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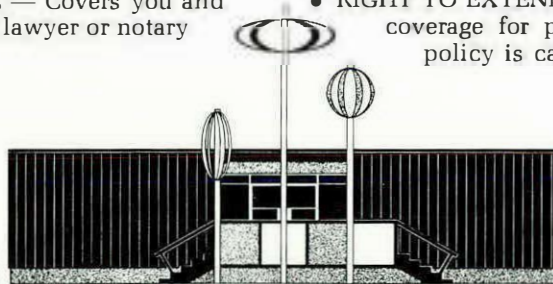
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Published by

WASHINGTON STATE BAR ASSOCIATION
505 Madison Street Seattle, Washington 98104

Edward W. Huneke, *Editor*
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Material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Association or of the Board of Governors. Direct all copy to Bar News, State Bar Office, 505 Madison, Seattle 98104.

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



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**Associates
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Editor:

We read, with interest, the commentary by Stuart Oles on the "Effects of 276 on Lawyers" published in your February edition on pages 25, 26.

In his commentary Commissioner Oles discusses considerations the Commission makes when ruling upon hardship exemptions. The article states:

We do make a distinction depending on the office sought. To illustrate extremes, we have treated somewhat differently a candidate for an unpaid minor public office which controls little or no public expenditure and a candidate for the State Legislature; and have taken into consideration the position of the junior associate as distinguished from a senior partner. Thus a very junior associate of a large law firm seeking a position on a small town council might well, in a proper case, be exempted from listing all of the business clients of his firm, particularly if prohibited by the partners from doing so.

If we assume that the term "associate" refers to an employee of the law firm no disclosure of firm's clients are required by the statute. Thus, in the case of an employee of a law firm no hardship exemption would be required to be relieved of disclosing the clients of the firm. RCW 42.17.240(g) requires disclosure of the name of any corporation, partnership, joint venture, association, union or other entity "in which is held any office, directorship or gen-

eral partnership interest, or an ownership interest of 10% or more;" . . . and (the entity from which it is receiving compensation of \$500 or more).

We hope that firms which do have employees will not unfairly restrict or prohibit those employees seeking public office because of a misunderstanding of the disclosures required by the act.

EDWARD N. LANGE
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As the result of inquiries received, the Bar reaffirms by this notice that Bar members are free to obtain E & O insurance policies from the carriers and brokers of their choice. The carriage of malpractice insurance is not compulsory at this point.

As stated by Bar president Ken Short in his letter of January 21, 1975, to all Bar members, "You are under no obligation to carry insurance, much less with any particular company."

Those members who have in the past or do at the present desire to utilize insurance sources of their personal choice may continue to do so.

In Memoriam

Archie Baker, 52, of Everett, died on March 9, 1975. He graduated from Gonzaga University Law School in 1951.

Thomas Joseph Brennan, 45, of Wenatchee, died December 28, 1974. He graduated from the University of Washington Law School in 1955.

Lee J. Campbell, 61, of Chelalis, died February 1975. He was admitted to the Bar in 1934.

Howard C. Frissell, 71, of Spokane, died January 21, 1975. He was admitted to the Bar in 1935.

William Miles Gingery, 36, formerly of Seattle, died in Falls Church, Virginia, on February 20, 1975. He was a graduate of the University of Washington, and was admitted to the Bar in 1967.

James R. Hammack, 71, of Mt. Vernon, died May 10, 1974. He was admitted to the Bar in 1927.

Donald C. Husted, 68, of Seattle, died January 27, 1975. He was admitted to the Bar in 1930.

Hulbert S. Murray, 62, of Seattle, died February 24, 1975. He was admitted to the Bar in 1937.

**Discipline Action
on Livesey, Bowden**

George Livesey has been suspended from the practice of law for a period of one year on March 6, 1975.

A Stipulation for Disbarment has been entered for **Allen Arthur Bowden** on March 4, 1975.

