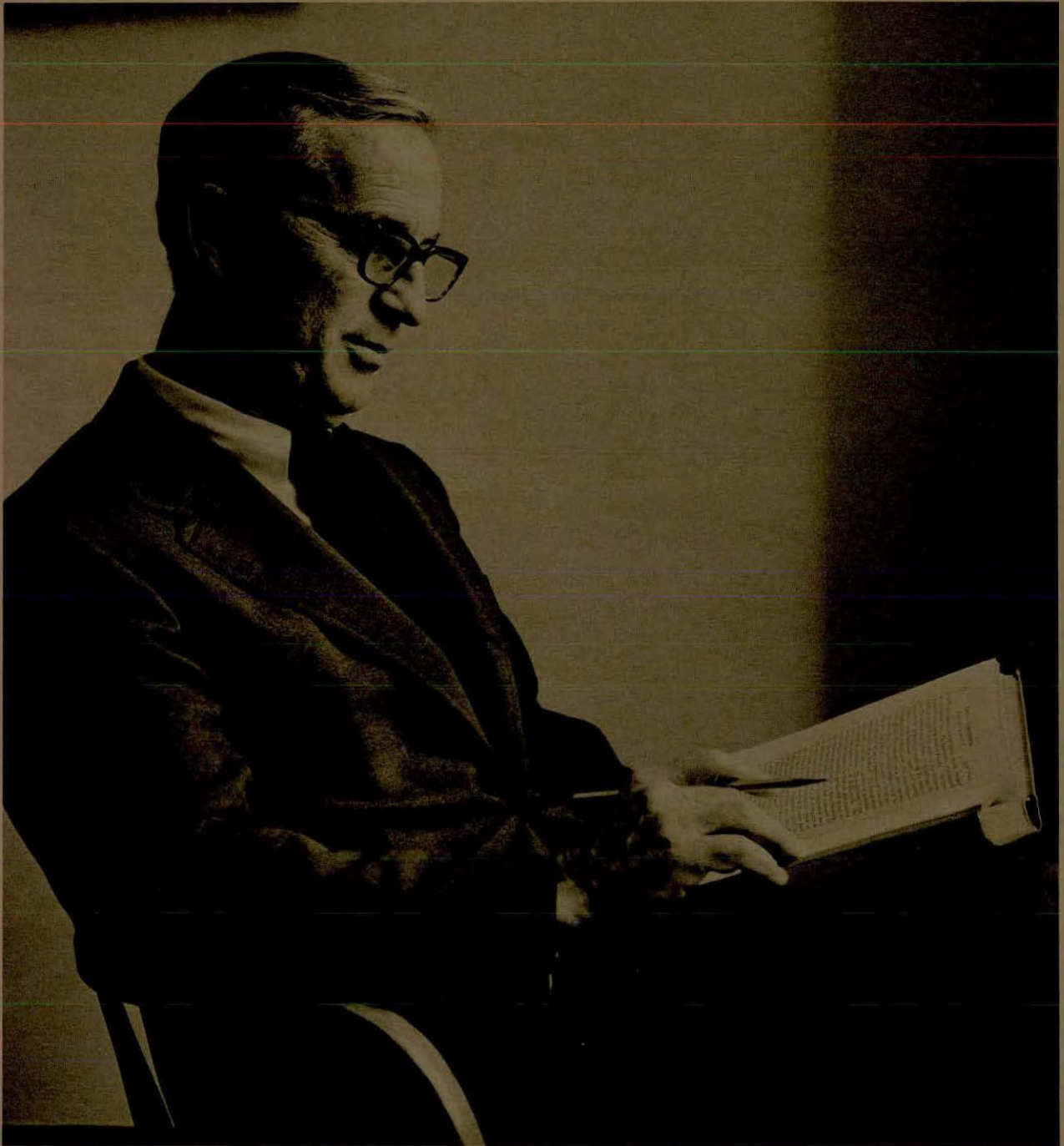

WASHINGTON STATE BAR NEWS



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Editor's Notes

Lack of complaints about the Bar Association's mandatory malpractice insurance program has been surprising. The explanation doubtless is that the program offers excellent coverage at low rates.

Argonaut Insurance Company has agreed to provide \$1,000,000 coverage at an annual cost of \$155.00. They have further guaranteed that rates will not be increased more than 10% for the first anniversary of the policy and 10% for the second anniversary accumulatively.

Some available loss statistics, however, indicate that the honeymoon may end after three years. The Insurance Services Office is a statistics collecting organization. Standard rate manuals now show an average rate for lawyers professional liability insurance in Washington—for considerably less coverage than the Bar program—of \$135.00 per lawyer, whether he is a solo practitioner or a member or employee of a partnership. An analysis by ISO of loss and loss adjustment ratios in Washington has led them to conclude that a 502.6% rate increase is required in Washington.

In contrast with the present Washington rate, the comparable California rate is \$418.00 per lawyer. ISO recommends a 99% rate increase in California!

If this prognosis is correct, lawyers may ultimately find themselves in the same position as Doctors. Recent years have witnessed a steady deterioration of the medical malpractice insurance market due to high losses and inability of carriers to obtain adequate rates.

Some recent straws in the wind in the medical malpractice field may foretell future events in lawyers' malpractice insurance. In North Carolina, St. Paul Fire

and Marine Insurance Company, which writes about 75% of the state's medical malpractice business and Aetna Casualty and Surety, which writes the remaining 25%, have applied for a 150% increase in medical malpractice premiums. The companies state that rejection of these increases would lead to withdrawal of the companies from the malpractice market in North Carolina. In a recent letter to North Carolina physicians and surgeons, the North Carolina Insurance Commissioner indicated that he might recommend either a state funded reinsurance facility or a separate state insurance fund to provide medical malpractice insurance if no company would provide the

coverage at a "fair rate approved by the Commissioner."

Recently, the insurance carrier providing malpractice coverage to the Medical Society of the State of New York withdrew from the market. A legislative proposal would have created a joint underwriting association for malpractice insurance and subjected all New York insurers to assessments to fund the insurance to fill the gap.

Where will the Washington State Bar go if losses and loss adjustment expenses rise to the point where either the Insurance Commissioner will not approve a rate the insurance company deems necessary, or the lawyers are unwilling to pay such a rate?

HMCG



1974 Convention Registration



There is some truth to the saying that we learn from adversity. With Watergate and its related incidents, lawyers have emerged with a little more than their share of adversity. Have we learned anything? I think so.

First, it should be observed that anyone who feels he is going to make the public image of the lawyer one of honest, scholarly dedication to truth is in for a pratfall. No matter how virtuous we perceive the profession of law to be, the public has never believed it (and, maybe never will). Is there anything we can do about that? A little.

We could start with one of the rather comical (to me) results of the old Prentice-Hall survey, i.e., that the public regards all lawyers with suspicion except their own lawyer. On reflection, that isn't any more peculiar than any other prejudice—racial or otherwise. The remedy would seem to be in making the public more familiar with lawyers and how they work, so that the high regard in which they hold their own lawyer might be transferred to the rest of us.

Before getting to methods available to accomplish this, let's look at a recent example of the validity of the Prentice-Hall premise.

Recently, Egil Krogh, in his disciplinary hearing before the Trial Committee, elected to have the hearing public, a right seldom exercised. Without dwelling on the merits of that matter, which is still in the disciplinary works, it is sufficient to say that the result evoked a flurry of letters to the editor, letters to the Bar office and a great deal of public response. The significant fact that emerged was that the majority of those letters laudable of the objective, fair and dedicated performance of the lawyers for the bar, for the respondent, and those who comprised the Trial Committee, were from persons *who attended the hearing*.

The Prentice-Hall message lurks there—if you see lawyers at work, they're held in high esteem; if you don't see them and just read about the results of their work, they're all bad.

We started an experiment this year which I think is a step in the right direction. Over a good deal of protest, two lay members were added to the Disciplinary Board (to go with the seven lawyer members). They are Edith Loeb of Seattle and Cal Johnson of Ellensburg. They were invited (and came) to the July meeting of the Board of Governors. At the Board's invitation, they gave us their perceptions of lawyers and the Disciplinary Board, and their observations of disci-

plinary process. I won't try to cover all of their well articulated observations. What is important here was their astonishment at the objective, detailed and scholarly pursuit of the truth of each matter that came before the Board, and the basic fairness of the procedures. This, to them, was the "system" working the way it is supposed to work. They concluded that the lawyers they work with are very remarkable people. Edith Loeb concluded, "You worry too much about your image."

Well, Edith, you would be right about that if the public had the basic image of lawyers that you have acquired. But the public doesn't so perceive us. It seems to me the remedy is to get more Loeb and Johnsons in our conference rooms, board meetings, committee meetings, conventions—everywhere. The proof is that we come off as well as we deserve if we can get the public in the act with us—and we may come off very badly if we leave them to their suspicions.

I've got to admit to a sort of defensive institutional paranoia about criticism of lawyers. In fact it is as automatic as a knee jerk. Some of the criticism we have coming. We are a long way from sainthood. But, the real truth simply is that the vast majority of lawyers *are* honest, dedicated and pretty remarkable people and *are entitled* to be defended. I don't intend to give up my well nurtured knee jerk, but I do think we will do lot less explaining if we drag the public by the heels into our deliberations. A little show and tell never hurt anybody.

[Ed. Note: Cal Johnson passed away in early September following a sudden illness.]

Initiative 276 and the Legal Profession

by Robert F. Hauth
Senior Assistant
Attorney General*

Considering its ample exposure in the news media throughout a successful initiative campaign, its involvement in highly publicized lawsuits challenging its constitutionality, *Fritz v. Gorton*, 83 Wn. 2d 275, 517 P. 2d 911 (1974); *Young Americans v. Gorton*, 83 Wn. 2d 728, 522 P. 2d 189 (1974), and its profound impact on political life at all levels; our new "open government" law should be an "open book" to most lawyers. The fact is that there is still considerable confusion and outright ignorance about its provisions, even among legal circles. To those who lament the ebbing tide of public confidence in government, that situation is alarming. Although the act is undeniably controversial, much of the hostility which precipitated its earlier crises has stemmed from misunderstandings. And, despite its recent success in court, what may be the strongest measure of its kind in the nation is still far from secure in this state. There have been a number of amendments proposed in recent legislative sessions, some wise and others not so wise. Some would have drastically narrowed the scope of the act. None was able to muster the two-thirds vote of both houses necessary to amend an initiative during its first two years of

existence. (Cf., Washington State Constitution, Article II, § 41 (Amendment 26)).

Beginning next January, a simple majority vote will suffice to amend the act, following the first major test of its performance during the November, 1974, election campaigns. Meanwhile, fairness to the public demands that the legal profession as well as the legislature have a thorough understanding of what the act says and does *not* say before advocating or adopting revisions. I believe that the concept of open government embodied in chapter 42.17 RCW, whether or not all of its provisions are the best that could be written, is far too important to the people of this state to be defeated on trivial or mistaken grounds.

The initiative, now codified as chapter 42.17 RCW, contains fifty sections. The first two sections contain declarations of policy and definitions. The remainder are divided into four substantive chapters, and a fifth chapter which establishes the Public Disclosure Commission and contains administrative and enforcement provisions. My discussion will follow the same general format.

CAMPAIGN FINANCING

The first chapter consists of §§ 3-14. Its purpose is to reveal the influence of money on political campaigns. Candidates and political committees; i.e., persons who collect contributions or make expenditures to support or oppose candidates or ballot propositions; are required to

*I am grateful to James M. Vache, Assistant Attorney General and associate counsel to the Public Disclosure Commission, for his technical assistance in preparing this article.

file organizational statements, and designate campaign treasurers (RCW 42.17.040-42.17.050). All monetary contributions must be deposited in a designated campaign depository with an accompanying itemized statement (RCW 42.17.060). Expenditures must be channelled and recorded (RCW 42.17.070). At various times before and after elections, the committee or candidate is required to file detailed reports of contributions and expenditures. Campaign treasurers are required to keep current, accurate books of account which are open to public inspection during the eight days preceding the election (RCW 42.17.080). Special reports are required from (a) individuals who make direct campaign expenditures (other than contributions directly to a candidate or political committee); and (b) persons who contribute \$100 or more to committees not domiciled in this state which contribute to campaigns in this state (RCW 42.17.100); also, (c) commercial advertisers which accept campaign advertising (RCW 42.17.110). There are limitations on contributions by anonymous donors (RCW 42.17.060 and 42.17.120). Acceptance of contributions from out-of-state committees is conditioned on the filing of a special

report (RCW 42.17.090). RCW 42.17.130 forbids any elected official or employee of such official from using the facilities of his office in support of or in opposition to candidates or issues except in connection with "activities . . . which are part of the normal and regular conduct of the office." Finally, RCW 42.17.140 would limit amounts of campaign expenditures; however, a constitutional challenge to that section is not yet resolved (*Bare v. Gorton*, Supreme Court No. 42879).

Each chapter contains significant and often overlooked provisions for exemptions. RCW 42.17.030 excludes from this first chapter campaigns for:

- (a) Precinct committeemen;
- (b) President and vice-president of the United States; and

(c) Any office ". . . the constituency of which contains less than five thousand registered voters . . .". This latter exemption does not apply to campaigns for or against ballot propositions; however, there is a further provision for exemption in the administrative chapter of the act. RCW 42.17.370 expressly empowers the Public Disclosure Commission to:

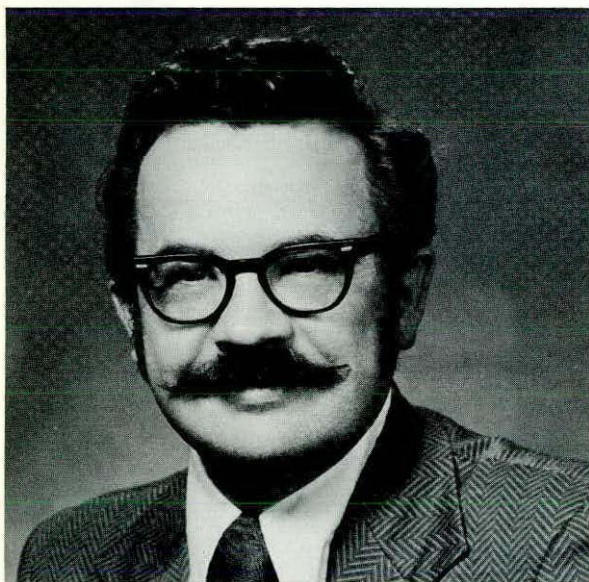
"(7) Relieve, by published regulation of general applicability, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars; . . ."

