an assumption that changes are easily born. Nothing could be further from the facts. Ordinarily the period of gestation is long and fraught with obstacles. Some understanding of the process is necessary for an appreciation of what a rule change has overcome.

From the standpoint of procedure, rule changes may be divided into three classes: emergent, housekeeping and routine. An example of an emergent type are the Mental Proceedings Rules. The Court had three months in which to develop rules to implement the new Commitment Procedures Statute which was to become effective January 1, 1974. Committee Three of the Judicial Council was assigned responsibility for producing a draft in about sixty days. The Council considered the recommendations of the Committee during a two-day meeting and made its recommendation. The en banc Court then for another two days studied the recommended rules with the assistance of the Chairman of the Committee and adopted the rules with amendments. Housekeeping proposals, such as the recent amended "Classification System for Court Rules," was adopted after consideration by the Court during an en banc conference.

The action on the emergent and housekeeping proposals is far from typical. The routine proposal is referred for study. If the proposal involves the Code of Professional Responsibility, Admission to Practice, or Discipline Rules for Attorneys, it is sent to the Washington State Bar Association for evaluation, study and recommendation. Proposals affecting other types of rules are sent to the Washington Judicial Council. If the Judicial Council determines a proposal has merit, it is assigned to one of three Council committees or to an ad hoc Task Force. The State Bar Committee on Rules maintains liaison with the Council and independently studies and makes recommendations to the Council on matters in which it has an interest. If the Council ultimately recommends modification of a rule, the en banc Court first determines whether the recommendation is one on which the members of the Bench or Bar may have legitimate divergent views. If so, the recommendation is

published in the semi-annual "Proposed Court Rules" for comment. When comments are received, they are assembled under the paragraph of the rule to which they relate and each member of the Court is provided a collation ten days in advance of an en banc administrative conference.

Some appreciation of how the system now functions may be gathered from the following:

CR 68 Offer of Judgment

April 5, 1973	Recommended amendment received from the Judicial Council
April 18	Considered by the en banc Court. Ordered distributed to the Bench and Bar for comment.
Sept. 19	Distributed to the Bench and Bar. Comments due by October 30, 1973.
Oct. 30	Sixty-two comments received
Nov. 28	Comments considered during an en banc conference. Ordered returned to the Judicial Council for study in light of comments.

ROA 1-41 and CAROA 41(4) Amicus Curie Briefs

March 23, 1972	Recommendation received
July 25	Considered by the en banc Court. Ordered distributed to the Bench and Bar for comment.
March 30, 1973	Distributed to the Bench and Bar. Comments due by May 18, 1973.
May 18	Twelve comments received
May 30	Comments considered during an en banc conference. Referred to Judicial Council for recommendations in light of comments.
June 27	Referred by Judicial Court to Task Force on Appellate Rules.
March, 1974	Recommendations of the Task Force included in proposed appellate rules distributed for comment.

CrR 6.13 Testimony in Lieu of Witnesses
(Amendment allowing introduction of depositions and written criminalist reports)

- Nov. 27, 1973 Recommendation received from Judicial Council
- Dec. 12 Recommendation considered during an en banc administrative conference. Orders distributed to Bench and Bar for comment.
- Feb. 20, 1974 Letter received from Bar Rules Committee questioning certain aspects of the proposal.
- Feb. 27 Bar Committee's letter considered during an en banc administrative conference. Distribution to the Bench and Bar delayed. Recommendation returned to Judicial Council for comments concerning Bar Committee's questions.

COURT OF APPEALS
By JOSEPH A. THIBODEAU

Effective July 1, 1973, the Supreme Court adopted Criminal Rules for Superior Court. In view of the growing number of applications for post-conviction relief under Criminal Rule 7.7, this article is being written to alert the members of the Bar of the current practice of the Court of Appeals in handling such applications. Rule 7.7 of these rules invokes the Court of Appeals jurisdiction as follows:

(a) Petition. A petition for post-conviction relief by a person under any disability resulting from a sentence or order of a court who claims a right to relief upon the ground that such disability was imposed in violation of the Constitution or Laws of the United States or of the State of Washington or is otherwise subject to collateral attack. *Such petition shall be directed to the chief judge of the court of appeals in the district in which the court that imposed the sentence or order is located* and shall be filed on a standard form approved by the Supreme Court and appearing as section (j) of this rule; and

(b) Prompt Hearing. If the petition appears to have any basis in fact or law, or is not on its

face frivolous, the chief judge shall cause the petition to be transmitted to the superior court in which the petitioner was originally tried for a prompt hearing on the merits of the petitioner's claim.

From the underlined portion of (a), it appears that the only person capable of considering the application for post-conviction relief is the Chief Judge of the Court of Appeals in the division in which the Superior Court originally entered the judgment and sentence. This is a departure from consideration of writs of habeas corpus where the court as a panel considers the writs. Under the criminal rules, there is no provision for the Chief Judge to refer the matter to a panel for consideration.