An Address to the
Seattle-King County Bar Association

Juvenile Court

By Judge James A. Noe
Superior Court for King County

This afternoon I am clearly a man with a mission. In the swirl and pressures of contemporary American life, the Juvenile Court receives its share of criticism. In light of this and because most lawyers do not practice in Juvenile Court and are therefore out of touch with the current operation of the court, I want to accomplish two goals in my brief time with you.

1. I want to report to you the current status of the King County Juvenile Court and to give you an overview of the future.

2. I want to give you enough information about Juvenile Court and our problems to create in you a desire to be a part of a solution, because as lawyers you have not only the capacity to understand, you have a responsibility to the court and the community to take an active role in shaping the future of the juvenile justice system in this county and state. It is your voice, individually, in your circles of influence, and collectively, as a bar association, that may, in the final analysis, provide the greatest overall influence on the future development of the juvenile justice system.

First, in the context of contemporary America, let me frame the issues and set before us the problems in a general way.

Alvin Toffler authored a book in 1970 entitled *Future Shock*. In it he analyzes the changes taking place in our life together and describes the fragile and transient nature of our style of living. He speaks of the "accelerative thrust" (the vague feeling that things, situations and social

patterns are moving faster), "Future Shock" (the dizzying disorientation brought on by the premature arrival of the future), the concept of transience ("temporariness in everyday life resulting in a mood of feeling of impermanence"), "Novelty" (bizarre incidents, sensational discoveries, implausible conflicts, the nonroutine and unpredicted) and other provocative concepts and theories. He discusses the process of change and its effect on individuals and he observes that people are more affected by the rapidity of change than by the substantive change. He states:

To survive, to avert what we have termed future shock, the individual must become infinitely more adaptable and capable than ever before. He must search out totally new ways to anchor himself, for all the old roots—religion, nation, community, family, or profession—are now shaking under the hurricane impact of the accelerative thrust. Before he can do so, however, he must understand in greater detail how the effects of acceleration penetrate his personal life, creep into his behavior and alter the quality of existence. He must, in

Judge Noe received his law degree from the University of Washington in 1957, followed by three years with the King County Prosecutor and six years of private practice. He was a municipal court judge from 1967-71 and went on the Superior Court Bench in 1971. He is Chairman of the Superior Court Judges Juvenile Court Committee and of the Juvenile Court Board of Managers.

other words, understand transience. . . . If transience is the first key to understanding the new society, therefore novelty is the second. (p. 187)

Radical and rapid change is now part of our national fabric. In the last seven or eight years Americans have been confronted with changes so far-reaching that Toffler's theories and concepts may have already become a reality. Consider the ugliness of an unpopular war and the demonstrations and reactions that rocked our nation. Riots became a major consideration of cities across the land and racial conflict has grown in intensity and frequency (witness the conflicts in South Boston over desegregation of schools). College campuses have become strongholds for dissent. Unemployment and inflation have now touched each one of us in a very real and personal way. Fuel and power shortages force us to consider the reality of conservation. Environmentalists have impacted our lives in numerous ways as have other movements such as women's liberation. One war has ended but the spectre of another war in the Middle East remains ever-present, with the foreboding possibility of a third world war.

Ironically, in the midst of these tumultuous times, instead of having creative and wise leadership with unquestioned integrity (leadership America so desperately needed) we have had a



corrupt, power-hungry, destructive administration that has caused untold damage to our system of government, our image as a government of fair play and justice, and has caused many thinking Americans to question government by the people as truly impossible. "Watergate" and all that it symbolizes has continued to erode the confidence in our government and has created a mood of anger, disillusionment and frustration in the people. A mood, if fanned into flame by emotional and unthinking appeal, could do immeasurable and irrevocable damage to our system of government and our cherished way of life.

This list of our nation's ills is certainly incomplete but I want to lift up at this time a national crisis that is of real concern to every American: the shocking rise in crime and delinquency. I have sketched these other concerns with the hope that we will see the phenomena of crime as part of an over-all restless pattern of a changing American life. This is not to justify or even explain the increase in crime and delinquency but it is offered to put crime in the context of the total picture—a picture of an America in the midst of "Future Shock" and shifting social values.