The Commission's regulations on that subject are presently codified as WAC 390-04-200 - 230. Copies of those regulations and any other public documents on file with the Commission may be obtained at a nominal cost (10 cents per page).

RCW 42.17.370 provides for a third category known as the "hardship" exemption. Because of its applicability to all reporting requirements of the initiative, I will postpone further discussion of that exemption until later in this article, under the general heading "Administration."

LOBBYING

The second substantive chapter, consisting of §§ 15-23, is concerned mainly with the influence of money in the passage or defeat of legislation and administrative regulations. Persons who lobby either the legislature or state agencies for that purpose are required to register and to file



Robert F. Hauth graduated from Gonzaga Law School in 1956 and has been with the State Attorney General's office since 1957. He has been legal counsel to the Public Disclosure Commission since its inception, to the State Auditor for 17 years, to the OPP and FM for nine years, and to the State Department of General Administration for four years. Hauth has represented the Public Disclosure Commission in the *Fritz* case and on other Initiative 276 cases.

periodic reports of their lobbying expenses. Additionally, RCW 42.17.180 requires every employer of a registered lobbyist to file an annual statement disclosing for the previous twelve months a report of any compensation paid to any elected official, candidate, or member of his immediate family and also "... The name of any corporation, partnership, joint venture, association, union or other entity of which any elected official, candidate, or any member of his immediate family is a member, officer, partner, director, associate or employee and to which the employer has paid compensation, the value of such compensation and the consideration given or performed in exchange for such compensation."

The difficulty of complying with that section was perhaps the strongest argument asserted against the constitutionality of any provision of the act in *Fritz, et al. v. Gorton, et al. supra*. Realizing the problem, the Public Disclosure Commission has adopted resolutions by which it assumes the burden of providing lists of all elected officials in the state. (WAC 390-04-080 - 100). However, these do not include lists of candidates or immediate families.

Again appreciating the reporting problem, the commission undoubtedly will be disposed to exercise liberally its power to grant hardship exemptions in this area. One regulation already recognizes as a prima facie case for such exemption the absence of an elected official's name from the commission's listings. WAC 390-04-100.

In addition to the registration and reporting requirement, this chapter contains regulations on such matters as the conduct of lobbyists; the employment of legislators and certain other state officials and employees, and other incidentals. RCW 42.17.200 requires reports from sponsors of "grass roots" campaigns; i.e., campaigns for the purpose of indirectly lobbying the legislature via the general public, *Young Americans v. Gorton, supra*. There are special regulations and reporting requirements in connection with lobbying by state agencies. (RCW 42.17.190)

There are, again, notable exemptions from registering and reporting under this chapter. The most important for discussion in this article are found in subsections (1) and (3) of RCW 42.17.160. In substance, those subsections allow individuals to lobby for themselves or others without registering or reporting under the act so long as such individuals either (a) limit their lobbying to appearances at public sessions or hearings, or

(b) receive no pay or "other consideration" for lobbying, and make no expenditures on behalf of legislators or other state officials or employees. The term "or other consideration," of course, has a broad meaning. See, WAC 390-04-030(3). Consequently, an employee who lobbies on behalf of another must register and report if he receives reimbursement for expenses, time off without loss of compensation, or similar financial reward or relief. Commission regulations do recognize the ability of an employee to lobby, on the employee's "own time" even on matters affecting an employer without having to register or report. (WAC 390-04-070) However, in the case of a salaried company official whose "private" lobbying happens to coincide with his "company" interests, the line between one's own time and company time may be hard to draw.

At first blush, the conditions thus imposed upon the ability of an individual to lobby without registering or reporting may seem overly restrictive. It has been argued that the registering and reporting provisions should be applicable only to the "professional" lobbyists. Frankly, I might agree with that argument if there were some practical way to distinguish between the true "citizen" lobbyist and businessmen who would extensively lobby their own business or corporate interests under the same mantle. Having experimented with alternative provisions, before the advent of Initiative 276, I am skeptical about such a possibility. At any rate, the registration and reporting provisions for lobbyists (as distinguished from the reporting requirements for lobbyists' employers) are not all that difficult.

Original objections went to the frequency of reporting; i.e., weekly reports are required during legislative sessions. RCW 42.17.170. However, the testimony in the *Fritz* case, *supra*, indicated that that was no extraordinary burden because accounts had to be kept in readily available form for employers anyway.

REPORTING OF ELECTED OFFICIALS' FINANCIAL AFFAIRS

This chapter consists of a single section, RCW 42.17.240. I acknowledge that it has been the subject of a recent article in this journal. [See, *Financial Disclosure Under Initiative 276*, by Douglass A. Raff, Washington State Bar News, July, 1974.] However, this particular chapter ranks at least second among the provisions of the act vying for the "honors" of being most controversial and most frequently misinterpreted. There-

fore, I feel justified in risking some repetition for the sake of clarification.

Basically, what this section requires is that all elected officials and candidates (except President, Vice-president and precinct committeemen) file financial disclosures in written form for themselves and their immediate families, at certain stated times.

Who is Affected?

The term "elected official" includes all state and municipal or local officials who are "elected" in the ordinary sense of that term; i.e., at "popular" elections in communities. See, AGO 1973 No. 6. (Copies of Attorney General's Opinions (AGO) and letter opinions (AGLO) are available on request.) It does not include officials who are chosen through appointive processes resembling elections; e.g., "elections" by other public officials or groups of officials or members of a profession, which are not open to the public.

The term "candidate" as defined in RCW 42.17.020, bears close study. It includes any person who makes any overt act or acceptance normally taken as indicative of an intent to seek public office; such as announcement, filing, accepting contributions, making expenditures or reserving space or facilities toward a campaign. It does not necessarily include a person who seeks an appointment to fill a vacancy in an elective public office. However, often a person in seeking such appointment does so under particular circumstances tantamount to announcing his or her candidacy at the next ensuing election for the same office. In that case, of course, the reporting requirements of the act are regarded as applicable.

Reporting Periods and Times.

(a) Elected Officials. Now that the act has run a full year's cycle, there is no difficulty in determining when reports are due. Every person holding an elective office in this state, as defined in RCW 42.17.240, in January of any year, must file the disclosure statement (the F-1 form prescribed by the Public Disclosure Commission for compliance with that statute) on or before January 31st of that year. The report must cover the full preceding calendar year, whether or not the reporting official held office during the preceding year.

As a corollary, one who is not an elected official during January of any year need not file an F-1 form unless such person becomes a "candidate." Thus, an elected official who re-

signs in December and does not serve in January is not required, by the terms of the act, to file. AGO 1972 No. 29 and AGLO 1973 No. 2. This might seem to create a loophole by which an elected official might avoid filing by being allowed to "resign" for one month; then being reappointed after the close of the filing period. However, the Public Disclosure Commission has taken the position that when those events occur, as in one previous case, the resignation will be regarded as ineffective and the failure to file the F-1 form will be regarded as a violation.

(b) Candidates. A person must file the F-1 form required by this chapter within two weeks of becoming a "candidate" as that term is defined and explained above. The candidate's report must cover the full twelve-month period preceding the month in which the report is due. AGO 1972 No. 29, *supra*.

(c) Reporting requirement. The substance of what must be reported is explained in detail in the previous article. I recommend your particular attention to the section of that article headed "Problems Under Section 24(1)(g)." Surprisingly, some lawyers still believe that they, as elected officials, would have to report all of their clients, or at least all of their clients whose payments to the firm have totaled five hundred dollars or more; amounts of compensation, and/or exact descriptions of services rendered. On the contrary, I emphasize:

(1) In no case must the report contain the names or any information about "private" clients; i.e., clients who are not governmental agencies, corporations, partnerships, unions, sole proprietorships or other "business" clients. However, a lawyer employed as a salaried employee must report the employer's name. RCW 42.17.240(a).

(2) Compensation from such clients need not be reported in any way except by sole practitioners or salaried employees of a business entity; and then only in coded categories.

(3) Although the term "consideration" is not defined in the act, the commission has always regarded the term "legal services" to be a sufficient description of the consideration given by a lawyer to his client if that was in fact the nature of the service rendered.

(4) The reporting requirement, as thus identified, does not violate any code, canon or principle of legal ethics. AGO 1973 No. 1.

(continued on page 25.)

More About the 1974 Probate Amendments

by Dan Reaugh*

Part II

Part I of this article, published in the August/September issue of the *Bar News*, discussed some of the problems created by the 1974 amendments to the Probate Code by §§ 4-5, Collection of Personal Property by Affidavit; §§ 13-21, Non-intervention Powers; §§ 22-23, Closing NP Estates; and § 27-32, Adjudication of Testacy or of Intestacy and Heirship. In this concluding portion of the article, some of the problems created by amendments to later sections of the Code are discussed.

Adjudication of Testacy (Probate of Will) Without Administration (§27)

Section 27 prescribes the requirement for an adjudication of testacy by the probate of a will without administration. In addition to the due process objection made to §§ 27 and 29, neither § 27 nor § 44 requires that a prehearing notice be given to a spouse if no letters testamentary or of administration are sought.

Letters Testamentary (§ 28)

In addition to the basic due process defects outlined in connection with §§ 27-32, § 28 is not well integrated with § 18 relating to NP authority of successor PRs and with §§ 25 and 26 relating to NP authority in wwa and dbn will cases in that the issuance of letters testamentary to alternate PRs appears to be authorized without notice, under § 28. Also, it is not clear that the noncreditor requirements of § 18 relating to suc-

cessor PRs is applicable to an alternate PR not named in a will. A superior treatment is provided in the following UPC sections:

- 1-201 (23) Definition of Letters
- 1-305 Certified Copies of Letter
- 2-105 Necessity of Appointment before Action
- 3-305 Declination of Appointment
- 3-601 Qualification

Adjudication of Intestacy and of Heirship (§ 29)

The due process comments to §§ 27-32 and to §§ 27 and 28 are also applicable to this section.

It is difficult to understand why § 44 was not placed closer to this § 29 because the two sections are closely related. In addition they are not well coordinated.

Section 44 does not require that a prehearing notice of adjudication be given to a surviving spouse if no appointment of a PR is requested in connection with the adjudication sought.

Section 29 should refer to the fact that notwithstanding the "no further administration required language," subsequent administration may in fact be had under § 32. In this connection § 29 should refer to § 32 rather than to § 31.

Notice of Appointment and of Pendency (§ 30)

The present form of notice of pendency generally used does not give adequate notice to interested parties. Section § 30 should be amended to require more adequate information as to extent of recipients' interest in the estate. Also the § 30 notice of pendency should be amended to require a statement of the time limits for contest or for offering a later will as required by § 31 for adjudications, which is applicable only when no PR is appointed. In Maryland notice of appointment is combined with notice to creditors.

*Valuable assistance was received from Karen Hardisty, a second year law student at the University of Washington Law School, and from Suzanne Smith, a first year law student at the UCLA Law School and an experienced paralegal in probate.

Notice of Adjudication (§ 31)

While the required content of the notice of adjudication under § 31 is reasonably satisfactory, to meet the due process objectives made in connection with §§ 27-32, the prehearing notices required by UPC 3-403 are far more appropriate and adequate. A serious omission is that the notice of adjudication does not inform the interested persons that they may later seek the appointment of a PR to administer the estate. The court should be given authority to prescribe alternative methods of giving notice such as provided in UPC 1-401 and in 3-403 if there are heirs, devisees or legatees whose addresses are unknown. The statute should also provide safeguards for any omitted heirs as is done in UPC 3-412 and 3-1001(b).

Challenge to Adjudication and Time Limits for Later Wills and Contest, etc. (§ 32)

With the § 31 notice of adjudication failing to notify the interested parties of their right to seek the appointment of a PR to administer the estate, it would seem that providing this information should have been the first order of business for § 32 rather than having it buried in a proviso of § 32. The first paragraph of § 32 requiring contests and later wills to be commenced or offered within 4 months, should also have referred to notices of pendency under § 30.

The § 32 requirement that later wills be offered within 4 months offends one's sense of fair play and due process even more than the preemptive statements contained in §§ 27 and 29 to the effect that "no further administration shall be required." The additional offense is that later wills are treated the same as the contest of a will that has been probated. Such a drastic change in policy is contrary to prior Washington practice where later wills were not deemed to be will contests and hence not subject to the relative short periods for commencing a contest of the will probated. See for example the holding of *In re Elliott's Estate*, 1945-2-19, 22 W2d 334, 156 P2d 427. Even the UPC has not seen fit to make the time period for later wills so short. The shortest period in the UPC is one year provided in 3-412 and maximum periods may be for as long as 3 years, (3-108 after informal probates). With respect to time limits it is difficult to understand why a later will is not more comparable to a lapsed legacy where a 3 year limitation is provided in § 51.

The statement in § 32 that an order adjudicating testacy or intestacy and heirship shall "be deemed equivalent to the entry of a final decree of distribution" raises two problems:

One problem which will not be discussed is that it is believed that this *ex post facto* type of notice amounts to a denial of due process.

The second problem which will be discussed is a statutory construction problem of the relation between the new § 32 and the old RCW 11.24.010 limiting the time period during which a will can be contested. A problem under RCW 11.24.010 was the question of what type of contests were cut off by that statute. The leading case is Judge Hill's (8-1) decision in *Gherra's Estate*, 1954-2-19, 44 W2d 277, 267 P2d 91, at page 286 where the court holds that the following circumstances arising subsequent to the execution of the will, may be raised without regard to the time limits prescribed in RCW 11.24.010 so long as these noncontest issues are raised before the decree of distribution is entered.