The rule does not mention a filing fee; however, the court to be consistent with other appellate court rules requires the petitioner to pay a \$25.00 filing fee or be authorized to proceed in forma pauperis. CAROA 10. CAROA 56. RCW 2.32.070.

(b) requires the Chief Judge to remand the cause to the Superior Court if the petition has any basis in fact or law. While the rule is silent as to whether an answer to the petition is to be filed by the prosecutor, the Chief Judge has adopted the policy to require the prosecutor of the county wherein the judgment and sentence was entered, which is the basis of the claim for post-conviction relief, to file an answer to the petition. Since the Chief Judge must review the matter without the aid of a panel, this answer enables the Chief Judge to properly understand the grievance asserted and to determine whether the petition has any basis in fact or law and what relief should be granted. The answer is generally filed within 30 days of the filing of the petition.

From a reading of the rule and the American Bar Association Project on Minimum Standards on post-conviction remedies, it would appear that the function of the Chief Judge is to screen those applications worthy of further consideration from those lacking in merit on their face. Once the preliminary determination to proceed has been made, the case can be transferred to an appropriate trial court for a hearing on the merits.

After a review of the petition, the Chief Judge determines that a hearing is necessary. The rule, however, is silent as to whether such a hearing should be held, but again to afford petitioner an adequate opportunity to present his case, the Chief Judge authorizes such a hearing. □



The State Environmental Policy Act's Amendments

On May 6, 1974, the Governor approved, with some vetoes, amendments to the State Environmental Policy Act (SEPA). The amendments provide for a 90 day statute of limitations for alleged SEPA deficiencies in any governmental action. Rules implementing SEPA will be established by the state; and all agencies will be required to adopt rules to integrate SEPA into their programs. Finally, an adequate environmental impact statement prepared under the national act (NEPA) may be used in lieu of a statement otherwise required under SEPA.

Close attention is needed to the new statutory provisions relating to the 90 day statute of limitations for governmental projects (Note: 60 days in the case of non-governmental actions). A statutorily prescribed general form of notice must be published on the same day for two continuous weeks. Notice of the action must be filed with the Department of Ecology. The bar to suits depends upon adherence to the notice provisions. One note of caution: the law relates to "actions" taken by governmental agencies. Whether "actions" includes decisions not to require an impact statement is doubtful and may only be resolved when the SEPA regulations are adopted.

The Pollution Control Hearings Board is established as a Council on Environmental Policy. It must adopt rules for interpretation and implementation of SEPA. These rules are to serve as guidelines to all branches of government. In turn, all governmental agencies, public and municipal corporations, political subdivisions and counties are required to adopt rules consistent with the state guidelines so as to integrate the policies and procedures of SEPA into their programs. The Governor vetoed the requirement that the rules be subjected to legislative review.

Some areas to be treated in the regulations are:

- 1) Categories of governmental actions included in SEPA's provisions.
- 2) Criteria for determining what are "major" and "significant" actions.
- 3) Procedures for preparing impact statements.
- 4) Scope and coverage requirements for impact statements.
- 5) Categorical exemptions from impact statement requirements.

Joel Haggard, Chairman
Environmental Law Section

Merger disease struck. The Grays Harbor County Bar and Pacific County Bar were discussing merger under the name Twin Harbors Bar Association. The outcome was not related.

Births

Connell: Robert W. Walker opened on the main street.

Pasco: Ed McKinley flew from a large Seattle law firm to join **Kent G. Burson**.

Al Yencopal opened there.

Don Leeper joined Fulke & Eubank. Leeper left Brazil hurriedly!

Spokane: Dale M. Green appointed assistant U.S. District Attorney.

William J. Grant and **Grant J. Silvernale, Jr.**, appointed deputy prosecutors to fill the vacancy left by **William H. Williams**. Williams resigned to join **Jack R. Dean** in partnership.

The Spokane County Medical Association joined with the Spokane County Bar Association for a banquet. No fistfights reported!

Seattle: Cornelius J. Peck (31) appointed assistant law professor at U of W.

Burton C. Waldo joined Kahin, Carmody & Horswill.

Mabel B. Griffin moved to the Central Building. **Robert B. Allison** also treked there.

John E. Belcher and **Maurice Simmonds** announced their partnership.

James Weter and **Frederick Roberts** celebrated the 50th anniversary of their partnership.

Crossed the Bar

Tacoma: Ardys B. Cunningham, had practiced since 1909.

Seattle: John B. Sholley, law professor, University of Washington.

The Attorney General of the State of Washington opined: "Search warrants may issue to search an automobile, if applicant complies with jurisdictional steps and automobile is properly described." Nothing was stated as to how automobile was to be held pending the procedures.