I suggest to you that there are no easy answers, no single cause and no scapegoats available.

In the midst of the pressures of life all around us, we are faced with a rising number of juveniles coming into serious conflict with laws of the community. We are told that juveniles have a prominent role in the increase in crime. Assuming this to be true, the total community, not just the Juvenile Court, is challenged to find the best way to deal with the juvenile delinquent.

I use "best" with some uneasiness because I am not sure what that term means in the context of the problem. Is it "best" to lock up juveniles for long periods of time? If so, which ones for how long and what is to be done for or to the juvenile while he or she is locked up? Is it "best" to give probation to a juvenile if the program and supervision is not adequate to meet the needs of the juvenile or inadequate to protect the community? Is it "best" to grant the juvenile all the technical civil rights of an adult and yet be charged with the responsibility of providing non-punitive care and services to a child to assist the child in reaching maturity without violating the laws of the community? Is it "best" to be lenient, understanding and nonpunitive if the juvenile persists in breaking the law, but is not a sub-

stantial threat to the community? When is the "best" time for a juvenile to be removed from his or her home, detained at Juvenile Court, committed to the Division of Institutions, placed on probation or sent to adult court for criminal prosecution as an adult?

These are complex questions and they cannot be answered easily and with simplistic solutions. These and other questions of similar impact have been recognized by the King County Juvenile Court and it is the search for answers that I want to discuss with you before I conclude.

Next, however, after having sketchily discussed the problems, I want to describe the framework in which the court works.

In a provocative and challenging book, entitled *Beyond the Best Interests of the Child*, the three authors open the first chapter with the following observation:

A child is singled out by law, as by custom, for special attention. The law distinguishes between adult and child in physical, psychological, and societal terms. Adults are presumed to be responsible for themselves and capable of deciding what is in their own interests. Therefore, the law is by and large

designed to safeguard their right to order their personal affairs free of government intrusion. Children, on the other hand, are presumed to be incomplete beings, who are not fully competent to determine and safeguard their interests. They are seen as dependent and in need of direct, intimate and continuous care by adults who are personally committed to assume such responsibility.

The authors go on to suggest that unlike adults, whose psychic functioning proceeds on more or less fixed lines, children change constantly from one state of growth to another. Adults measure the passing of time by clock and calendar. Children have their own built-in time sense, based on the urgency of their instinctual and emotional needs. Unlike adults, who are generally able to see occurrences in a relatively realistic perspective, young children experience events in an egocentric manner, i.e., as happening solely with reference to their own persons. Further, unlike adults who are generally able to deal with the vagaries of life with reasoning and intellect, children are governed in much of their functioning by the irrational parts of their minds, i.e., their primitive wishes and impulses.

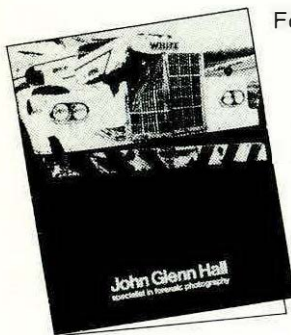
In short, children are not miniature adults. They are incomplete beings who differ from adults generally in their mental nature, their functioning, their understanding of events and their reactions to them.

It was this general recognition that caused the laws relating to juveniles to come into being in the United States as the twentieth century appeared. It was our state legislature, in 1913, that created our juvenile justice system—not the court. The whole concept of the law of 1913 and the changes in Juvenile Code currently being considered by the state legislature is to serve the needs of the children in the context of the general needs of the community.

The whole juvenile justice system has been created and arranged to avoid treating "incomplete human beings" in the same manner as adults. Unlike the adult criminal justice system the Juvenile Court is not to punish for punishment's sake. A juvenile who breaks a law which would be a crime if he or she were an adult, in juvenile jargon, is charged with an "offense," not a crime. There are no "trials," only "fact finding hearings." A judge does not "sentence," a judge provides a "disposition." The juvenile is not found "guilty" or "not guilty" but the judge finds the allegations in the petition (not

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criminal complaint or information) either "correct" or "incorrect."