- (1) Burning, Cancelling, etc. RCW 11.12.040
- (2) Marriage or Divorce RCW 11.12.050
- (3) Pretermitted Child or Descendant RCW 11.12.090
- (4) Ademption *Donaldson's Estate*, 1946-10-1 26 W2d 72, 173 P2d 159
- (5) Advancements RCW 11.04.041
(Not listed in *Gherra's Estate*)

The interpretation problem is that § 32 prescribes four other types of issues that must be raised within the time limits prescribed in § 32. Those four include:

- (1) Offer of later will
- (2) Adjudication of testacy (will contest)
- (3) Offer of will after adjudication of intestacy
- (4) Challenge to adjudication of heirship

There are two interpretative problems: one is whether any of the five Gherra noncontest issues can be raised under § 32. If so, the second question is whether any of these noncontest issues must be raised within the § 32 time limits. No answers are ventured to either of these problems of interpretation except to note that under the holding of *Kane's Estate*, 1944-2-14, 20 Wn2d 76, 145 P2d 893 the scope of issues under RCW 11.24.010 is most limited.

Another objection to § 32 is that while the section purports to preserve the rights of creditors and others, it does not establish a procedure to enforce those rights. The statute should spell out the procedure and not leave the matter suspended.

Creditors' Claims (§ 33-38)

The processing of the claims of creditors has been simplified by eliminating the verification and court approval, but looking at all of the 1974 amendments relating to creditors it is difficult to justify the widely divergent treatment afforded to creditors in different sections of the 1974 amendments. For example, under the "Collection by Affidavit" procedure borrowed from the UPC, Washington has added "all debts . . . have been paid or provided for" under § 4(1)(f). Also "solvency of the estate" appears to be an absolute requirement before nonintervention powers may be confirmed under §§ 13-26 of the 1974 amendments. In § 46 adequate provision for all expenses and claims of creditors is a condition precedent to the waiver of a PR's bond.

In contrast, the rights of general creditors are ignored when the award in lieu of homestead was increased from \$15,000 to \$20,000. Also creditors are not entitled to any notice in connection with the new adjudication procedures for testacy or intestacy and heirship provided in §§ 27-32.

Section 32 purports to preserve the rights of creditors after an adjudication without establishing any procedure by which an unpaid creditor receives a notice of a death or of an adjudication. How will he be aware of the necessity of action?

While the usual notice to creditors must be published in connection with the initial appointment of a PR, creditors are not entitled to any notice of any proceedings relating to the granting, restricting or withdrawing of NPs under §§ 17 through 20 of the 1974 amendments.

An obvious solution is that all known unpaid creditors should be given a notice, supplemented by a publication, when ordered by the court. This does not provide a complete remedy. A more complete remedy might be to follow the procedure of the various mechanic lien type statutes; namely, of authorizing creditors to file claims with the clerk of the court even though no PR is appointed. The same procedure might also be extended to the claims of creditors under CPAs and JTAs and perhaps against other non-probate property.

Although the form of notice for rejecting a claim has been improved by § 35, the 30 days required in § 37 for commencing an action on the claims is too short. The UPC allows 60 days in 3-804(3) and 3-806(a). In four recent landmark cases all relating to time limits, our supreme court has stated that it intends to

"minimize technical miscarriages of justice," *Cook v. Washington*, 1974-4-18, 83 Wn2d 599, ___P2d___, (120 days for claims against the state); and *Shafer v. Washington*, 1974-4-18, 83 Wn2d 618, ___P2d___; *Petrarca v. Halligan*, 1974-5-29, 83 Wn2d 773, ___P2d___ (90 days for substituting PR for decedent in pending litigation); and *Curtis Lumber v. Sortor*, 1974-5-29, 83 Wn2d 764, ___P2d___, (8 months in which to foreclose a lien).

Accounts and Solicitation (§§ 39-43)

The purpose of amendments made in §§ 39-43 was to provide for payments of accounts under §§ 4 & 5 relating to collection by affidavits. Apparently credit unions (RCW 31.12.140) were overlooked. No detailed study has been made of §§ 39-43 and therefore no comments will be made other than to suggest that more research should have been done before the adoption of §§ 39-43 and before the rejection of Multiple-Party Accounts provision of UPC 6-101 et seq. An earlier draft of the bill had included the UPC provision on multiple party accounts but were dropped and §§ 39-43 retained.

Section 43 which amends RCW 30.04.260 to allow banks and trust companies to personally solicit business has no relation to the other sections. The prohibition against advertising for legal services is continued. RCW 11.36.010 still prohibits banks from drafting wills.

Notice to Spouse (§ 44)

The first sentence of § 44 is taken from repealed RCW 11.28.130. The 10 day waiting period after the required notice is given to a spouse is also deleted by § 44.

Section § 44 is not complete and should be amended to include notices to spouses under the following sections:

§ 16 for NPs in intestacy cases

§ 27 for an adjudication of testacy without appointment of a PR

§ 29 for an adjudication of intestacy and heirship.

Former 11.28.130 required a 10 day waiting period in all nonwill cases. UPC requires an 120 hour or 5 day wait in all cases. It is suggested that the 10 day period should still prevail in all nonwill cases to enable the parties to make a search for any will before NPs are confirmed or before any adjudication.

Substitution of PR as Party (§ 47)

It is submitted that RCW 11.40.100 both before and after amendment by § 47 has resulted in unnecessary miscarriages of justice in that there is no valid reason for requiring that the PR be substituted as a party within the four month period.

UPC contains no such limitation. UPC 3-804(2) last sentence even makes unnecessary the filing of a claim for pending litigation. The recent case of *Petrarca v. Halligan*, 1974-5-29, 83 Wn2d 773, — p2d—, avoided the present 90 day period during which the PR must be substituted for the decedent in litigation pending at his death, by holding that CR-25(a)(1) controlled over the statute when necessary to avoid a miscarriage of justice. The two recent decisions waiving the 120 day claim period in actions against the state in *Cook v. Washington*, 74-4-18, 83 Wn2d 599 and *Shafer v. Washington*, 74-4-18, 83 Wn2d 618 illustrate a desirable trend to eliminate or at least avoid unreasonably short claim periods. Any unusually short time limit for pending litigation is another example of cases being decided on the basis of technical rules of law rather than on their merit. As a final suggestion, why not shift the burden to the PR to be substituted in all pending litigation of which he is aware or in alternative to give all other parties in pending litigation notice of death and of the appointment of PR?

Amendments to Inventory (§ 48)

Section 48 requiring amendment to the inventory for newly discovered assets should also have required amendments correcting both values and descriptions in the original inventory which are erroneous or misleading as required by UPC 3-708.

Lapses of Legacy or Devise (§ 51)

Space does not permit even a brief discussion of the lapse problem, other than to suggest that here again UPC 2-605 and 2-606 are more comprehensive providing more guidelines than does RCW 11.12.110 et seq with RCW 11.12.120 as amended by § 51. But see *Allmond's Estate*, 1974-4-8, 10 WnApp 869, — P2d—, for a solution of problems that the UPC sections might not cover.

Durable Powers of Attorney (§§ 52 & 53)

Sections 52 and 53 are adopted directly from the UPC 5-501 and 5-502 with a few minor changes. In § 52 the word "guardian" was added in one place and the word "guardian" replaced "conservator" in three places. In § 53 the word "guardian" should have been added before "heirs" to be consistent with § 52 where "guardian" was added. Problems may arise because both §§ 52 and 53 fail to distinguish "guardians of the person" from "guardians of the estate." In both §§ 52 and 53 the word "legatees" should have been inserted after "devisees," because in Washington "devisee" does not include "legatee" as is the case in the UPC. In paragraph § 53(1) the reference to "§43" should be to "§52." In paragraph § 53(2) (UPC 5-502) the words "or bad faith" are added after the word "fraud."

There is another serious omission, which frequently happens with piecemeal adoption of portions of the UPC. The legislature failed to adopt the UPC definitions of "incapacitated person," UPC 5-101 and of "disabled person," UPC 5-401(2). Therefore, these terms are without definition in the new Washington statute.

In spite of these errors and omissions the adoption of these two sections provide a most useful estate planning tool which should be widely used. Somewhat surprisingly this concept is not foreign to the state of Washington since statutes for many years have authorized similar provisions in powers of attorneys for servicemen, RCW 73.20.050. Also RCW 65.05.130 provides that a power of attorney is not deemed to be revoked until the instrument of revocation is recorded in the same office in which the power was recorded.

Provisions for Payment or Transfer on Death (§ 54)

Section 54(1) and (2) was borrowed verbatim from UPC 6-201. Subparagraph (3) relating to lease of safety deposit boxes was borrowed from the Arizona version of the UPC. This section is a most valuable estate planning tool, and should virtually eliminate the possibility of a contract being declared void because it was testamentary. For example, spouses should now be able to execute CPAs that would be effective on the death of the survivor. The same result should be obtained under JTAs applicable to the death of

the surviving joint tenant. Also decisions such as the following would be superseded: *Bartlett v. Bartlett*, 1935-8-23, 183 Wash 278, 48P2d 560 refusing to enforce a provision in a CPA relating to vesting of property on the death of the survivor. Judge Horowitz in *Verbeek's Estate*, 70-3-23, 2 WnApp 144, 467 P2d 178 greatly limited the scope of documents testamentary in nature. Statute of wills also held not to apply to insurance contracts in *Toulouse v. N.Y. Life Ins. Co.*, 1952-5-29, 40 Wn2d 538, 245 P2d 205, nor to Totten trusts in *In re Madsen's Estate*, 1956-4-19, 48 Wn2d 675, 296 P2d 518.

Conclusion

It is hoped these comments lead to the conclusion that the probate code should immediately be amended to clarify the many points raised. It is further suggested the Washington Probate Code could be further improved by adopting as a minimum the many noncontroversial features of the UPC not now covered by the Washington Probate Code. Incidentally as of this date 10 states have adopted the main or fundamental features of the UPC; namely

- Alaska
- Arizona
- Colorado
- Idaho
- Minnesota
- Montana
- Nebraska
- North Dakota
- South Dakota
- Wisconsin

Oregon has adopted some features of the code and it appears likely that Hawaii and New Jersey may soon adopt many, if not most, of the features of the UPC.

On May 21, 1974 Chief Justice Warren E. Burger, in the opening session of the American Law Institute, among other things, urged that all states adopt the Uniform Probate Code. It is submitted that a great deal of time and energy has been dissipated in the attempt to update the Washington Probate Code through the 1974 amendments. Even more time will be required to clean up the 1974 amendments. The 1974 amendments to the Probate Code suffered seriously from a lack of professional drafting. See recent ABA sponsored book edited by Reed Dickerson entitled "Professionalizing Legislative Drafting" published in June 1973. The book is reviewed by

James K. Graves, May 1974, 60 ABAJ 526 and 530. See also a more recent article by Dickerson entitled "Professionalizing Legislative Drafting: A Realistic Goal?" in May 1974, 60 ABAJ 562-564.

It is suggested that the people of the state of Washington would be better served by making use of the many years of research and drafting of the UPC by the leading authorities in the nation on probate law than in dissipating their energies in an abortive attempt to outdo the UPC.

The UPC is the product of six years of intensive work by leading national experts in probate law in a project jointly sponsored by the ABA Section of Real Property, Probate and Trust Law and by the National Conference of Commissioners on Uniform State Laws. The resulting code has received the following approvals and endorsements:

- August 1969 at Dallas Approval by ABA Section of Real Property, Probate and Trust Law
- August 1969 at Dallas Approval by National Conference of Commissioners on Uniform State Laws
- August 1969 at Dallas Approval by House of Delegates of ABA
- 1970 Joint Editorial Board for UPC was created with five members each from ABA Section of Real Property, Probate and Trust Law and from National Conference of Commissioners on Uniform State Laws
- August 1971 Approved by the American College of Probate Counsel which has since provided substantial financial support.
- August 8, 1973 General Assembly of ABA overwhelmingly reaffirmed its support of the UPC by rejecting the so called Nebraska Resolution.
- February 4, 1974 The American College of Probate Counsel reaffirmed its endorsement of the UPC.
- May 21, 1974 Endorsed by Chief Justice Warren E. Burger of the Supreme Court of the United States. □

WASHINGTON STATE BAR NEWS

KENNETH P. SHORT, PRESIDENT

Ken Short is following a tradition set by the original partners in his firm, formerly Rummens & Griffin, and now Short, Cressman & Cable in Seattle. Both George H. Rummens and Tracy E. Griffin were presidents of the State Bar, Rummens in 1927 before the organization and integration of the Bar Association, and Griffin in 1949. Ken is now President for 1974-75.

Ken was born in Seattle in 1918 and, except for his service with the Army in World War II, he has remained in Seattle. He attended the University of Washington where he received his BA in 1939 and his JD in 1942. After graduating from law school and passing the Bar exam, he joined the Army. In 1946 he returned to join Rummens & Griffin who had been partners since before Ken was born and who needed an aggressive young lawyer to assist with their mass of litigation and appellate work.

That firm proved to be compatible with his own desires. It was actively engaged in trial work and enjoyed a high reputation for trial competency among the Bar. Throughout the years the firm has continued to engage in trial work and has maintained its reputation and a solid general practice. After World War II, Paul Cressman, who had met Ken during the War, attended law school and in 1949 became the firm's second associate. The firm has been growing ever since and, at the present time, there are 22 lawyers in the firm.

In addition to building a firm, Ken has been active with bar

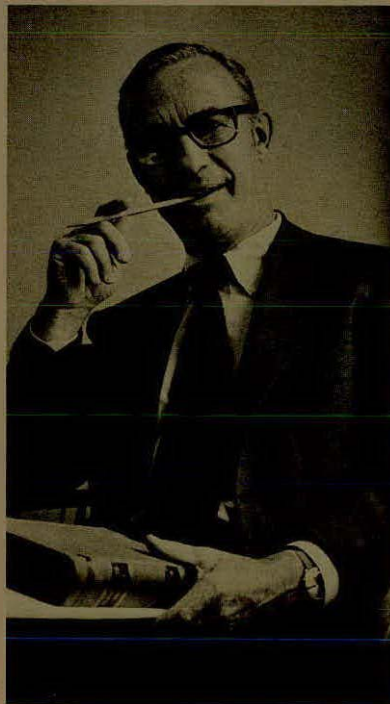
association activities. He served a couple of times on the Seattle-King County Bar Board of Trustees and once as Treasurer of that association. He assisted in organizing the Seattle-King County Legal Services Center which expanded the services provided by the former legal aid bureau which worked only through voluntary contributions, so that government funding now provides the substantially increased services. Ken was President of the Seattle-King County Bar Association in 1965-66, served on the State Board of Governors from 1970 to 1973,

and was an ABA Member of the House of Delegates from 1968 to 1970.