David J. Williams

METROPOLITAN MISDEMEANANT COURT . . .

by T. Patrick Corbett
Presiding Judge, Seattle Municipal Court

The Seattle Municipal Court has four Judges that exercise exclusive original jurisdiction over violations of City Ordinance. The relevant 1973 statistics are:

Parking Citations filed	443,238
Moving Citation filed	121,380
Criminal Complaints filed	30,739
Criminal Citations filed	12,828
Cases docketed for trial (traffic and criminal)	60,258
Fines, fees and forfeitures	\$4,490,483.75

Reference to this overwhelming caseload is for the purpose of placing in focus the axiom that the average citizen receives his first and most lasting impression of the judicial system from contact with such a court. This article is an outline of how Seattle is trying to meet that responsibility.

The declining stature of our judicial system has little to do with criticism by the media. For the most part such criticism has been fair comment about antiquated methods resulting in justice delayed and, therefore, justice denied. Judicial administrative techniques were designed for a 19th century agrarian society and have been slow to adopt to the needs of a large, mobile, urban and sophisticated society. Use of modern technology is still tentative and hesitant and the citizen has been the last person consulted to determine what will best meet his judicial needs.

Our first step toward improvement was to reduce delay. Two years ago it took three to four months to have a case heard by a judge. Now the delay between the alleged offense and trial is three to four weeks. Should a person be in custody he can have his case heard within 48 hours after arrest.

Night Court Created

Creation and implementation of a night court helped to do this. Seattle is the only metropolitan city that has a full time night court staff hearing all types of cases. The philosophy and reasoning behind its creation was that the court was to serve the public and it could better give that service by being in session when it was convenient for the citizen to attend.

The night staff consists of a full time Judge, a bailiff and clerks, personal recognizance interviewers, time payment interviewers, probation counsellors and cashier. Night court is in session five nights a week from 5:30 P.M. until Midnight and sometimes later. Approximately 750 defendants a month take advantage of its services. A defendant may request either a night or day appearance time and almost all who request night court do timely appear. Many attorneys request night court and it is well received by the Bar and public at large.

The service has been afforded at reduced cost to the city. It utilizes the facilities with greater efficiency, reduces police overtime pay for court appearance, permits a higher percentage of docketed cases to be tried and reduces the number of cases on each of the day calendars.

Magistrate System

The philosophy of better service at less cost according to public need also has led to further administrative innovation. A study of the statistics and what the public has been doing and asking for caused creation of the magistrate system. Many of the defendants who appear for trial did not deny guilt. What they asked for was consideration of their special circumstance. They did not want a trial but it was the only way they could be heard.

Recognizing this the court employed an attorney. Mayor Uhlman appointed him a Judge Pro

Tempore, and he was given an office where he could hear those persons who did not want a trial. When the person asked for a trial on a minor infraction he was referred to the Magistrate. The Magistrate spoke privately to the defendant and worked from the officer's notes on the citation. The defendant could come in at any time of the day to be heard and could be represented by a lawyer and have witnesses. He would be referred for trial if he disagreed with the Magistrate's indicated disposition. The defendant could not plead guilty unless he was advised fully of his rights, admitted the facts to support a finding and agreed to accept the Magistrate's proposed sanction. Thus unnecessary trial could be avoided, the Magistrate could relate directly to the defendant's driving habits and safety record and the defendant could understand what was being said.

Few defendants understand what happens during a formal trial. The formal courtroom atmosphere is so foreign that it is often necessary for the lawyer or probation officer to explain the proceedings to a defendant after he has left the courtroom. This has proved to be not true with the Magistrate, and may help explain the drop in recidivism by those who appear before him.

In seven months one Magistrate reduced by 50% the number of minor traffic infractions set for trial. Not only were the defendants heard by him pleased with the result but those going to trial were given more time to be heard and could be heard sooner. Having had a dry run before the Magistrate, they could present their cases more effectively to the Judge. There was cost saving as well. Less paperwork saved clerical time. Informal hearings without witnesses saved police overtime and permitted more police to remain on duty.

Pilot Program

As the result of the success of the voluntary program the Department of Transportation National Highway Safety Administration agreed to fund a pilot project (SAFE) to demonstrate its effectiveness. In cooperation with the Washington State Department of Motor Vehicles two more Magistrates will be employed and they will be assisted by three Driving Improvement Analysts, *i.e.*, Traffic Probation Officers. The Department of Motor Vehicles will give and receive current violation histories and will provide counter measure programs to better assist a particular defendant to become a safe driver. It will also permit swift action relative to the defendant's right to drive.

Statistically it does not appear possible to reduce the recidivism rate. Taken as a group those who are guilty of traffic infractions are prone to commit more such offenses. On the other hand studies made by the California Department of Motor Vehicles, the University of Denver and the Department of Motor Vehicles in England indicate there is a deterrent effect if there is swift and certain apprehension, early and fair adjudication with appropriate and early sanction. The Magistrate system is designed to work within that framework.

Time Payment Program for Fines

The Magistrate and Judges can impose sanctions but unless they are followed the defendant is not likely to be impressed. Even before the decision of *Tate vs Short* this court used installment payment of fines as a sentencing alternative. Shortly after that case was decided the Time Pay Department of the court was established. Three interviewers and a cashier give individual attention to each person when asked for time to pay his fine. Use of this alternative is demonstrated by rise in fines receivable from \$3,000 to almost \$500,000 in less than three years.