Let me be sure you understand my point—the legislature created the juvenile justice system, including the law that juvenile matters are confidential, and that body of government has the power to change the system, but it is my considered opinion that the juvenile justice system is appropriate and can function up to its potential and expectations if the community demands that the system improve and is willing to pay the price. I will conclude in a few minutes with the "price." My point at this juncture is: whatever the success or failure of juvenile courts, the court is only one part of the system. Besides the state legislature, other parts include county government (executive, county council), law enforcement agencies (approximately 34 agencies in King County), the prosecuting attorney, public defender, attorney general, Department of Social and Health Services and subdivisions of child protective service, Division of Institutions, juvenile parole, and public assistance, county and youth service bureaus, and dozens of other agencies who provide some service or input to the juvenile justice system but are too numerous to name. These are some of the formal organizations or agencies created by the community to deal with the juvenile but the basic institutions are still the most important in helping the child: the family, church and school.

I have sketched the problems, focused on the framework of the juvenile justice system and now I want to get specific about the King County Juvenile Court.

First, it is necessary to observe that two major shifts in jurisprudence and philosophy have shaped the current status of the juvenile justice system.

In 1967 the U.S. Supreme Court handed down the landmark decision of *In re Gault*, which, in a nutshell, granted due process rights to the juvenile. The Supreme Court related that although Juvenile Court judges had by and large been sensitive to the needs of children, there was clear evidence of abuse of power where the parties did not have due process rights. The court expressed its concern that in granting rights it may turn the juvenile court into an adversary system but concluded the best interest of the child and the community would be served by risking the deterioration of the *parens patrie* (parent of the country) concept. After all, freedom is lost whether or not the court declares the lockup is

for punishment or for treatment.

With the coming of *Gault* the Juvenile Court changed to accommodate a whole new set of participants in the system: the prosecutors and the defense lawyers (on most occasions the public defenders).

Due process has never promised a less complicated or more speedy process. Thus, the procedures at Juvenile Court became more technical and drawn out. Along with a closer examination of each case came a slowdown in process.

To meet the change in process superimposed on the rise in referrals, the Juvenile Court Judges' Committee began to draft court rules. Because of the autocratic nature of the Juvenile Court until *Gault*, there was no real need for extensive court rules.

On July 1, 1974, the King County Superior Court assigned a third full-time judge to Juvenile Court. This was to provide judicial support to allow the court to process all referrals as quickly as possible and to provide services to juveniles as soon as due process allowed it.

It is clear, now, that the Juvenile Court is very close to a full adversary system.

The second major shift in the juvenile justice system came with the advent of community-based corrections. In 1969 the state legislature created the special supervision program patterned after the California law. This act called for the state to subsidize local probation systems up to \$4,000 for each juvenile not sent to the Department of Institutions. It cost about \$10,000 per year at that time to confine a juvenile in the state institutions. The idea was to allow the community to provide innovative programs in the community to serve the needs of the committable juvenile and at the same time provide enough supervision to protect the interests of the community. Under this plan the juvenile would not be isolated from his or her community with the resultant self-label of "no good" but would remain somewhere in the community under appropriate guidance and supervision, taking advantage of the community programs and having specialized programs also available.

As a result, the King County Juvenile Court added some 50 new probation officers and staff and a host of new programs. In response to the state subsidy program, commitments declined until 1973 when commitments to the Division of Institutions began to increase. Better diagnostic techniques are now being used to identify the serious offender who is in need of confinement

while treatment programs attempt to alter his or her antisocial behavior. The key is: identifying juveniles who probably will not respond to a community-based corrections program.

The operation and maintenance of the probation and detention services at the King County Juvenile Court are lodged with a Board of Managers as provided by RCW 13.20. That statute provides that a board is to be made up of four citizens elected by the judges of the Superior Court for rotating terms of four years.