Ken Short has actively engaged in politics to the extent of assuming the responsibilities of campaign manager in a number of judicial elections including the campaigns of Harry Ellsworth Foster and Robert Utter.

Ken faces a year in which a critical eye is focused upon attorneys and their associations. Additionally, our Bar Association is taking on a number of substantial projects which, by themselves, would attract attention and offer a field for criticism and public comment as well as create heated debate among the membership of the association. *Compulsory* CLE participation, *compulsory* malpractice insurance, and Bar-sponsoring or support of legislative action on group legal services, revised marriage laws, and revised juvenile court systems are a few of the projects which are about to happen this year. Through his combination of energy, interest, and common sense, Ken will successfully accomplish tremendous progress for lawyers within society as well as for our own Association.

Periodically, as he works through the projects and his strenuous duties, we should remember to let him have a little free time to go golfing.





The Board's Work

The Board of Governors of the Washington State Bar Association convened at Rosario, Orcas Island, Washington on Friday, July 26th and Saturday, July 27th.

Continued Competency

The President will appoint a subcommittee of the Board, with some consideration being given to the possibility of including persons other than members of the Board, which committee's charge would be the design and preparation of a plan for compulsory continuing legal education for the Bar Association. The committee may make other recommendations in related fields looking toward the achievement of continued competency by the members of the Bar Association.

Legislative Committee Report

(A.) The Legislative Committee's recommendation that the Bar Association sponsor a Group Legal Services Bill was approved on condition that legislation in a form acceptable to the Board is presented to the Board in time for adequate consideration.

(B.) The Committee's recommendation that the Bar Association sponsor certain amendments to the Washington State Corporation Code was approved.

(C.) Action was deferred on the Committee's recommendation concerning a revised marriage law until such time as the Board of Governors could have an opportunity to review the specifics of the proposed bill.

(D.) The Committee's recommendation that the Bar Association sponsor a Consolidated and Revised Personal Property Lien Law was approved on condition that legislation in a form acceptable to the Board is presented to the Board in time for adequate consideration.

(E.) The Committee's recommendation concerning a bill modifying the code with reference to attorney's fees to the prevailing party in Justice Court Actions was changed from a "sponsor" category to a "support" category with the further provision that such support would be contingent upon a satisfactory bill being presented to the Board in adequate time for final consideration before a final position is taken.

(F.) The Committee's recommendation that the Bar Association sponsor a bill to provide uniform provisions with respect to notice of claims against governmental units was approved on condition that legislation in a form acceptable to the Board is presented to the Board in time for adequate consideration.

(G.) The Committee's recommendation concerning legislation being drafted called "the multiple named financial institution accounts bill" was changed from the "sponsor" category to the "support" category subject further to the Board of Governors having an opportunity to see the exact terms of the final bill before a final position is taken.

(H.) The Committee's recommendation with reference to support of a revised juvenile court bill was approved with the limitation that the Board of Governors have an opportunity to see the final version of the bill before taking a final position. The vote was 7 to 1 with Mr. Pritchard voting no, saying he would prefer support of the bill with no restrictions or conditions.

(I.) The Committee's recommendation to support a revised criminal code was approved subject to the condition that the Board have an opportunity to see the bill in its final form before such support is accorded.

(J.) The Board reaffirmed its position of support for broad reform of the judicial article.

(K.) The recommendation of the Legislative Committee with reference to the professionalization of prosecutors offices—introduced as Senate Bill 3090 in the most recent legislative session—was approved to be supported in the next session of the Legislature.

(L.) The Board approved the Legislative Committee's recommendation that attempts to change the present comparative negligence law be opposed. The vote was six to two, Messrs. Gates and Pritchard voting no.

(M.) The recommendation of the Committee opposing the imposition of a tax upon professional services was approved. The vote on this motion was seven to one, Mr. Hoff dissenting.

Interprofessional Code of Conduct

The proposed Interprofessional Code of Conduct was referred to the Trial Practice Section for review and recommendation.

The Budget Committee

(A.) The Board accepted, as a general principle, the Budget Committee's recommendation that the *Bar News* accept appropriate advertising looking toward the desirable objective of making the *Bar News* a self-sustaining program.

(B.) The Board accepted in principle the Committee's recommendation concerning expansion of the Disciplinary Staff subject to the submission and adoption of a total revenue and disbursement program.

(C.) The Board accepted in principle the Committee's recommendation concerning expansion of the CLE program subject to the submission and adoption of a total revenue and disbursement program.

(D.) The Board adopted in principle the recommendation of the Committee that the CLE program be made self-sustaining with the necessary fees charged to accomplish this objective.

(E.) The Board approved in principle the imposition of a reasonable fee for enrollment in the Legal Intern Program and will consider a proposed rule achieving this result at its next meeting for recommendation to the Supreme Court.

(F.) The Board approved, in principle, the recommendation of the Committee that one meeting per year of the local Bar Presidents be financed by the Bar Association with the added proviso that the Bar Association sponsored meeting would not be at the Bar's Annual Meeting but that otherwise the local Bar Presidents should choose the most appropriate and productive time and place for their meeting.

Proposed New Appellate Rules

The report of the Committee on Court Rules and Procedure on the proposed new appellate rules and proposed rule establishing guidelines for the courts on probate fees was accepted. There were four votes for this motion and four members abstained.

Public Defender Committee Report

After a report from the Pritchard-Heath subcommittee on the subject, the Board voted to refer the public defender question to the Legal Aid Committee with the charge that the committee develop a program to meet the needs of indigent defense on a state-wide basis and to present the program to the Board for its consideration at the earliest practicable time.

Election of Delegates to the ABA

It was unanimously voted that Robert O. Beresford, Seattle, and John Gavin, Yakima, be reelected for two-year terms as delegates representing the State Bar Association to the ABA House of Delegates, the terms to expire at the close of the Annual Meeting of the ABA in the summer of 1976.

The Bar News

It was agreed that Cleary S. Cone, Kenneth

P. Short and G. Edward Friar should meet with the Editorial Advisory Board at its next meeting to discuss matters of mutual interest and concern.

Environmental Law Section

The policy statement submitted to the Board by the Environmental Law Section was accepted and the matter was referred back to the Section for proper implementation.

Court Rules and Procedures Committee

The proposed new rule relating to Service of Summons by Mail in Dissolution Actions, as proposed by the Committee on Court Rules and Procedures, was approved. The Committee shall proceed toward the possible implementation of this rule.

Judicial Poll

The Bar Association's usual poll in contested judicial races will be conducted this year except that the poll will exclude Superior Court races in King County in accordance with a request from the Seattle-King County Bar Association, who desire to conduct a poll of their own.

Code of Professional Responsibility Committee

(A.) In accordance with the recommendation of the Committee, opinions 61 and 94 are hereby deleted from any future Publication of opinions.

(B.) The recommendation of the Committee that the Bar Association's ethics opinions be codified and published after the taking of appropriate bids was approved. An appropriation was made available for this project of an amount not to exceed \$3,500.

Compulsory Malpractice Insurance Program

(A.) The Bar Association shall proceed with the implementation of a compulsory malpractice insurance program to become effective February 1, 1975 with all members of the Bar Association included except those specifically excluded on meeting certain requirements and conditions. Participation in the program is mandatory and a condition precedent for the retention of active membership in the Bar Association. A master policy will be provided by the Bar Association so as to assure adequate coverage for all members of the Bar Association. Premiums will be paid from the annual dues paid by each member of the Bar Association.

(B.) It was moved by Mr. Gates and seconded by Mr. Pritchard that the Washington State Bar Association commit to Marsh & McLennan Incorporated a firm order for its compulsory malpractice insurance program subject to appropriate protection clauses for the Bar Association in the event the Bar Association for some reason beyond its control is unable to perform. This motion carried, five votes for the motion and two votes opposed to the motion. Those members voting "no" were Messrs. Champagne and Hoff. Mr. Hoff requesting an explanation for his "no" vote be made a part of the record, says: "I strongly favor the concept of compulsory malpractice insurance but oppose this motion at this time because we have not complied with what I consider to be a basic prerequisite—letting every legitimate prospect have an opportunity to present his proposal for this insurance for full consideration. We have not complied in that we have not given every interested party an opportunity to be heard."

(C.) The compulsory malpractice insurance program as adopted by the Board of Governors contains provisions to make coverage optional for those lawyers practicing with any branch of government or with a single client or who for whatever reason do not engage in private practice in accordance with definitions and regulations to be determined and outlined hereafter. It was reaffirmed by the Board that its purpose and intent by this series of resolutions relating to the compulsory malpractice insurance program was to adopt generally the June 13th proposal of Marsh & McLennan, Inc. subject to four possible refinements in the fields of lawyer exemptions, deductibles, aggregate coverage limits and the amount of the base limits.

(D.) The insurance policy shall provide for no deductibles. The vote on this item was five to two, Messrs. Gates and Hoff voting "no."

(E.) The one million dollar limit shall remain in the policy unless the aggregate limit as it is presently being presented is renegotiated.

(F.) The Bar Association shall confine its communications relative to its program to communications with Marsh & McLennan Incorporated, and Marsh & McLennan Incorporated shall communicate appropriately and accordingly with those parties necessary to the implementation of the program.

(G.) The following resolution was adopted and substituted for the "Firm Order" (sub-para "B") resolution previously adopted: *Resolved: that*

Marsh & McLennan Incorporated is hereby appointed and confirmed as the exclusive broker of record of the Washington State Bar Association to arrange errors and omissions coverage for the Association and that no other party does have or has had authority during 1974 to act as broker on the behalf of the Association in respect to such insurance.'

(H.) The program of errors and omissions insurance ("program") outlined in the June 13, 1974 proposal of Marsh & McLennan Incorporated, involving a form of policy to be issued by the Argonaut Insurance Company, is adopted as the program of the Association to be put in effect February 1, 1975 subject to the following:

a. single client attorneys (to be defined by the Association) shall have the option to be exempted from the program;

b. the coverage limit for each claim of \$1,000,000.00 and the aggregate claims limit of \$1,000,000.00 will be subject to further negotiation;

c. other details of the insurance coverage and the administration of the program may be modified with the approval of the Association and the insurer' and

d. the Association reserved the right, without liability, to abandon the entire program prior to the attachment of any coverage risk against any insurer if, in the judgment of the Association, events beyond its reasonable control make the implementation of the program not in the best interests of the Association.

(I.) The resolutions regarding E and O coverage shall not go into force and effect until such time as Marsh & McLennan has furnished the Bar Association a letter confirming the oral understanding between Marsh & McLennan.

(J.) A proposed rule change relating to the compulsory malpractice insurance program has been submitted to the Supreme Court.

(K.) It was agreed that consideration of proposed changes in the by-laws relating to the compulsory malpractice insurance program be deferred for submission and consideration at the September meeting of the Board.

Clients Security Fund—Claims

(A.) The recommendation of the Clients Security Fund Committee that the sum of \$10,000 be paid to the appropriate person or persons arising out of the claim of the Ora de Bennett estate against Jack England, a disbarred attorney, was

approved and the said amount shall be paid.

(B.) The recommendation of the Committee that the sum of \$2,600 be paid to the appropriate person or persons arising out of the claim of John Dove, Jr. against B. Rolf Espedal, a disbarred attorney was approved.

(C.) The recommendations of the Committee that the sums of \$500 for the claim of Mr. and Mrs. Gale C. Wagner, \$300 for the claims of Joanne Grauer, \$500 for the claim of Mr. and Mrs. H. L. Conduff, and \$500 for the claim of John L. Harris, all against James Alfieri, a deceased attorney, were approved and the claims shall be paid.

(D.) The recommendation of the Committee that the \$5,000 claim of Alyce G. Hall against William Lockett, a deceased attorney be paid was approved subject to appropriate investigation into the assets, if any, of the estate of William Lockett and the filing of the necessary claims against such estate for the reimbursement of the Bar Association in the event assets become available for such reimbursement.

LAC AND Trial Committees

A local administrative and a trial committee as recommended by the Disciplinary Board, will be appointed.

Certification of Specialists

Donald A. Cable, chairman of the Committee on the Certification of Specialists appeared before the Board to discuss the work of that committee. Jack A. Borland of Olympia was added as a member of the Board of Specialization.

The Disciplinary Program

Edith Lobe, Seattle, and Calvin Johnson, Ellensburg, the lay members of the Disciplinary Board, met with the Board of Governors and discussed generally the disciplinary program.

The Law Clerk Program

The applications of Janet C. Mann and Clifford George Morey, to be enrolled in the Law Clerk Program, were approved.

Insurance Program

The President was authorized to appoint a subcommittee of the Board with authorization to review the insurance program presently approved

by the Bar Association with material distributed from the Bar Office involving all forms of insurance coverage other than malpractice insurance. After a complete review of the programs presently offered and similar programs offered in Bar Associations in other states, the committee to be appointed should prepare and present a recommendation to the Board looking toward the Bar Association being of the greatest service to its members in these fields.

CLE Committee—Proposed Seminar Programs

The seminar schedule as proposed by the Continuing Legal Education Committee was approved.



Lunch and . . .



Entertainment



Around the State

SKAGIT REPORT

By DAVID A. WELTS

According to plan, the Skagit Bar has new officers as of September whenever the first meeting was. Contrary to all tradition, however, there was a race for Secretary! Our age old seniority formula is down the tube.

In a squeaker, Colonel Betz prevailed over Gary Jones and Peggy Decker. According to formula, Charles Twede is Vice President and David Welts, President.