To give more time to the judge in the courtroom to hear what is still an overwhelming number of cases the question of ability to pay is left to the Time Pay Interviewer. Only if the interviewer declines the request is the question referred back to the judge. If a person is incapable of paying a fine the case is also referred back to the judge with the recommendation of an alternative sanction such as donation of time to community service. A counsellor follows the case until the community service hours are completed. If they are not, or the fine is not paid, the defendant is ordered back before the judge. While in the past Bench Warrants have been requested for this now a Show Cause Order is issued in most cases. Experience has shown that most defendants want to and will meet their obligation and jail or arrest is not necessary to enforce the obligation.

Probation Department

The Probation Department of the court helps coordinate the community service work by select-

T. Patrick Corbett is a 1953 graduate of the U. of W. Law School. After experience as an attorney for the Inheritance Tax Division of the Department of Revenue for the State of Washington, and Deputy Prosecuting Attorney for King County, he practiced law in Seattle from 1958 to 1971. In 1971, he was appointed Judge of the Seattle Municipal Court.

ing suitable agencies for referral and working with those agencies to develop suitable programs for the volunteer. The Probation Department works with both misdemeanants and traffic offenders. In addition it provides services to persons committed to jail or held there for trial as well as a psychiatric evaluation service in the jail. At any given time there will be five to ten seriously schizophrenic or psychotic prisoners so the latter service is of considerable help to the mental health professional.

The need for accountability and better administrative practices has also been applied to the Probation Department. Under the leadership of Frank Johnson the social workers have been given extensive formal training in new and innovative procedures and methods. One innovation is pre-trial diversion. Not all of the small town practices were bad. We have learned from the Juvenile Court experience that a defendant can be contaminated by the criminal justice system. The defendant is given a false self-image and becomes manipulative if he is permitted to do so. The more deeply he becomes involved in the course of justice the less likely he is to receive it and more probable it is that he will again commit a crime. In the small town the shoplifter was freed with the humiliation of being caught and then sent home. The experience was enough and seldom would he do it again. This cannot be done effectively at the arrest level because of the anonymity of most of our population.



Pre-Trial Diversion

Pre-trial diversion seeks to take this lesson and apply its reasoning. The defendant is referred by the jail interviewer to the pre-trial counsellor and a court date for arraignment is postponed for one week. During the week the defendant is encouraged to talk to his lawyer and then to the counsellor. The defendant is given the option to avoid a court appearance by agreeing to the diversion program for three to six months. The program may consist of only good behavior, volunteer work or group therapy. If satisfactorily completed the case is dismissed. Effectiveness of the program is demonstrated by a 5% re-arrest ratio over a two year period. That is, even after dismissal only 5% of the defendants have been criminally involved during a two year period. When on the program less than 3% have failed. The program is an opportunity extended to any first criminal offender provided the person qualifies for personal recognizance release and a guilty plea or finding could be entered if a court appearance was made.

Administratively this program has been a help to the court by reducing the caseload and paperwork flow. It also saves police time and appearance.

Also new to Probation is elimination of the caseload concept. The Department uses a team approach and accountability as a standard. The defendants are divided by diagnostic analysis into high risk and low risk. Most of the misdemeanor defendants who are convicted are referred for such analysis. Those who are categorized as low risk are referred to community agencies and the Probation Department only monitors the program. Should the defendant be re-arrested or fail the program he will be brought back either to be referred to a more effective program or for sanctions to be imposed by the judge. A defendant categorized as high risk will also be referred to a community resource but regular and enforced reporting is required. The report is to a team of specialists within the Probation Department who verify the information given to them by the defendant and watch for signs of recidivism. The re-arrest rate of persons on high risk probation is well below 20% as opposed to a national rate of 50% or greater.

When a failure occurs a Bench Warrant is requested within a matter of days. These Warrants and all other process of the court are referred to the Warrant Service Division working as an arm of the court. It is often possible to give special

arrest instructions and coordinate services. This is impractical for the average arresting officer who cannot be made aware of the basis and need for coordination between the various departments of the court. Use of the Warrant Servers as a separate arm of the court has proved effective as a more sensitive way to bring the defendant back to the court.

Court Administrator

The Court Administrator has the primary duty of overseeing and making sure that all of the departments of the court work together as a unit. Under his direction the court services are becoming computerized. Every day the dockets, court calendars, violator histories, citation indices, statistics, bond and bail and fine information and much other time saving documentation and data are produced by the computer. Still in its initial stages it has nevertheless further increased the ability of the court to respond to requests of lawyers and the public. Of the 4½ million dollars a year received by the court the total court operation including Probation is a budget of less than 2 million dollars. The number of clerks employed within the court is less than that for courts who have filed with them or heard fewer than 10% of the cases filed with Seattle Municipal Court. It

appears that automation while creating problems in its infancy does produce better service at less cost.