This important body is not advisory but sets policy for Juvenile Court subject to court approval, and the director is to carry out those policies. I want to tell you I could not be more impressed or appreciative for this dedicated citizens board. For your information they are: Benjamin Asia, lawyer; Mrs. Dale Douglas Mills, homemaker and newspaper reporter; Robert Bass, elementary school principal; and Russell Amick, president of a manufacturing firm.

Let me now briefly outline a few current programs and some of those planned for the future.

1. A technical advisory committee of 13 citizens representing segments of the community dealing with juvenile justice system is now

screening over 175 applicants for the position of director of Juvenile Court Services which is now vacant. The technical advisory committee is made of representatives from law enforcement, corrections and social service agencies, Department of Social and Health Services, business community, citizens' groups, Urban League, University of Washington, the Seattle-King County Bar Association and Juvenile Court staff.

The \$30,000-a-year job calls for a person to administer a \$4.3 million budget with 276 employees and to bring dynamic and creative leadership to a sensitive and important justice agency in the community. I expect him or her to be on the job by April 1.

2. Within a year from date of employment, the new director will analyze and evaluate a comprehensive management study of Juvenile Court completed last year by a nationally recognized management firm and thereafter recommend to the Superior Court and the Board of Managers what the future role of the court and the Board of Managers should be in regard to the operation and maintenance of probation and detention services. It just may be that judges should step away from administration of the probation and detention services as now provided by statute and devote full time to the judicial aspects of the system only. This would most likely place the management of both services under the county executive. There are many questions to be asked and the switch is by no means more than an avenue of inquiry at this time.

3. Full and complete court rules are contemplated by September 1. In the meantime, many "court rules" have been instituted as court policy to test their efficacy.

4. A job classification and pay plan was approved in February by the King County Council. This represents a step forward in equitable pay scale for Juvenile Court employees and provides the framework for developing criteria to test the performance of staff. An evaluation criteria program is underway and by September 1 the court will be able to test in a meaningful way the performance of probation officers in the field and other court staff persons.

5. The court intends to develop other evaluation and research capabilities to test the effectiveness of ongoing programs and to allow the court to make the best use of budget and personnel.

6. A planning division was created two years

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ago for the first time and this program must be enlarged and improved.

7. A feasibility study is about to commence which is designed to discover what kind of a computer system is needed at Juvenile Court. We hope to fully implement a computer system to handle the case flow as well as gathering needed statistics within 10 months. In the meantime the statistic support system is being improved.

8. The court is cooperating in research to determine if the community can better serve the needs of dependent-rebellious juveniles without being referred to Juvenile Court. I am talking about the runaway, the drop-out juvenile who is nondelinquent, but unable to adjust at home or at school. If the community can come to the aid of the juvenile and the juvenile's family without court intervention, court staff will be able to devote more time to the delinquent juveniles under the jurisdiction of the court. This is an exciting and significant program currently in process. One that is being developed in cooperation with the other "Partners" in the project: Department of Social and Health Services, City of Seattle and UGN.

9. To further assist the court to become a court of last resort, instead of a court of first resort, the court is involved in a number of preventative or precourt programs. One of these is the Juvenile Court Conference Committee program commenced in 1959 but significantly enlarged and developed over the last two years.

The Juvenile Court Conference Committee system is a collection of carefully recruited and screened citizens in a geographical area who agree to come together at least once a week to deal with referrals of juveniles who are in need of community attention.

For example, a shoplifting matter referred to the court would be considered by Juvenile Court staff where appropriate (first referral, minor offense, etc.). The case would be forwarded to the Juvenile Court Conference Committee serving the juvenile's geographic area. The conference committee would send a notice to the child and parent inviting them to appear at a specific time for a "conference." At the meeting the committee members discuss the particular offense with the child and parents and make recommendations for accountability and other services needed by child or parent, such as counseling, change of school program, curfew hours, etc.

This whole process is voluntary on the part

of the child and parent and the conference committee does not have follow-up procedures. Those youngsters needing further treatment are often referred to the nearest youth service bureau for continuing contact.