Our best to the retiring officers who, as the saying goes, came to office with little opposition and left with none.

Chesterfield Smith, retiring A.B.A. President was featured speaker at our Dinner honoring Alfred McBee and his 50 years. Mr. Smith told us that five years ago they hailed him as the *Father* of Florida's new Constitution. Now, they call him *Mother* of the Constitution, Father unknown.

Bud Gilbert and his extravagant tastes as Social Chairman has brought a new dimension to our Association—insolvency.

Seldom has a Courthouse political race stirred so much interest in the Bar. Chief Deputy Beverly Whitsell, our guardian angel for years, is opposed in her bid for the vacant office of Clerk. With a view toward our malpractice rates and knowing how much too-much she knows, we're behind her all the way.

Judge Walter J. Deierlein, Jr. is wondering why. Up here, our two Judges alternate years with the jury. Harry Follman has odd years. Every murder trial for years has been during the *even* years. The expiration of big

union contracts, with the attendant injunctions, etc., is on *even* years. Now he has back to back murder trials. Should have looked in the Farmers Almanac, Judge.

YAKIMA REPORT

By RANDY MARQUIS

Appoint New District Justice Court Judge:

The Yakima County Commissioners recently appointed John Nicholson to the position of Judge of the Yakima County District Justice Court. John replaces Les Vannice, non-lawyer, who was forced to vacate the position after the grandfather clause was repealed by the Legislature.

Lawyers Announce for Prosecuting Attorney Position:

Candidates appear to be building up a head of steam for the race for Yakima County Prosecuting Attorney. Paul Edmondson, Democrat, and Jeffrey Sullivan, Republican, have filed for the position. In addition thereto Robert I. Bounds has published notice announcing a nomination convention under the Minor Party Convention Statute. Assuming support by one hundred or more registered voters who did not vote in the Primary Election, Bob will be a "non-partisan" candidate. Incumbent Jon Harlan having decided not to run, it would appear that Yakima voters may look forward to a vigorous and interesting race.

Attorney Named Campaign Chairman:

J. Hugh Aaron has been named general campaign chairman for

Alex Deccio's bid for election as 15th District state representative.

BENTON-FRANKLIN REPORT

By NEAL J. SHULMAN

While the summer sun continues to shine, most of the local bar has returned from vacation and is gearing up for the new fall jury team. One last fling remains, the State Bar Convention in Vancouver, B.C. The big question is whether Stan Taylor, Pasco, will win one or two door prizes at this year's convention.

Pete Felsted, formerly Kennewick's City Attorney, has been appointed District Court Judge in Franklin County, filling the vacancy created when Fred Staples was appointed to the Benton-Franklin Superior Court. Donald B. Stancik has been appointed Kennewick's City Attorney, a part-time position, allowing him to continue in private practice.

The Hanford House in Richland was the scene of the annual conference of the Washington Judiciary. Supreme Court Justices, as well as Judges of the Courts of Appeal, Superior Courts, and District Courts throughout the state met and conferred for four days in the sun city. The Benton-Franklin Bar Association extends a cordial invitation to the judiciary to return soon.

SEATTLE-KING REPORT

By GERALD G. TUTTLE

Abbey & Platis announce that Kenneth D. Beckley has become a partner and that the new firm, Abbey, Beckley & Platis, will continue business at 1001 Logan

Building.

The 1974 State Legislature created a new Council on Environmental Policy charged with promulgating regulations implementing the State Environmental Policy Act of 1971. **Stephen J. Crane**, a recent graduate of the University of Washington School of Law has been appointed Special Counsel to the Council on Environmental Policy by **W. A. Gissberg**, its Chairman.

Chuck Covello announces the opening of a new office at 925 United Pacific Building.

Skeel, McKelvy, Henke, Evenson & Betts announce the removal of their office to the 40th Floor, Bank of California Center, and also announce that **Donald C. Cramer** has become associated with the firm.

Smith and Redman announce that **Thomas C. O'Hare** has become a partner of the firm under the new name **Smith, Redman and O'Hare** with offices at 2418 Smith Tower.

Dale R. Ulin, formerly of **Murray, Dunham & Waitt**, and **Robert G. Taylor**, formerly of **Winston, Cashatt, Repsold, McNichols, Connelly & Driscoll** in Spokane have formed a partnership under the name **Taylor & Ulin** operating from the Northwest Construction Center.

Dowrey & Cross announce the association of **Robert L. Gulette**.

Schweppe, Doolittle, Krug, Tausend, Beezer & Beierle announce the removal of its offices to 1600 Peoples National Bank Building.

Bruce M. Pym has become a partner of **Graham, McCord, Dunn, Moen, Johnston & Rosenquist** and **O. Kent Whiteley** and **John T. John** have become associates with the firm.

PIERCE REPORT

By **KENYON E. LUCE**

Tacoma Attorney **David Thompson** was sworn in as Superior Court Judge, Monday, July 29, 1974.

Fred Fleming is now associated with **VanBuskirk & Haas**.

Former Tacoma Attorney **John Blakiston** died in San Jose, California.

Starting in September, motions and assignments will be on Fridays, and court trials will begin at 9:30 A.M. on Mondays starting in September.

LeRoy C. Boyce is now engaged in the general practice of law with offices at 7320-6th Avenue, Tacoma, Washington 98406, telephone 564-5787.

The Bar Office still needs a nice looking bookcase. They will buy!

The Lawyer Referral Service had a record month in June—104 referrals.

Hutchins, Plumb & Wheeler announce that **Donald E. Kelley** has become an associate of the firm at Tacoma.

Paul Kelinwachter, graduate of the University of Tulsa 1968, formerly of the United States Army, is now associated with **Rush & Hayes**.

George W. Dixon announces that **James M. Caraher** has joined his practice as an associate.

The law firm of **Eishenhower, Carlson, Newlands, Reha, Elliott & Henriot** announce that **Richard D. Turner** and **David D. Gordon** have joined the firm as associates.

Burkey, Marsico, Rovai & McGoffin announce the association of **James J. Mason** and the formation of a partnership under

the name of **Burkey, Marsico, Rovai, McGoffin, Turner & Mason**.

L. R. Bonneville, Jr. spoke on the new Probate Code at the general bar meeting held on September 19th at the Top of the Ocean.

The 97th Annual Pierce County Lawyers' Golf Tournament will be held on Friday, October 11, 1974, at Oakbrook Golf & Country Club, beginning at noon. All interested Mariners are requested to bring their Ship, Captains and Crews.

SPOKANE REPORT

By **JOHN N. LINDSAY**

The Spokane County Bar was honored by the presence of **Chesterfield Smith**, president of the American Bar Association in a mid-July visit to Spokane and Expo '74. The ABA Chief, in an address to the Bar, called 1974 "the year of the lawyer," referring to the legal skills and knowledge utilized by judges and lawyers handling varying aspects of the Watergate affair. Mr. Smith added stinging words or rebuke for members of the legal profession who found themselves involved in the Watergate web and related scandals.

With the Bar . . . Moving to **Paine, Lowe, Coffin, Herman & O'Kelly** is **William Burns**, formerly clerk for Federal District Court Judge **Charles L. Powell**. **Holland Ford** has joined **Schimanski & Leeds** after serving as a deputy county prosecutor. **Delay, Curran & Boling** moved to new offices in the Washington Mutual Savings Bank Building. **Michael E. Donohue** and **Parker Compau** have moved their offices to 6th Floor, Spokane & Eastern

Building, in association with the **Smith Law Firm**. **Robert Southwell** of Mallot and Southwell continues a good recovery by returning to work following a serious mid-May airplane mishap. **Mike Pontarolo** joins **William B. Iunker** in offices on the 6th Floor, Old National Bank Bldg. **Larry Kruger** has opened offices in the Great Western Building. Finally, all young lawyers in Spokane County are reminded of the upcoming elections for positions on the Young Lawyers' Committee.

WHITMAN REPORT

By **DOLORES JANE COOPER**

The Whitman County Bar Association recently elected its new officers for 1974-75. They are: President, **Ronald D. Webster**; Vice President, **Ed McBride**; Secretary-Treasurer, **Howard Neil**; Reporter, **Dolores Jane Cooper**. The Bar is proud to announce also that all the newly sworn-in attorneys in Whitman County have made the most difficult of all transitions—the transition which puts to an end their student life and is an index of professional commitment. Each has voluntarily given up food stamps and is gainfully employed.

Jim Henderson has moved into his newly acquired practice in Clarkston, but he still maintains a practice in his home in Pullman. Letters may be addressed to him at either Clarkman or Pullston. The Bar itself has had a full agenda of professionally important meetings. **Karl B. Tegland** spoke to us about the proposed rules of Appellate Procedure. Much approval was expressed concerning the streamlining of the proposed

rules. **Mr. Tegland** contributed a great deal to the Bar and we thank him.

Even though **Mr. Tegland** was a hard act to follow the Judges of the Court of Appeals, Division 3, the Honorable **Dale M. Green**, Chief Judge; the Honorable **James B. McInturf**, and the Honorable **Ray E. Munson**, did so. The Judges discussed the procedures and the proposed new procedures for arguments before the Appellate Court. This was followed by a question and answer period in which the new attorneys were characterized by an unusual lack of questions.

Other members of the Bar, however demonstrated their usual highly lustrous expertise, especially in matters of appeal, by asking an assortment of brilliant questions. The Bar sincerely extends its thanks to these Judges for this most informative and worthwhile presentation. In July, the Bar was visited by Attorney General **Slade Gorton**. He spoke to us about the status of an earlier class action suit brought by the State of Washington, as well as by other states, against numerous pharmaceutical firms, which manufactured among other products antibiotics. Washington State was one of the states which received a favorable judgment and which now will proceed with the distribution of recovered funds to its citizens who purchased the drugs. The Bar thanks **Mr. Gorton** for his highly informative presentation and will thank him again, perhaps even more heartily, after the members recover their share of the distribution.

To demonstrate that the Whitman Bar is not all work and no play, we recently combined ranks with the Moscow Idaho Bar Association for a dinner-

dance, hosted by the Moscow Bar.

EAST KING REPORT

By **RALPH I. THOMAS**

While everyone else has been vacationing, **Richard P. Beaudry**, **Lyle E. Neeley** and **M. Gerald Herman** have formed a partnership with offices at 600 Seattle Trust Building, 10655 N.E. 4th Street, Bellevue, Washington. **Bruce G. Hand**, **Joseph S. Miller**, **Saul D. Herman** and **Gary S. Wiese** have also moved from wherever they were and are continuing their individual practices at the same location, to-wit: 600 Seattle Trust Building, Bellevue, Washington.

COWLITZ REPORT

By **O. H. HUSEMOEN**

The annual Cowlitz County Bar Association summer picnic was its usual success. This year, as in many years past, the picnic was held at the home of the late **Ronald Moore**.

Officers to serve the 1974-75 year for the Bar Association have been elected and they are **William L. Dowell**, President; **D. L. Donaldson**, Vice-President; and **John A. Barlow**, Secretary-Treasurer.

Willard Walker and **William L. Dowell** have joined in partnership and are moving their office to the Bank of the West Building in Longview. Apparently those offices will be ready sometime in October. The firm of **Calbom, Cox, Andrews & Hamm** will continue to practice at their old address.

C. C. Bridgewater has left the Prosecuting Attorney's office and is now one of the

two public defenders working out of the offices of Klinberg, Houston, Reitsch, Cross & Frey.

KITSAP REPORT

By WM. J. KAMPS

The Kitsap County Bar Association met September 5, 1974, and elected officers for the 1974-75 business year. **Jay Roof** of Niemeier, Green & Roof was elected president. **Gary Cunningham** of Bishop, Cunningham & Costello, Inc. P.S., was elected vice-president. Our new secretary-treasurer will be **Bruce Martin** of Sanchez, Martin & Armstrong, Inc., P.S. Elected to the Board of Trustees were: **Chris Bell** of Schultheis, Maddock & Bell; **Bill Denend**; **Walt Hackett, Jr.**, of Arthur & Hackett; and **Gary Sexton** of Walgren & Sexton, Inc., P.S.

Revised local rules have been adopted by the Kitsap Superior Court. Copies may be obtained from the office of the Kitsap County Clerk.

Welcoming new sons into their families are **Mike** and **Sharon Koch** and **Danny** and **Francine Clem**.

In August the bar was saddened by the death of **Helen Graham Greear Gunther's** husband, **Herbert**.

GOVERNMENTAL LAWYERS

By JACK A. BORLAND

The changing season brings forth news of changes on the Governmental Lawyers scene both here in Olympia and elsewhere. **William E. Howard**, formerly assistant attorney general assigned to the Depart-

ment of Highways, has filed for the position of Jefferson County Prosecutor on the fall ballot; in the meantime, he has accepted a position as deputy prosecutor on the staff of Jefferson County Prosecutor W. J. Daly. The fall sees seasonal changes in the Supreme Court law clerks also. **Joe Puckett**, who has clerked this part year for Justice Stafford, has accepted an associate position with the Seattle law firm of Short, Cressman & Cable; he is replaced by **Jim Ryan**, a recent graduate of Drake University Law School.

Justice Hunter's clerk for the past year, **Frank Dacca**, leaves to join the United States Attorney's office in Los Angeles; he is being replaced by **Andrew Bohrsen**, recent graduate of Gonzaga Law School. **A. Peter Parsons**, clerk for Justice Finley this past year, will join the Seattle law firm of Perkins, Coie, Stone, Olson & Williams as an associate and will be replaced by **Kerry Kidman**, a recent graduate of University of Washington Law School. Mr. Parsons has also been recently appointed as adjunct professor at the University of Puget Sound Law School.

Norman Ericson, clerk to Justice Wright for the past three years, will be entering private practice here in Olympia. He is replaced by **Drake H. Charles**, who only recently was employed by the Lawyers Research Service in Olympia and is a graduate of Loyola University Law School, Los Angeles. Justice Utter's law clerk, **Earl (Mike) Andrews**, has accepted a position as an associate with the Seattle law firm of Jones, Gray, Bailey & Olson; he is replaced by **Timothy Ford**, a recent graduate of Stanford University law School. Mr. Andrews, likewise, has been appointed as an

adjunct professor at the University of Puget Sound Law School.