The Seattle Municipal Court has a great deal further to go to adequately meet the public demand for service but an effort is being made. Responsibilities to attorneys and the other courts is also recognized and their views or comments actively solicited. That is not to say that overloaded calendars do not still exist. An attorney was somewhat shaken when one of the regular defendants walked into the courtroom screaming. The regular court staff had the defendant quieted and in custody within a matter of seconds and while the City Prosecutor did not even break his line of cross-examination, the new attorney had to request a short recess to recover his thinking. Because of the volume anything can happen in the courtroom and often does but the staff is being trained to handle such emergencies with dispatch, courtesy and sensitivity. The bailiffs act more as counsellors than as direct aids to the judge and often they are called upon to assist with the personal emergencies of defendants.

Public Defender

The Public Defender represents most of the misdemeanor defendants and those charged with



Seattle Traffic Violations Bureau Nerve Center

the more serious traffic offenses. No longer is the indigent defendant without adequate representation or a voice. Because the Defender can synthesize the experience of its attorneys it is far more able to formulate programs and suggest modification of court procedures than attorneys who infrequently appear within the court. Practices that may have existed by custom or oversight are quickly detected by the dedicated and capable staff of Defenders. By open communication with the court abuses have been detected and corrected. For example commitment of a defendant who did not pay his fine has been stopped and the defendant given a hearing with counsel to represent him to show cause why the fine was not paid. The ease of the great rush of cases through the courtroom has made this possible and the good advocacy has made it happen.

But the court's interest is not limited to fines or probation alternatives. Even though responsibility for the jail is beyond the court purview there is a responsibility for and to those held by the court order. To meet this in part the court reviews daily all persons in custody and acts upon the Probation Counselor and the jail advice for release. The court also provides counseling and educational opportunities for the committed prisoner. Special attention has been given to the woman prisoner. Alcoholism counseling is provided for both men and women in jail. If a suitable outside agency can be found the defendant is released and monitored in that program.

Alcoholism Counseling Program

The Alcoholism Counseling Program is provided in part by the Central Alcoholism Agency and by the court staff. In addition to the counselors provided by the CAA the court has an expert employed as director of the Alcohol School. One of the first such schools, it is funded entirely by the court at no cost to the participants. It is extensively used by other courts and attorney referrals and runs at capacity year round.

Where the Action Is

There are many other functions under the Seattle Municipal Court such as the Hearing Examiner who adjudicates zoning, housing, consumer protection and other matters. There are Civil cases, such as zoning and building code violations. And there is an interface with all other elements of the criminal justice system. Truly this is where the action is.

A Joint Durable Power of Attorney

by Dan Reaugh

The following form is a durable power of attorney between spouses in use in our office.

Though the form has gone through several drafts, we are still trying to improve it. Please send your suggestions to the author at 1100 IBM Building, Seattle 98101.

A different form is being devised for use by individuals.

RECIPROCAL DURABLE POWER OF ATTORNEY

DATED: _____

THE UNDERSIGNED SPOUSES, each as principals, domiciled and residing in the state of Washington, reciprocally and individually designate the following named persons in the alternative as attorney in fact to act for either spouse who may hereafter become disabled or incompetent.

1. *Designations.* The other spouse, if living, able and willing to serve, is designated as attorney in fact for the disabled or incompetent spouse as principal. If the other spouse is deceased or is unable or unwilling to act, then _____ is designated as attorney in fact to act for the principal.

2. *Powers.* The attorney in fact, as fiduciary, shall have all powers of an absolute owner over the assets and liabilities of the principal, whether located within or without of the state of Washington, and shall have all powers as are necessary or desirable to provide for the support, maintenance, health, emergencies and urgent necessities of the disabled or incompetent spouse.

3. *Effectiveness.* This power of attorney shall become effective upon the disability or incompetence of a spouse. Disability shall include

the inability to manage his or her property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance. Disability may be evidenced by a written statement of a qualified physician regularly attending the spouse. Incompetence may be established by a finding of a court having jurisdiction over the incompetent spouse.

4. *Duration.* This power of attorney shall remain in effect to the extent permitted by RCW [§ 52 of 1974 Probate Act] notwithstanding any uncertainty as to whether the principal is dead or alive.

5. *Revocation by Spouses.* This power of attorney may be revoked in writing by both spouses or by either spouse with written notice to the other, if living, by recording the written instrument of revocation in the office of recorder or auditor of King County, Washington.

6. *Termination.* (a) *By Appointment of Guardian.* The appointment of a guardian of the property of the spouse principal terminates this power of attorney. The appointment of a guardian of the person only does not terminate this power of attorney.

(b) *By Death of Principal.* The death of a spouse principal shall be deemed to revoke this power of attorney upon proof of death being received by the attorney in fact.

7. *Reliance.* The designated and acting attorney in fact and all persons dealing with the attorney in fact shall be entitled to rely upon this power of attorney so long as neither the attorney in fact or person with whom he was dealing at the time of any act taken pursuant to this power of attorney, had received actual knowledge or actual notice of the revocation or termination of the power of attorney by death or otherwise, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, legatees, or personal representatives of the principal spouse.