An experienced probation officer is assigned to each Juvenile Court Conference Committee to serve a liaison role and provide resource person for the conference committees.

At the beginning of 1973, the Juvenile Court had commenced 8 conference committees. Today we have 39 conference committees serving 12 geographical areas such as West Seattle, Renton, Kent, Laurelhurst, Bellevue, Issaquah, Federal Way and others.

Recently we tested the effectiveness of the Kent Juvenile Court Conference committee to see whether or not juveniles handled by a conference committee subsequently find their way to Juvenile Court. Without going in to great detail, let me tell you that 113 cases were followed over nearly a two-year period. Out of those 113 juveniles, 89.4 percent had no contact with the Juvenile Court following their contact with the Kent conference committee. The remaining 10.6 percent were accounted for in the following figures: 4.4 percent had contact with the Juvenile Court as the result of a direct referral from the Kent Conference Committee for different reasons, such as no longer residing in the area, parents did not wish to work with the conference committee, etc.; 1.8 percent of the juveniles were referred to Juvenile Court subsequent to their initial contact with the conference committee and then re-referred to the conference committee for followup. This was an unusual procedure; finally, 4.4 percent of the juveniles had contact with the Juvenile Court subsequent to their contact with the Kent Conference Committee.

I believe this study substantiates the fact that caring citizens devoting time to assist juveniles who are on the verge of serious difficulties can make a difference in the life of young people. The Juvenile Court is indeed highly satisfied with this program and we intend to develop it further in the months ahead.

10. The court intends to increase the use of special supervision program funds from the state by requesting additional funds to allow the court to contract for social services already available in the community. There are numerous counseling, mental health and social service agencies whose services are appropriate for

juveniles and their families but lack the funding to provide these services to juveniles and their families on probation. Rather than create these particular services within the court we hope to be able to contract for these already existing services.

11. During 1974, 300 dedicated citizens volunteered 21,831 hours of time to assist the court serve the needs of juveniles. The contributions by these volunteers are invaluable and add to the overall effort in significant ways.

12. There are many other programs available that I have not mentioned today and many others under consideration at the present time. Time, of course, does not allow me to go further.

In closing, I want to acknowledge there is still much to be done. The strain of crime and delinquency has challenged more than the justice system. It has had an effect on the quality of life in this country. The judges, Board of Managers and staff at Juvenile Court are sensitive to the overall needs and dynamics of the community. We are not yet satisfied with where we are in our development but we have a firm grip on what is our responsibility to the community and we look to the future with hope and enthusiasm.

I conclude with this statement of the "price"

for developing a juvenile system second to none in the country.

First, the problems of juvenile delinquency and dependency are problems of the whole community and we must all work together to provide a system that responds to the needs of children at the earliest possible sign of trouble. To provide meaningful cooperation we must develop better lines of communication and a better understanding of the entire system. Like any other branch of government or agency created to enhance the public welfare, the Juvenile Court does not expect to be immune from criticism. We hope, however, criticism will be constructive and will come to the court through an improved system of communication rather than from the floor of the political arena. Politically motivated criticism is most often destructive and seldom helpful.

In the context of rising referrals and new rights for juveniles, the Juvenile Court will continue to evaluate and re-evaluate the programs and directions of development. I cannot promise a system without risks or a system that will run smoothly without mistakes but I can state that the judges, Board of Managers and staff are dedicated to continued improvement and we accept the responsibility assigned to us as a trust and solemn duty.

Second, in addition to personal involvement, understanding and communication, the necessary funding must be granted to allow the Juvenile Court to carry out its assigned task. Those who are skeptical of the Juvenile Court's professional assessment of its financial needs must take the responsibility for diluting programs and weakening the court's ability to deal with the increasingly difficult problems of delinquency and dependency if full funding is not supported.