John A. Heglund, law clerk for the past year with Justice Hamilton, has accepted a position as associate with the Olympia law firm of Mooney, Cullen & Holm; he is replaced by **Ms. Anne Ellington**, a recent graduate of the University of Washington Law School. Mr. Heglund, recently appointed a member of the Washington State Bar Association's Legal Education Washington High Schools Developmental Council, has spent the last weeks of this summer touring Mediterranean Europe. **William Brooke**, senior law clerk to Chief Justice Hale, has recently been appointed adjunct professor at the University of Puget Sound Law School. **Richard (Mick) G. Phillips** has recently been appointed as Chief Justice Hale's second law clerk. Mr. Phillips joins the court coming from private practice, having been an associate with Don Miles' law firm in Olympia. □

Medical Institute for Attorneys

The University of Miami Law Center in cooperation with the School of Medicine is proud to announce that the Seventh Medical Institute for Attorneys will be held January 29 through February 1, 1975 at the Americana Hotel in Bal Harbour, Florida. The program, which is entitled **DISABILITY AND REHABILITATION**, should be of particular interest to those attorneys whose practice requires them to be fully versed in traumatic medicine. Contact Seventh Medical Institute for Attorneys, University of Miami Law Center, P.O. Box 8087, Coral Gables, Florida 33124.

THE LAW ON COMPULSORY MALPRACTICE INSURANCE

The following by-law concerning compulsory malpractice insurance was adopted by the Board of Governors on September 11, 1974. The effective date of the compulsory malpractice insurance program (and the by-law) will be dependent upon approval of a proposed rule change now before the State Supreme Court.

The November issue of the *Bar News* will contain a full explanation of the program.

**ADOPTED BY THE BOARD OF GOVERNORS
OF THE
WASHINGTON STATE BAR ASSOCIATION
SEPTEMBER 11, 1974
BYLAW**

Article VIII

(other later Articles renumbered)

MALPRACTICE INSURANCE REQUIRED

- Sec. 1 Commencing February 1, 1975, every active member except those who satisfy the conditions for exemption in Sec. 4 of this Article shall be insured for professional errors and omissions on an insurance contract arranged for by the Association.
- Sec. 2 The premium for such insurance shall be fixed by the Board of Governors prior to the billing of annual dues and the amount thereof shall be paid by each active member as part of the membership fee and treated for all purposes as a part of the membership fees.
- Sec. 3 Upon admission to the bar, reinstatement to active membership, expiration of suspension or prior to engaging in any practice of law which terminates his or her exemption granted under the terms of Sec. 4 hereof, a member shall pay the Associa-

tion the amount of the membership fee then required to become insured as required by Sec. 1 hereof.

Sec. 4a. An active member who meets the following conditions will be exempt from the requirements of this Article:

- (1) he or she does not engage in any practice of law in the State of Washington or such practice does not go beyond either
 - (a) practice on behalf of one or more employers or clients all of whom are governmental agencies, or
 - (b) practice on behalf of no more than a single employer or client, and
 - (2) he or she executes and completes the form of certificate and undertaking provided by the Association to establish the exemption.
- b. An active member may be granted an exemption by the Board of Governors or its designee on a showing, in conformance to any procedures established by the Board, that his or her practice of law is so limited as to be the equivalent, in terms of potential professional liability to clients, of the grounds set forth in (1) above.
- c. For purposes of this Article
- (1) "practice of law" shall include such practice without compensation except, only, where the practice is wholly without compensation or expectation of compensation on behalf of a non-profit organization or the clients of a bona fide legal aid or public defender organization.

- (2) "practice of law" shall not include teaching law, acting as a judge, referee, master or arbitrator.
- (3) "practice of law in the State of Washington" shall include such practice by the member while in the state or in respect to any matter or person in the State of Washington.
- (4) "on behalf of one or more governmental agencies" shall include the representation of officials or employees of governmental agencies in respect to any alleged action or omission in performance of official duties where such representation is required of the member in connection with his practice of law on behalf of a governmental agency.
- (5) "employer or client" shall include any organization or person except
 - (a) a member of the immediate family of the member, or
 - (b) a person who is an active member of the Washington State Bar Association.
- (6) "single employer or client" shall include affiliates controlling, controlled by or under common control with a single client or employer.
- (7) where a member's compensated practice on behalf of a single client or employer includes practice of law on behalf of customers, employees, patrons or members of such client or employer then such member shall not be eligible for exemption under Sec. 4 a(1) (b) above.

d. In the case of a person being admitted to practice the exemption will be available if that person is able to state that following admission his practice will be limited as prescribed for exemption.

e. Any member exempted under this section shall be obliged to notify the Association and comply with Sec. 3 hereof prior to engaging in any practice of law beyond the limitations of this section and such exemption shall terminate upon engaging in any practice of law beyond the limitations of this section.

Sec. 5 If an active member, having paid the amount of membership fee imposed by

Sec. 2 or 3 hereof ceases to be an active member or becomes exempt under the terms of Sec. 4 hereof during the period of the coverage obtained by such payment, then upon request, he or she shall receive a pro rata refund on a schedule to be adopted by the Board of Governors at the same time as the premium for such insurance is fixed under Sec. 2 hereof.



Ex-Board Members Novack and Day



Maurice McMicken



Important Federal Tax Changes

by Malcolm D. Katz

In *Kirschenmann v. Commissioner*, 73-2 U.S.T.C. § 9799, November 12, 1973, the Ninth Circuit held that in determining whether a seller could use the installment method of reporting the gain on the sale of real estate, the brokerage commissions and other expenses of sale could be added to the property's basis, and thereby reduce the amount which a mortgage assumed by the purchaser exceeded the seller's basis enough so that the differential, when added to the cash payments in the year of the sale, was less than 30% of the sales price. If all the other requirements for using the installment method were also met, then the tax could be paid over as the installments were collected.

However, in Rev. Rule 74-384, which came out approximately one month ago, the Internal Revenue Service announced that the costs of sale could not be added on to the seller's basis in determining whether the installment method was possible, or for that matter, for any other purpose. Rather, the thrust of the ruling is that the sale has to qualify for that method on its own steam, and only when that method is available would the costs of sale be taken into account, and then only in computing the net profit and the percentage of each payment of principal that therefore had to be included in income. The unanimous holding of the Ninth Circuit in *Kirschenmann* that such expenses could be taken into account in determining other matters, like the amount of the payments in the year of the sale, was therefore expressly rejected by the Internal Revenue Service.

The IRS's ruling raises several interesting questions, including (1) whether in applying the 30% rule, the costs of sale can actually be ignored, and (2) whether the fact situation in *Kirschenmann* will be relitigated in the Ninth Circuit, and if so, whether transactions already consummated but still open to audit under the statute of limitations will now be audited, or whether the Service as an agency of the executive branch of government will follow that case in this circuit but refuse to follow it elsewhere, and hope for

a judicial conflict with ultimate resolution by the Supreme Court of the United States. As for the first question, the clear thrust of the ruling is that the costs of sale are to be ignored in determining whether the sale qualifies for the installment method, but strangely enough, the ruling is silent on this point. As to the second question, the failure to declare the ruling retroactive to all cases open to audit under the statute of limitations is bothersome in light of the appearance of this issue on the Service's list of prime issues, which issues are generally litigated by the Internal Revenue Service.

Water Quality — Minimum Stream Flows and Strip Mining

by Joel Haggard

EPA just released a report on "Water Quality Protection Guide—Logging Roads." It noted that logging roads cause up to 80% of stream pollution in commercial timberlands. The report may find its way into present state discussion on regulations governing timber operations. On that subject, the State Forest Practices Board recently adopted a rule providing state management of timber projects within 75 feet of streams and rivers. The rule in part, requires, that streamside vegetation should be left in as near as undisturbed condition as possible during and after harvesting operations in order to maintain water quality. Is this a forerunner of a condition for any streamside development? If such a development would be subject to the Shorelines Management Act, you may want to check the Shorelines Hearings Board rules in WAC 461-08.

Minimum flow levels for the state's rivers and streams were to be adopted by the Department of Ecology (DOE). This is a requirement under the state's 1971 Water Resources Act. In response to criticisms, DOE has cancelled the proposed adoption of regulations. In establishing base flows, DOE has indicated it will seek new methods for determining the minimum flows and will work with the public. Any input in behalf of your clients?

Initiative 276

(continued from page 7)

To clarify what may continue to be some misunderstandings, I call your attention to AGO 1973 No. 6, explaining the meanings of such terms as "direct financial interest," and other reporting details.

Again, the hardship exemption provision and its application to the legal profession will be discussed later in this article.

PUBLIC RECORDS

Perhaps the least known chapter consists of RCW 42.17.250 - 42.17.340. Its general idea is to further "open government" by providing and insuring public access to public records. The act defines the term "public records" somewhat broader than the traditional common law definition of that term. However, the substantive provisions of the act narrow the concept in other respects by foreclosing public inspection of certain types of records which used to be considered "public." See, AGO 1973 No. 4. One significant provision that has generated some controversy is RCW 42.17.260(5), which forbids agencies to ". . . give, sell or provide access to lists of individuals requested for commercial purposes . . . unless specifically authorized by law." Questions of what are "lists" and what is a "commercial" purpose are not clearly answered as yet.

This chapter applies to both state agencies and local governmental agencies. State agencies must publish certain directions in the Washington Administrative Code, and local agencies must ". . . prominently display and make available for inspection and copying . . ." certain channels to facilitate access to information. Records which are available for inspection must be available for copying, and agencies must allow the use of their facilities to make copies to the extent that such use will not unreasonably disrupt the operations of the agency. Actual costs of copying or the use of equipment can be recovered by the agency.

RCW 42.17.310, however, exempts ten separate specific classes of records or information from inspection to the extent that certain details cannot be segregated and withheld. In addition, RCW 42.17.260 seems to provide a general exemption from revealing information, the disclosure of which would constitute ". . . an unreasonable invasion of personal privacy . . .". An agency may adopt rules to protect the safety of its records and to prevent disruptions. RCW

42.17.290. Injunctive relief may be granted ex parte to prevent inspection in particular cases. RCW 42.17.340, on the other hand, provides an effective remedy to a citizen who is unreasonably denied access to a record. Such a person may seek an injunctive order and, if successful, will be allowed costs, including attorney's fees. The court may also award to the moving party in such a case an amount ". . . not to exceed twenty-five dollars for each day that he was denied the right to inspect or copy said public record. . .". Inspection must be freely available; however, agencies may charge actual costs for copying or the use of copying facilities. RCW 42.17.300.

ADMINISTRATION.

Primary responsibility for administering and enforcing chapter 42.17 RCW is vested in the five-member Public Disclosure Commission which has its regular meeting days on the third Tuesday of each month. See, RCW 42.17.350. The meetings are usually held in Olympia, at the commission offices, now located on the Fourth Floor of the Evergreen Plaza Building on Capitol Way. A typical meeting agenda includes reports of investigation and disposition of complaints involving alleged violations of the act; action on proposed regulations or amendments to regulations; and the granting or denial of hardship exemptions.

Violations of the act may result in one or more of several kinds of penalties, depending upon the nature of the offense. However, the act provides a general civil penalty of up to ten thousand dollars for any violation regardless of its nature.

The commission has already heard a number of cases involving various kinds of violations; chiefly failures to file timely reports of political or lobbying activities. Several such cases have resulted in settlements of substantial sums.

It is important for practicing lawyers to understand the enforcement role of the commission in cases involving alleged violations. Although the commission may hold "hearings," it is not empowered to "decide" cases and impose fines. It may publicize the fact that an alleged or apparent violation has occurred. RCW 42.17.340(4). In addition, the commission may take evidence and determine whether or not to initiate or request civil action against an alleged violator for the imposition of the civil penalty or penalties prescribed in RCW 42.17.390. Amounts

collected by the commission to date are voluntary payments made as the result of settlement agreements in lieu of the maximum civil penalties for which the commission could otherwise sue. The commission has been advised that it has the power to settle cases in that manner, like any other civil suit for damages.

The commission has the primary responsibility to act on complaints of alleged violations. However, the attorney general and the "prosecuting authorities of political subdivisions of this state" are granted the independent concurrent authority to do so. RCW 42.17.390. Thus, the statute is generally understood to authorize city attorneys as well as county prosecuting attorneys to initiate civil enforcement actions.

There is an additional provision, which allows citizens to initiate civil enforcement actions under certain circumstances if the Attorney General refuses to do so. RCW 42.17.400(4).

The commission has broad power to issue supplementary and interpretative regulations. RCW 42.17.390; *Fritz, et al. v. Gorton, et al., supra*. An attorney cannot confidently or effectively advise clients on their rights or duties under chapter 42.17 RCW without some familiarity with the numerous regulations already adopted by the commission. They are codified, incidentally, in chapter 390 of the Washington Administrative Code; WAC 390-04-010 - 390-28-100. Copies are available, as noted earlier, at nominal cost.

The Hardship Exemption

RCW 42.17.370(9) allows the Public Disclosure Commission to act judiciously so as to grant exemptions from any of the reporting requirements of the act in cases of genuine hardship, where the exemption will not do violence to the act's basic purposes. The commission's implementing regulations on the subject are codified as WAC chapter 390-28 and attorneys should have an especially thorough understanding of them.

Probably the largest volume of commission business so far has involved hearings under those statutory and administrative provisions, mostly on applications by candidates and elected officials for relief from financial disclosures. Complaints that it is impossible to hold public office and remain in private business appear to stem mainly from either a lack of knowledge or understanding of those provisions, or a flat refusal to take advantage of them. Granted there have been some genuine cases of conflict between the act's disclosure requirements and the legiti-

mate business or professional concerns of an applicant. The commission has regretfully denied exemptions in some cases of that kind, where the public's right to weigh potentially conflicting interests or the risk of setting dangerous precedents seemed to outweigh other considerations. Coincidentally, some in this category are requests from lawyer-elected officials who sought blanket exemptions from reporting the names of business clients for their law partnerships. The main reason for the denial is that, contrary to some assertions, the reporting requirement does not breach any attorney-client privilege (AGO 1973 No. 1) and the exemption of "all clients" of the partnership would simply create too large a loophole in the act. On the other hand, a request to exempt an attorney from naming certain specific clients for particular reasons has been granted in at least one case. The commission, on request of the applicant, can hear such a petition in executive session in order to avoid premature disclosure while making up its mind. WAC 390-28-070.