8. *Harmless.* The estate of the spouse principal shall hold harmless and indemnify the attorneys in fact from all liability for acts done in good faith and not in fraud on behalf of the principal.

9. *Applicable Law.* The laws of the state of Washington shall govern this power of attorney.

10. *Execution.* This power of attorney is signed in _____ on _____ to become effective as provided in paragraph 3.

_____ Wife
 _____ Husband

Domiciled and Residing at: _____

Acknowledgement
 of
 Spouses

STATE OF WASHINGTON)
) ss.
 County of King)

This is to certify that on _____ before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and qualified, personally appeared _____ and _____ to me known to be the spouses described in and who executed the foregoing Joint Durable Power of Attorney, and acknowledged to me that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hands and affixed my official seal the day and year first above written.

Notary
 Seal

 Notary Public in and for the State of Washington, residing at _____

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 by Dan Reaugh

McLauchlan at Large



Donald L. Thoreson



The Keefes: Robert M., Thomas P., and Thomas P., Jr.



Justice Hugh J. Rosellini and son Tracy.



Thomas L. Dempsey



Briefly Noted

New CLE Family Law Manual Is Available

A new Continuing Legal Education Practice Manual, Dissolution of Marriage and Family Law Practice, now is available from the State Bar Office.

Nine authors have contributed text and forms to the 331-page, 8½x11-inch soft-cover manual, available at \$12.50.

They are Kenneth W. Weber, chairman of the State Bar's Family Law Section, Miles F. McAtee, Bernice Jonson, Carol A. Fuller, Professor Roland L. Jhorth, J. Porter Kelley, Robert F. Phillips, Professor Harry M. Cross and Edward L. Mueller.

Subjects covered extensively include the new Dissolution of Marriage Act; commencement of dissolution and preliminary orders; separation contracts; family law and taxation; child custody; federal tax problems of divorce settlements; child support; support enforcement; the property consequences of *Freehe v. Freehe*, and recent developments in areas of property rights in meretricious relationships.

National Institute for Trial Advocacy Summer 1974 Program

The National Institute for Trial Advocacy will hold two intensive three-week sessions in trial advocacy this summer. The first session will be held at the University of Colorado, Boulder, Colorado and the second at the University of Nevada, Reno Campus, Reno, Nevada.

In order to provide opportunities to "learn by doing" in simulated trials, enrollment at each session is about one hundred lawyers.

The tuition charge is \$900. Though some scholarship assistance is offered, the funds available are limited and will be reserved for the most deserving applicants. The expense of attending the Institute includes, in addition to the tuition charge, the cost of transportation to and from the site of the session (Boulder or Reno) and the cost of accommodations, which is estimated at approximately \$500 for the Boulder session and \$600 for the Reno session. For further information contact Robert Oliphant Law School, University of Minnesota, Minneapolis, Minn. 55455.

Houston Transcripts Available

The highlight of the two day meeting of the National Conference of Bar Presidents, held in Houston, Texas, was the panel discussion on "Should The Bar Speak Out on Watergate and Other Great National Issues," with the Immediate Past President of the American Bar Association, Robert W. Meserve, one of the panel members. The Honorable Chesterfield Smith, current president of the American Bar Association, joined the Saturday morning session of the meeting and delivered a rhetorical report to the Bar Presidents on the "pros" and "cons" of Watergate as he sees them. This portion, and much more information on many topics are a part of the recently published transcript of the Proceedings of the Midyear Meeting of the National Conference of Bar Presidents in Houston, February 1 and 2, 1974.

The verbatim transcript of these proceedings, a full table of contents, and a list of the

registrants, has been published in an attractive paperbound book, and will be of particular interest to individuals seeking up-to-date information about the organized bar.

Copies of the transcript are available at a cost of \$2.00 each. To order one, please write to the National Conference of Bar Presidents, c/o American Bar Center, 1155 East 60th Street, Chicago, Illinois, 60637. Orders must be accompanied by a check or money order made payable to the National Conference of Bar Presidents.

Spokane County Legal Services Positions

Director

The Director's position requires an attorney admitted to the Washington State Bar, or an attorney admitted to the Bar of another state that would be prepared to take the Washington State Bar at the earliest possible time. The applicant for the Director's position must possess demonstrated legal competence and a minimum of two years experience in the practice of law at the trial and appellate levels of state and federal courts. He must also possess demonstrated administrative ability and additional predisposition to work with a wide variety of community groups and persons.

Housing Attorney

The housing attorney will be responsible for litigation, education, and planning with respect to federally assisted housing programs in Spokane County as well as for like responsibility in the area of landlord-tenant laws and relations.



COMPARATIVE NEGLIGENCE

By Victor E. Schwartz. *The Allen Smith Company. (1435 North Meridian St., Indianapolis, Ind. 46202)*
434 pages. \$25.50.