Finally, I want to leave you with a word of enthusiasm and a statement of encouragement. In the midst of the pressures of these days, the juvenile justice system is a viable and appropriate justice institution. I look forward to working with a new director, with a talented and capable board of managers, with a dedicated and sensitive judiciary, with a serious and concerned professional staff and with the many agencies and individuals contributing to the juvenile justice system. The times are uneasy, the issues complex, the pressures great, and the solutions illusive—yet the juvenile justice system is equal to the challenge. In fact, I do not hesitate to say that the King County Juvenile Court is ready for the future—and the future is now.



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WASHINGTON STATE BAR NEWS

Lawyer Referral Service

1,886 NEW CLIENTS REFERRED

A total of 1,886 referrals of potential clients to lawyer-panel members were made by the State Bar's Lawyer Referral Service in 1974.

The LRS is operated from the Bar's Seattle Office by toll-free WATS telephone line throughout the state except for King, Spokane and Pierce Counties, which have their own local-bar referral services.

Of the 1,886 actual referrals of clients, the lawyers to whom the referrals were made returned statistical reports on 1,622. Of that number 791 paid the \$10 fee which callers are asked to pay for the initial one-half hour of consultation. One hundred six were to pay later, according to the lawyers' reports. Many lawyer-panelists decline to accept the \$10 in worthy cases or when the matter turns out to be inconsequential.

Of the 1,622 clients on whom reports were returned, 513 required further legal services and 67 possibly were to need further services.

The breakdown of further services expected to be required shows 192 matters involved additional fees of less than \$100, 346 involved fees of between \$100 and \$500, 24 fees of more than \$500 and four matters involved contingent fees.

As of the end of 1974 there were 214 members of the LRS panel: the members pay a \$15 annual fee for membership.

The statewide LRS was begun December 1, 1971, by the Board of Governors as a public service to help provide legal services to persons,

usually of moderate incomes of from \$5000 to \$15,000, who do not know a lawyer, or have an exaggerated fear of possible legal fees or for some reason are reluctant to make appointments with lawyers.

One-inch advertisements, which include a public-service announcement from the State Bar Association, now are being published in the Yellow Sections near the "Attorneys" column in 20 telephone directories.

Potential clients, persons who think they may have a legal problem, telephone the State Bar Office toll-free and reach the LRS operator, Joanne Cooper. Ms. Cooper seeks to ascertain that the caller's problem indeed is a legal one. She then informs the caller that a definite appointment will be made with a lawyer for three or four days hence.

The same day Ms. Cooper assigns the matter to the next lawyer-panelist on the rotating list in the caller's community and notifies both the client and lawyer of the appointment time. The client is required to telephone the lawyer's office to confirm the time. This permits the lawyer to change the appointment if the time is not convenient. The client pays the \$10 fee to the lawyer at the first visit.

Our Bar was one of the first three in the country to begin such a statewide LRS. Many state bars now operate such services, and several of those are modeled after the Washington plan. □



The Board's Work

Minutes of the Meeting of the Board of Governors at the Tacoma Motor Hotel, Tacoma, on February 8th, 1975

Selection of Presiding Officer

In the absence of the President, who could not be present for reasons of health, Neil J. Hoff of the Sixth District was designated to act as the Presiding Officer for the meeting of the Board.

Resolution: In Re: Kenneth P. Short

The Board extended its best wishes for a speedy recovery to its absent President.

Unauthorized Practice of Law Committee

Board Member John Heath, Jr., was directed to explore the possibilities and availabilities of an appropriate attorney to represent the Bar Association in connection with certain acts involving the Unauthorized Practice of Law. Mr. Heath and the Executive Director were directed to formalize an agreement with such attorney in connection with such representation.

Annual Meeting — Seminars and Format

On the subject of the program format and schedule for the Annual Meeting, to be held September 10, 11, 12 and 13, 1975, it was agreed that:

- a. No CLE Seminar be held on Wednesday afternoon, September 10th.
- b. Thursday afternoon, September 11th, be set aside for Section Seminars, but that:
 - (1) Section Seminars should be supervised by and coordinated with the CLE Committee so as to avoid duplication or overlapping and to assure quality and
 - (2) The time should be used for Continuing Legal Education with Section business meetings not to be held during the normal CLE seminar time frame.
- c. Friday afternoon be devoted to a major seminar on the general subject of Ethics and the Code of Professional Responsibility, with major outside speakers to be included on the program, if possible.
- d. The availability of the ABA Film and presentation by Sargent Shriver on the Avail-

ability of Legal Services be explored and considered for inclusion on the Saturday morning program.