CONCLUSION

Most public officials and others affected by chapter 42.17 RCW are finding that "open government" does not create the insurmountable problems they anticipated. Many openly concede that whatever inconveniences they may suffer in making the required disclosures are fully justified by the public's need for the information. Most others appear willing to comply with the law, once they understand its requirements. Such attitudes are refreshing these days, and they deserve the support of all who are genuinely concerned about the quality of our state and local governments. We lawyers in both the private and government sectors can provide a worthwhile public service by promoting a better understanding of the act's provisions, its workings, and its purposes. True, not all of those provisions are perfect, and doubtless the act could be improved. However, what the public presently needs, to restore its confidence in government, is a candid compliance with the law as written. I submit that we all have a serious responsibility to help fulfill that need. □



SUPREME COURT PRACTICE

By **WILLIAM M. LOWRY**

Supreme Court Clerk

What are the procedures for invoking the original jurisdiction of the Supreme Court in cases other than petitions for writs of habeas corpus? Article 4, Section 4 provides the scope of such jurisdiction:

The supreme court shall have original jurisdiction in habeas corpus and quo warranto and mandamus as to all state officers.

The procedures set forth by rule are included in ROA I-58. It may be noted that the rule also includes prohibition directed to state officers. This should not be considered an extension of constitutional jurisdiction, however, since prohibition is technically a negative form of mandamus.

ROA I-58 does not provide for a preliminary hearing before the Chief Justice. There are, however, three questions that the Chief Justice will pass upon before the case will be set:

- a. Is the action against a state officer as that designation is used by the Constitution?
- b. If so, should the Supreme Court assume jurisdiction, and
- c. If the first two questions are answered in the affirmative, is a reference hearing necessary to determine the operative facts?

These questions can be brought before the Chief Justice by filing a petition for an order to show cause and noting it for hearing on any Thursday at 1:30. A more simple procedure which avoids some of the questions raised by a show cause order is to simply request a hearing before the Chief Justice on a Thursday.

The question of whether the action is against a state officer as that phrase is used by the Constitution is a somewhat fuzzy area. The Court has held that a member of the board of regents of an agricultural college is not a state officer, *State ex rel Stearns v. Smith*, 6 Wash. 496; the insurance commissioner is a state officer, *State ex rel North Coast Fire Ins. Co. v. Schively*, 68 Wash. 148; members of the state board of equalization are state officers, *State ex rel Dunbar v. State Board of Equalization*, 140 Wash. 433; chairman and secretary of the state highway committee are

not state officers, *State ex rel Clausen v. Hartley*, 144 Wash. 135; judges of the superior courts are state officers, *State ex rel Edelstein v. Foley*, 6 Wn.2d 444; County Commissioners are not state officers, *State ex rel Hollenbeck v. Carr*, 43 Wn.2d 632.

If the respondent is found to be a state officer, a resolution of the second question, "should the Supreme Court assume jurisdiction," involves two discretionary determinations:

a. The first is based on the theory that the Constitutional grant of original jurisdiction is not exclusive, but concurrent with the superior court. In describing the basis for making a determination of which court should assume jurisdiction the Court in *State ex rel. O'Connell v. Meyers*, 50 Wn.2d 454 stated:

The primary factor to be considered, in determining whether this court should assume or refuse original jurisdiction in mandamus to a state official, is whether the sovereignty of the state, its franchises, prerogatives, or the rights and interests of the general public are involved.

b. Even if the petition is found to involve the sovereignty of the state, its franchises, or prerogatives, or the liberties of its people, the court may hesitate to assume jurisdiction if: (1) the parties cannot agree on a statement of facts, (2) complicated factual issues must be resolved, (3) and failure to take jurisdiction will not amount to a denial of justice. A reference hearing in a complicated factual situation has not proved entirely satisfactory since the superior court judge is not in a position to determine the theory of the case and finds it difficult to rule on questions of admission of evidence. The Court in *State ex rel. Malmo v. Case*, 25 Wn.2d 118 alludes the factual consideration:

In *State ex rel Ottesen v. Calusen*, 124 Wash. 389 this court suggested and adopted as the better practice the rule that cases of this general nature should be relegated to the superior court for trial in those instances where the particular case does not involve the validity of a statute, or in its character does not require the assumption of original jurisdiction by the supreme court in order to prevent a failure of justice, *and where questions of fact are involved* and the procedure has for its purpose the enforcement of a private right. (Italic added)

If it appears that the Supreme Court should exercise original jurisdiction, then the question of whether a reference hearing will be necessary must be settled.

The foregoing are proper matters for determination by the Chief Justice since they are procedural and do not affect the merits.

A related matter often brought before the Chief Justice at the same hearing is a petition for some kind of stay or injunctive relief during the pendency of a decision on the merits of the case. In passing upon whether the petitioner is entitled to such relief the Chief Justice will consider four questions:

- a. The effect upon the rights of the petitioner of granting or not granting the stay,
- b. The effect upon the rights of the respondent of granting or not granting the stay.
- c. The effect upon the public of granting or not granting the stay, and
- d. The likelihood of petitioner prevailing on the merits.

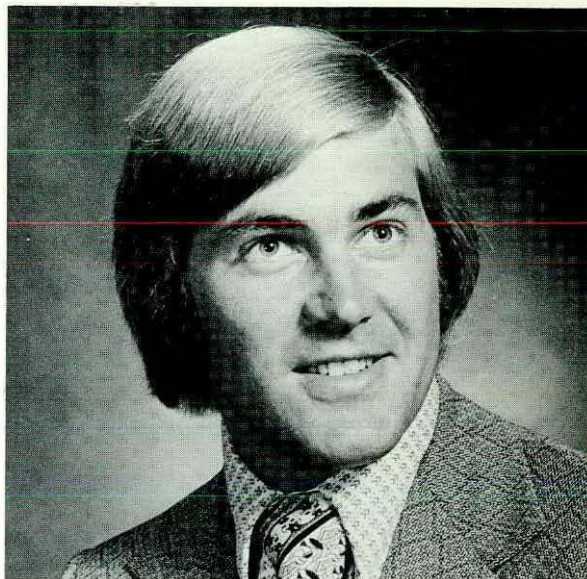
COURT OF APPEALS

By Judge **VERNON R. PEARSON**

Robert D. Nelson has been appointed Court Commissioner of Division II of the Court of Appeals.

Nelson will assume his duties August 1, 1974. The post carries a starting annual salary of \$18,000. Among the principal duties of the new Commissioner will be the training and supervision of law clerks and assisting the Chief Judge in the processing of appeals. This latter function will include the screening of all new appeals, passing on requests by attorneys for extension of time, and other prehearing motions. In addition, the Commissioner will assist the Court in processing applications for post-conviction relief by convicted felons and the many other applications for extraordinary relief which are made in both criminal and civil appeals.

The position has been necessitated by an ever-increasing volume of appeals, the annual rate of which has more than doubled in the five years since the Court of Appeals was created. The Commissioner will enable the Chief Judge to devote more of his time to the decision-making process and less to administration of the Court. In recent months almost one-fourth of the Chief Judge's time has been spent in administrative



Robert D. Nelson

details which could well be handled by a Commissioner.

Prior to assuming his Commissioner duties, Nelson was employed as law clerk for Judge Ralph Armstrong. Nelson, age 26, has been an adjunct Professor of Law at the University of Puget Sound School of Law.

Nelson graduated from McGeorge School of Law, University of the Pacific, in 1973, and was ranked first scholastically in each of his three years at law school. Previously, he had graduated cum laude from UCLA with a Bachelor of Arts degree in political science. He formerly came from Miles City, Montana.

SUPERIOR COURT NEWS

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

State superior court judges at their annual conference in Richland, September 4-6:

- Voted unanimously to impose on themselves stringent rules of discipline. The judges adopted Rules for Discipline of Judges providing for a Judicial Ethics and Grievance Committee composed of five superior court judges, two lawyers and two laymen. The Committee will process complaints alleging acts by judges involving "moral turpitude, dishonesty or corrup-



tion"; willful disobedience of a higher court's order; violation of the Code of Judicial Conduct or of the judge's oath of office; "gross incompetency" or "gross intemperance"; and refusal to cooperate with the workings of the Committee. Judge **William H. Williams** (Spokane) will chair the committee.

- Elected Judge **J. Guthrie Langsdorf** (Clark) as president of the Washington State Superior Court Judges Association to succeed Judge **William H. Williams** (Spokane). Other newly elected officers are judges **Stanley C. Soderland** (King), vice-president; **Jerome M. Johnson** (King), secretary-treasurer; **Willard J. Roe** (Spokane) and **Jay W. Hamilton** (Kitsap), trustees.

- Voted to create a student scholarship and/or loan fund at Gonzaga University Law School in memory of Judge James J. Lawless, a Gonzaga alumnus. Superior Court judges will contribute \$100 each to establish a fund of about \$10,000.00. Judge **Willard J. Roe** (Spokane) will chair the committee to establish the fund.

- Heard a spirited panel discussion on "The Media's Treatment of the Courts" chaired by Supreme Court Justice **Robert F. Brachtenbach**. Panelists **Howard C. Cleavinger** (Managing Editor, Spokane Daily Chronicle); **Don McGaffin** (Consumer Affairs Specialist, KING-TV, Seattle); **Bryan Johnson** (News Director, KOMO radio, Seattle) and **Neil Modie** (reporter, Seattle Post-Intelligencer) stressed the need for judges to explain effectively the workings of the judiciary to the media, the public and the litigant parties.

* * *

President-Judge **J. Guthrie Langsdorf** has appointed the following judges to chair committees of the State Superior Court Judges Association: Legislative, **Warren Chan** (King); Judicial Ethics and Grievances, **William H. Williams** (Spokane); Criminal Law, **George H. Revelle** (King); Mental Illness, **Donald N. Olson** (Spokane); Juvenile Court, **Stanley C. Soderland** (King); Improvement of Justice, **Richard J. Ennis** (Lincoln); Trial Judges Center, **Solie M. Ringold** (King); Institutions, **Jay W. Hamilton** (Kitsap); Family Court, **Nancy Ann Holman** (King); Judge Lawless Memorial, **Willard J. Roe** (Spokane); Salaries and Retirement, **William L. Brown, Jr.** (Pierce); Courts and the Community, **James A. Noe** (King); Courtroom Security, **Gordon Swyter** (Adams); Nominating, **Albert N. Bradford** (Walla Walla) and Spring Conference, **W. R. Cole** (Kittitas).

Convention was fine. Spokane lived up to its reputation as an unusual host. Not quite as much fun as in the dry spell, Spokane being located so short a distance south of the border was able to and did slacken the thirst of suffering counsel.

The long and able service of secretary **Clydene Morris** was recognized with the gift of a trip to Honolulu from ex-presidents and board members.

Joe Gordon, Tacoma, reported that at the ABA convention, the Washington delegation, **Munter, Griffin, Gordon, Schweppe** and **Holman**, sat in the front row of the House of Delegates to assure that nothing would get out of hand. Nothing did and they did nothing.

Births

Among the long list of newly admitted lawyers were many of unusual ability including two now Supreme Court judges, **Robert F. Brachtenbach** and **Robert F. Utter**, also **Hugh R. McGough**, the dedicated editor of the Bar News.

Tacoma: **Schuyler J. Witt** migrated from the "Pit" (Seattle) according to reporter **Brown**, to suburban Parkland and joined **R. L. Peters** there. Kennewick: **Robert Day** appointed municipal judge. **Charles Morbeck** resigned as municipal judge to enter private practice.

Pasco: **Judge B. B. Horrigan** celebrated his 50th anniversary of admission to the Bar with a big reception. The population of Pasco in 1904 when he opened there was about 300.

Olympia: Appointed assistant attorneys general were **W. Newell Smith, Edward Level, Dick Norman, Edward M. Lane,** and **Thomas A. Swayze, Jr.**

Seattle: **Al Schweppe** worked his way up from secretary to president of the Washington State Bar. It took only 25 years.

Crossed the Bar

Tacoma: **George F. Abel**, 47, son of the late judge **George D. Abel** of Grays Harbor.

Seattle: **Thomas A. Williams**, 55 and **John P. Murphy**, 64.

Yakima Special

A pressing problem was resolved. One member suggested the appointment of a committee to study office closing hours "so that it will no longer be necessary for us to wrestle with our secretaries." Reporter **Roberta Kaiser** says that the consensus was "if Harry wants to stop wrestling with his secretary he should be able to do so without the assistance of a committee."

David J. Williams

McLauchlan at Large —

Robert O. Beresford



**Probate Committee:
Robert P. Beschel
Dan Reaugh
Robert S. Muckelstone
Henry T. Newton
Willard J. Wright**



**Paul R. Cressman
Grant Armstrong
F. Lee Campbell**



at Vancouver, B.C.



Board Members:
Robert S. Day
Neil J. Hoff
James P. Curran

**John Gavin
and company**



Presidential Exchange:
Cleary Cone and
Ken Short



UPS News

The Juris Doctor degree was bestowed on 18 candidates from the University of Puget Sound for the first time in the school's history at summer commencement exercises Friday, August 16.

The 18 first graduates of the UPS School of Law joined nearly 200 other graduate and undergraduate candidates who received degrees in 21 separate academic disciplines. Those awarded J.D. degrees included Tacomans Bradley Poole and James Robinson.

Others were Ralph Beistline, Dona Cloud, Randal Fritzler, Stephen Henderson, Gary House, William Knebes, Hugh Kranitz, John Mackey, Ronald Morrison, Michael Pancheri, Barbara Phillips, James Pinney, Charles Reber, Terry Sebring, James Sells and John Voinski.