No Washington lawyer should write a brief or argue a case involving comparative negligence without consulting this book. No court should write an opinion or make a decision without reference to it.

Professor Schwartz is an advocate of *pure* comparative negligence. He criticizes Washington's statute, however, because it leaves too many unanswered questions. (§21.3). He offers an excellent model pure comparative negligence statute.

Washington lawyers and judges have been launched onto the relatively uncharted seas of pure comparative negligence. This book will provide a guide to accurate navigation. Reefs are identified with precision. The best courses for avoiding them are suggested.

The book is the best work on the subject. Research is good. Citation of cases is accurate and comprehensive. Criticism of decisions is intelligent and thorough. The important unsolved problems are lucidly stated. Reasonable solutions are unhesitatingly suggested.

The hard cover is designed to accommodate a sizeable pocket part, an implied promise by the publisher to keep the book up to date. The index is adequate. No table of cases is provided, but there is a comprehensive bibliography.

Chapters 4 to 8 deal with problems attributable to the fact that contributory negligence preceded comparative negligence in the system of jurisprudence. In discussing problems of proximate cause, willful and wanton conduct, negligence *per se*, and last clear chance, the author demonstrates that much excess baggage should be thrown out along with the doctrine of contributory negligence.

Chapters 9 to 16 discuss problems arising from the co-existence of other legal doctrines, for example: strict liability; rules peculiar to wrongful death and survival statutes; reduced standards of care for children, the aged, and persons with reduced mental capacity; and choice of law problems.

Chapters 17 to 19 deal with procedural problems, such as summary judgments, directed

verdicts, special verdicts, and post-trial procedure.

Other chapters deal with particular problems in the multiple-party suit, such as joint and several liability of joint tortfeasors, contribution among tortfeasors, and counterclaims.

Though Professor Schwartz is a Professor of Law and Acting Dean of the University of Cincinnati Law School, all traces of literary style have not been obliterated from his writing. For example:

"Nevertheless, the linkage between 'proximate cause' and contributory negligence can be a potential demon and can eviscerate a comparative negligence system." (§4.4)

A careful reading of the book has left this reviewer with little chance to indulge in a favorite sport: the picking of nits. At page 250, in correctly stating that there has been considerable dissatisfaction with the "both ways" test as applied to imputed contributory negligence, the author states:

"For example, in *Weber v. Stokeley-Van Camp, Inc.*, [274 Minn. 482, 144 N.W.2d 540 (1966)] the Supreme Court of Minnesota declined to impute a servant's contributory negligence to bar his master's claim for damages to an automobile."

The statement is accurate, but incomplete. The primary injury in the *Weber* case was *bodily injury* to the employer. A subsequent Minnesota opinion raises some question as to whether the *Weber* decision would apply to a case involving property damage only. *Clay County v. Burlington Northern, Inc.*, Minn., 209 N.W.2d 420 (1973).

A less explicable lapse is found in Sections 1.4 and 2.3. The reader infers that pure comparative negligence was in effect in Arkansas for four years, 1957-1961. (n. 12, 13, p. 15; n. 44, p. 37). Elsewhere in the book, it is correctly stated that Arkansas retained pure comparative negligence for only two years, 1955-7. (n. 15, p. 47; n. 54, p. 76).

That a careful sifting of his material could uncover only this minutiae is a compliment to the author. All in all, we find the book thoroughly satisfactory, with the possible exception of the price.

Hugh R. McGough

betical category for active cards and available the next morning when I dictate the ledger card. I have already bracketed the time devoted to the matter on the current day sheet of my lawyer's daybook which is also on the side return of my desk and is kept open at all times. The next morning when I dictate my time onto a dictation tape, I have the information for heading up a new ledger card at my fingertips.

The ledger card for each client is the second unit in the system. An illustration of the front and back of our ledger card is shown here. For purposes of illustration, I have filled in the name of the client, the nature of the matter, the detailed statement of the first services rendered and a normal bookkeeping posting for disbursements. I have also indicated the attorney's fee, shown the time posted on the back of the card, the nature of the matter, the target date, and the fee posted on the face.

The third unit is the monthly case review sheet which is illustrated below. It has the necessary reminders to check the client's cards, review ledger cards (which results in billing all current accounts), assignment of responsibility, posting to the attorney's daybook, secretary's calendar and the office calendar. These forms are kept in the same type of file that we use for our client's

files. It is a duo-tand 35 AF and can be obtained from most office supply houses. We buy them in boxes of 50 and they cost about \$.50 apiece. Mine lies flat under my lawyer's daybook where it is accessible for review at all times.

The procedure is to set aside the necessary time at the first of each month, whether an evening or a weekend, to complete the monthly case review by reviewing and thinning out the client's cards and the ledger cards bearing your initial in the upper right-hand corner. To facilitate our access to the ledger cards, each lawyer's cards are kept in a separate tub as shown by the following picture. Consequently, he is required to review no one's cards but his own. He instructs the bookkeeper which ones to bill and how much. She puts a date stamp on the back where it does not show and xeroxes the front of the card and mails it out to the client in a window envelope. I call it instant billing. It is the most satisfactory system I have ever seen and for our use it is substantially better than computer printouts or accumulating billing material on mag cards, the two systems which I most often hear boosted.