Commencement speaker was Joseph Sinclitico, dean of the university's law school, who addressed the graduates on "Young Americans and the Law." A J.D. graduate of Harvard Law School, Sinclitico served as dean for the University of San Diego Law School before joining the UPS staff in 1972.

Dr. Thomas David, dean of the university and professor of mathematics, presented the candidates to President and Professor of Political Science Philip Phibbs, who conferred degrees.

Gonzaga Law School News

Tax Court Symposium

Chief Judge Howard Dawson of the United States Tax Court will highlight a panel of distinguished tax practitioners, tax court judges and Internal Revenue Service personnel in Coeur d'Alene, Idaho, on October 25, 1974. The Tax Program of Gonzaga Law School is sponsor of the event.

The panel discussion will focus on a variety of problems encountered in the usage of the Tax Court forum as a method of resisting proposed Internal Revenue Service deficiencies related to tax controversies, with considerable emphasis on the effect of the recently revised Rules of Practice for the United States Tax Court. Similar programs have been presented in New York, Chicago and Los Angeles.

Lipman Redman, Vice-Chairman of the Committee of Court Procedure, Section of Taxation of the American Bar Association will introduce the program, to be held at the Northshore Lodge in Coeur d'Alene on the morning of October 25. Along with Mr. Redman, Judges William Drennen, former Chief Judge of the United States Tax Court, William Fay and Samuel Sterrett, longtime Tax Court judges, will moderate various panels for the program. John Picco, Assistant Regional Counsel for the Internal Revenue Service and Richard Shipley, also an Assistant Regional Counsel for the Internal Revenue Service, will participate as panel members.

Both Picco and Shipley have had a long association with the Service, Picco as the office head in Portland, Oregon, and Shipley first in Denver, Colorado, and presently as head of the Seattle, Washington, office of the I.R.S.

Dennis Fox, the Director of the Tax Court Litigation Division Office of the Chief Counsel, Washington, D.C., will represent the National Office of the Internal Revenue Service on the panel discussion. Fox and Picco were instrumental in the eventual adoption of the new Tax Court rules, the first complete revision in the 40 year history of this often-used forum for disputes between the government and the taxpayer.

The program will include all aspects of tax court litigation, including the initial steps of filing tax court petitions, litigation in the new small case division of the court, pre-trial discovery and actual trial and post-trial proceedings.

The program has been divided into three separate panels with a United States Tax Court judge serving as moderator for each panel. One representative of the Internal Revenue Service will serve on each panel along with two members from the private tax bar.

Because all aspects of Tax Court practice will be discussed, the Institute will be of great value to lawyers who do not generally practice before the Tax Court, as well as active Tax Court practitioners. The cost of the program will be \$40.00 which will include a copy of the new Tax Court Rules, together with coffee and luncheon at the Northshore Lodge. Transportation from Spokane, Washington, site of Expo '74, will be available to Coeur d'Alene, along with transportation back to Expo '74 for those attending who wish to take advantage of the opportunity to visit the Worlds' Fair site shortly before the Fair closes.

Among the private practitioners who will appear on the panel, together with Mr. Redman, will be Edward Rothe of Chicago, Illinois, John Jones, Jr. of Washington, D.C., J. Earl Epstein of Philadelphia, and John Scheifly of Los Angeles, California, all of whom have served on either the New York, Chicago, or Los Angeles panels.

Douglas Miller from the University of Florida

graduate tax program will also act as a panel member.

Early registration for the panel discussion would be desirable, due to reservation shortages because of Spokane's Expo '74. Registration and room reservations at the Northshore Inn on Coeur d'Alene Lake, may be made by contacting the Gonzaga Law School, ATtn: Tax Symposium, Gonzaga University School of Law, Spokane, WA 99202. □

1974 Convention Action



Philip J. Poth, Gary Gayton and John C. Walsh, S.J.



George Mack, Joel Haggard, Keith McGoffin, Rand Jack, Rick Aramburu, Robert Jensen

Hawaiian Drawing



Susan French drawing . . .



. . . winner making his claim



Aviation Law Seminar

The Second Annual Aviation Law Seminar jointly sponsored by the Aviation and Space Law Section of the Seattle-King County Bar Association and the Northwest Region of the Federal Aviation Administration is scheduled at Sun Mountain Lodge, Winthrop, Washington on October 4, 5, & 6, 1974. The initial session of the seminar commences Friday evening at 8:00 P.M.

Attorneys and others interested in aviation law will meet to hear prominent authorities on matters of litigation in aviation accident cases. Vernon T. Judkins is Seminar Chairman.

Jack Harrison, Associate Chief Counsel for Litigation, F.A.A., Washington, D.C. will speak on the government's responsibility—certifications, enforcement and investigations. Until recently, Mr. Harrison has been trial counsel for the Aviation Unit of the Department of Justice.

Attorney Pat Pattersen of Dallas, Texas and Richard Krutch will speak on aircraft litigation and crash worthiness. Dr. F. Warren Lovell outstanding pathologist and aviation medicine instructor will address the seminar on accident pathology.

Seminar plans are being coordinated for the bar association by John W. Sweet, Seattle attorney and Chairman of the Aviation and Space Law Section. Inquiries concerning the event can be directed to him at 219 East Galer Street, Seattle, Washington 98102; telephone (206) 324-4300.

Share-the-ride arrangements for transportation by car or plane from Seattle to the Sun Moun-

tain Lodge are also being made by the Section. Flying attorneys can use the lighted and paved 5200 foot runway at the Intericty Airport near Winthrop. Surface transportation from the airport to Sun Mountain will be provided by the lodge.

The FAA seminar coordinator is Jonathan Howe, Regional Counsel, Northwest Region Headquarters, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2670.

V.A. Appointment of James R. Triesch

James R. Triesch of Seattle has been appointed Chief Attorney for the Veterans Administration in Washington and Alaska.

He succeeds Glenn M. Barns who retired after 32 years of federal service.

Triesch has been with the VA since 1946 as an attorney in the Seattle VA regional office with responsibilities for the two-state region including assignments as opinion writer and GI loan attorney, and was acting chief attorney following retirement of Barns.

Born in Uniontown, Wash., he lived in Spokane. He received his L.L.B. degree from Gonzaga University, Spokane, in 1941.

He served in the U.S. Army during World War II. Following military service he was with the Army Air Force at Geiger Field in Spokane prior to joining VA.

Triesch is a member of the Washington State and King County Bar Associations.

Join A Section

All members of the State Bar Association are invited to join one or more of its twelve active Sections. These legal interest groups have their own officers, annual and other meetings, committees, seminars, and newsletters.

Each Section is responsible for continuing legal education in its respective field of law, for proposing to the Board of Governors new or amended legislation, and for making recommendations to the Board of Governors for further Bar activity and policy.

To join a Section, simply send a note to Cassie Morris, Administrator of Sections at the Bar Office, indicating which section or sections you wish to join, and enclose a check for the appropriate amount.

The twelve Sections and their annual dues for the fiscal year of October 1, 1974 to September 30, 1975 are as follows:

Administrative Law	\$ 5.00
Anti-Trust Law	8.00
Corporation, Business & Banking Law	5.00
Creditor-Debtor Rights	5.00
Criminal Law	5.00
Environmental Law	5.00
Family Law	8.00
Intellectual & Industrial Property	8.00
Real Property, Probate & Trust	5.00
Taxation	10.00
Trial Practice	5.00
Young Lawyers	5.00

Law Professor Recruitment Program

The Executive Committee of the Association of American Law Schools announced plans for the first Law Faculty Recruitment Conference to be held at the Washington Hilton Hotel in Washington, D.C. on Friday, Saturday and Sunday, November 29 and 30 and December 1, 1974.

The demand for law faculty members continues to be strong. This is explained by the fact that law school student bodies continue to grow, although not at the phenomenal rates of the years 1968 to 1972, when total enrollment in accredited law schools grew from 62,779 to 101,707. Also, an unprecedented number of new law schools are being established.

The increased diversity in law school teaching offerings and other programs and in their student bodies means that the Association's 127 member schools are seeking a more diverse faculty. The law schools are interested in having faculty members whose educational backgrounds and practice experience are diverse, convinced that such a faculty will enrich their programs.

Law faculty members are chosen from the best that the law schools and the profession have to offer. Thus, exceptional professional experience and an excellent academic records are common requirements for appointments to law faculties.

For more than a decade American law schools have used the Association's Faculty Appointments Register as an important source of prospects for law teacher recruitment. Persons interested in the

career opportunities afforded by law teaching have had their curricula vitae entered on standardized forms and included in the Faculty Appointments Register. These forms are available from any of the AALS member schools as well as from the Association's national office at One Dupont Circle N.W., Suite 370, Washington, D.C. 20036.

A nominal registration fee is required. Payment of it entitles each registrant to have his or her curricula vitae included in the Register, which is placed in the hands of each law school dean in the Fall, a month before the Recruitment Conference, and in the Spring several weeks before faculties make final recruitment decisions.

The closing date for the Register is October 1, 1974. Persons missing this deadline may nonetheless participate in the Conference and have their curricula vitae circulated to all school deans in the Spring so long as they fulfill all registration requirements.

The Association expects that its first Faculty Recruitment Conference in Washington during the Thanksgiving weekend will be of great service to the law schools and to those seeking law teaching positions.

Will Information: Any person with knowledge of a Will of Dallas Dale Hanes please contact David D. Pearson, 847 Logan Building, Seattle, Washington 98101.

Will Information: Anyone with knowledge of the whereabouts of a Last Will of Paul E. Bean, please contact Stephen L. Johnson, of Curran, Kleweno, Johnson and Curran, UL 2-2345, Kent, WA.

Wanted: Young Seattle attorney desires to form a partnership or share office space with one or more young practicing attorneys with own clients who desire to go out on their own. All replies held confidential. Contact Box 29 c/o State Bar Office.

Space Available: For one man next to three man law firm, overlooking Lake Union. Space for one or two secretaries. Contact John S. Woodburne, 284-0430, Seattle.

Office Space Available: Spacious, comfortable, centrally located near Courthouses, reasonable rent, share phone and other expenses. Some secretarial and receptionist services available. Minimal library. Call 624-5280, Fernando E. Pérez Peña, Seattle.

Space Available: Office space to share downtown Seattle. Call Mr. Bettis, MU 2-8720.

Space Available: View office plus space for secretary. Excellent library. IBM Building. Phone: 682-6822 or 624-2253.



Wanted and Unwanted

For Sale: RCW, \$125.00. Call 624-3900, ext. 308, Seattle.

For Sale: Up-to-date Rabkin & Johnson—Current Legal Forms; Remington R-2 electrostatic copy machine, including large stock of supplies. Beaudry, Neeley & Herman, Bellevue, 455-9922.

For Sale: MT/ST MODEL IV, completely factory rebuilt 9/72, top condition. Reverse search, red ribbon transferring, etc. Tapes and racks available. Available approximately 11/1. Submit offers to Gordon Liven-good, P.O. Box L, Kirkland, Washington 98033, telephone 822-9281.

For Sale: RCWA, Washington Digest, and Washington Practice Sets. Lyle E. Neeley, Bellevue, 455-9922.

For Sale: Corpus Juris Secundum with all supplemental material up to date. \$450 suggested price. Reasonable offers considered. John D. Thomas, Jr., P.O. Box 37, Ellensburg, Washington 98926—(509) 925-5315.

For Sale: USCA—Mint condition, \$500.00 (approximately \$100.00 to bring current). Combs & Small, 923 So, K, Tacoma, 383-5861.

For Sale: Package deal: ALR second and third, RCWA, Washington Reports. All current and up to date. \$4250. Call 641-2600, Shelley.

- Oct. 3-4 CLE Estate Planning Seminar, Washington Plaza Hotel, Seattle; Kenneth L. Schubert, Chairman.
- Oct. 4-6 Seminar, Investigation, Preparation and Trial of an Aviation Accident Case; sponsored by Aviation and Space Law Section, Seattle/King County Bar; Sun Mountain Resort, Winthrop, WA.; John Sweet, Seattle, Section 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.










Lawyer Placement Service

1. The City of Juneau, Alaska is looking for an assistant city attorney to handle full range of municipal legal activities. Salary: \$1700-\$1900 per month.
2. Attorney admitted to Washington Bar in 1973 and practicing in downtown Seattle as sole practitioner in areas of business planning, estate planning and litigation, desires to associate with larger firm in downtown area. If position is open at present or may be in the near future, please respond c/o Box 2001, Bar Office.
3. The Seattle King County Public Defender Assn. is accepting applications for position of chief attorney. At least four years trial experience and substantial administrative ability required. Salary: \$22,000-\$25,000. Available beginning December 1, 1974.
4. Applications being accepted for position of Executive Director of the Washington Criminal Justice Training Commission. Salary: \$23,000-\$27,500. Send resumes to Criminal Justice Training Commission, Room 630, Dexter-Horton Bldg., Seattle 98104.

Wanted: RCW, and Gordon & Rosenfield's *Immigration Law and Procedure*; donation to Legal Services Component of Active Mexicanos, 500 Aurora Ave. N., Seattle,

Wanted: One complete, used set of O'Brien's Form Books. Send information to Dolores Jane Cooper, Attorney at Law, South 805 Mill St., Colfax, WA 99111.

THE **2** WAYS TO QUALIFY A CLIENT IN A FOREIGN STATE.

Verify availability of corporate name, reserve it.  Write to the state for forms, information on corporate and tax requirements.  Write for certified or plain copies of charter documents.  Obtain required supplemental certificates.  Compile list of data needed from client.  Select statutory agent (or office).  Type papers, applications; prepare checks, letters of transmittal.  Forward to correct state department or departments.  Arrange for publishing, recording.  Obtain evidence of filing.

OR YOU CAN

the C T way. Call us (lawyers only) and have all the details handled quickly and accurately for less than it costs you to handle the work yourself. Also ask about timing the qualification. Depending upon the date, and the state [or Canadian province] in which your client is to be qualified, we may be able to show you a way to effect important tax or tax report savings for your client.

C T CORPORATION SYSTEM

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