If the monthly case review sheet is conscientiously used and everything is checked off, all bills have gone out and you do have docket control.

HARRY E. HENNESSEY

MONTHLY CASE REVIEW

Attorney: _____

Clients' Cards

Date: _____

Ledger Cards

File	Target Date	Posted To		
		Atty's. Day Book	Secy's. Calendar	Office Calendar
Work To Be Done				

Prepared by the Committee on Law Office Economics and Management. Raymond D. Torbenson, Seattle, Chairman, Harry E. Hennessey, Spokane, Editor.

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



Notices

For Sale: Current legal forms with tax analysis, Volumes 1-10, Complete set, current supplements. Marysville, 659-0858. Stock and Welch, Inc., P.S.

For Sale: ALR, complete set. Wesley K. Duce, 516 First Nat'l. Bank Bldg., Everett. 206-259-4151.

For Sale: R.C.W.A. current & up to date, AmJur (2d) current & up to date, ALR (2d) & (3d), Washington Practice, current & up to date, Modern Legal Forms. Call 206-641-2600. Shelley.

For Sale: Rabkin & Johnson, current legal forms with tax analysis; Colliers three volume Bankruptcy Treatise; Frumer & Friden, Products Liability. Best offer on each item. James K. Treadwell, 1402 Hoge Building, Seattle. Phone (206) 624-5760.

For Sale: RCW Annotated, AmJur 2nd, Washington Practice (9 vols.), AmJur Legal Forms, AmJur Pleading and Practice, Trial of Auto Accident cases, O'Bryans Forms, \$1500 cash for all. (206) 746-1639, Kelvin Johnson, Bellevue.

For Sale: Current Legal Forms with Tax Analysis, and Federal Income, Gift and Estate Taxation Books by Rabkin and Johnson. Current Legal Forms is up to date. The Federal Income and Estate Tax set is current to 1973. James G. Smith, 336-5563. Mt. Vernon.

For Sale: 1973 pocket parts for RCWA. 1-32 ALR 2d; 1-35 Am. Jur. 2nd. Irving Koths, (206) 496-5133.

Calendar



- June 14 Group ceremony for admission to the Bar of the United States District Court for the Western District of Washington. 2 p.m., Eighth Floor Courtroom (Room 815), United States Courthouse, Seattle. Judge William N. Goodwin, Presiding.
- Aug. 12-16 Annual Meeting, American Bar Association, Honolulu, Hawaii.
- Sept. 11-14 Annual Meeting, WSBA. Hyatt Regency and Hotel Vancouver, Vancouver, B.C.
- Sept. 20 CLE Seminar, Practice under Revised Probate Code, Ridpath Motor Inn, Spokane; Willard J. Wright, Chairman.
- Sept. 27 CLE Seminar, Practice under Revised Probate Code, Olympic Hotel, Seattle; Willard J. Wright, Chairman.
- Oct. 3-4 CLE Estate Planning Seminar, Washington Plaza Hotel, Seattle; Kenneth L. Schubert, Chairman.
- Oct. 18 CLE Seminar, Antitrust law, Olympic Hotel, Seattle; William L. Dwyer, Chairman.
- Nov. 1 CLE Seminar, Antitrust law, Ridpath Motor Inn, Spokane; William L. Dwyer, Chairman.
- Dec. 5-6 CLE Seminar, Basics of Trial Advocacy, Seattle Center, Rainier Room, Seattle; Alan A. McDonald, Chairman.
- Dec. 12-13 CLE Seminar, Basics of Trial Advocacy, Davenport Hotel, Spokane; Alan A. McDonald, Chairman.

Wanted: Lawyers willing to give up two or three lunch hours a week to solicit signatures for Initiative 294 (Coalition for Reduced and Redistricted Legislature). Pleasant surroundings. Pike Place Market, Pioneer Square, Sea-First Building, etc. Call 622-1519.

Wanted: ALR vols. 95, 17, 98, 99, 100 vol. 148 Wash. reports; 35 to date Am. Jur. 2nd. Irving Koths, (206) 496-5133.

For Sale: A Complete and Up-To-Date set of U.S.C.A. for sale. Contact the firm of COMBS & SMALL. Make offer. FU 3-5861, Tacoma.

Will Information Sought:

Would anyone having knowledge of the existence or preparation of a Will for Frank W. Casey, Deceased, George, Washington, please contact James D. Kendall, Attorney for Estate, P.O. Box 596, Quincy, Washington 98848, (509) 787-4545.

Will Information Sought: A

copy of a will for Joseph (Joe) Tucker of Seattle, Wa., dated after 1956. Please contact Charlene J. Tucker after 3:00 p.m., 885-9284, Redmond.

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