- e. A Teach In - Speak Out Program also be considered for Saturday morning and
- f. The CLE topics suggested by the CLE Committee be generally approved with the suggestion to the CLE Committee that topics 2, 3 and 5 be incorporated into topics of more general interest.

Continuing Legal Education Committee

The schedule of "Future Major CLE Seminar Subjects" as presented and recommended by the CLE Committee was approved.

The CLE Committee was instructed to consider holding CLE Seminars in Olympia and Yakima whenever possible.

Compulsory Mal-Practice Insurance — Advertising in the *Bar News*

The request of Morris Guedel and Quinan, Inc., for advertising space in the *Bar News* was approved. It was also agreed that other insurance brokers, companies or carriers who might also be interested be solicited in accordance with the terms of the advertising policy previously approved by the Board.

Legal Entity Status

The Executive Director was directed to advise the State Auditor in writing that: (1) the Board considers its request for a slight delay in the proposed visit of the State Auditor's office to be a reasonable one under all of the circumstances. (2) There are serious and unresolved legal questions involved relating to the status of the Bar Association as a legal entity which affect the Bar Association's relationships with all levels of government and not just the State. (3) To assist the Board in making a determination of its own as to its status so that it can take a position in its dealings with the various governmental levels, legal research has been requested by the Board both from outside counsel, specifically retained for this purpose, and by the Bar's

own staff. This research has not been seen by the Board and no time has been available for its review. (4) The Members of the Board will receive the work of this legal research within the next few days and will be meeting again on March 14th, 1975. (5) The Board does not wish to waive any of its legal rights by which waiver it might adversely affect its ability to carry out its responsibilities to its membership and to the public or its duties as previously delegated to it by the Supreme Court. (6) The Board therefore instructs its Executive Director to decline to make its records available to an examiner from the State Auditor's office at least until after its meeting on March 14th, at which time it will make a final decision on a permanent position relating to its status with the State Government and other governmental entities. (7) Without waiving any of its rights previously outlined, the Board instructs the Executive Director to make available to the examiner the records of the Bar Association relating to the finances connected with and relating to the administration of the bar examination and admission program. However, the Board specifically reserves the right to withdraw these instructions unless it is agreed that it does not waive any of its legal rights in agreeing to this limited access. It was made a part of the motion and agreed that the Executive Director would prepare a letter to be forwarded to the State Auditor outlining the Board's position and that it would be submitted to the Treasurer, Richard H. Riddell, for his approval before being placed in the mail or otherwise delivered. The vote on this motion was unanimous except for Mr. Champagne, who abstained.

Juvenile Court Legislation

Terrence McCarthy appeared before the Board to discuss pending legislation affecting procedures and practices in the Juvenile Courts of the State.

The various Juvenile Court Bills pending in the legislature were referred to the Legislative Committee for consideration and recommendation to the Board. It was also agreed that the Legislative Committee seek advice and assistance from all interested parties on this legislation, including the Bar Association's Family Law Section, its Criminal Law Section and Terrence McCarthy among others. It was finally agreed that the Bar Association not support

any of the pending bills until the Legislative Committee has investigated the various proposals and has made a recommendation to the Board.

Ben Franklin Legal Aid Association — APR 7 Revision

An amended version of APR 7B, as prepared and recommended by Board Member Llewelyn G. Pritchard, was approved, and forwarded to the Supreme Court with the recommendation that it be adopted by the Court.

Code of Professional Responsibility Committee

Opinion 159, as recommended by the CPR Committee, was adopted.

Opinion 160, as recommended by the CPR Committee, was adopted. The vote on this motion was 6 to 3.

The recommendations of the CPR Committee with reference to the Federal Trade Commission proceedings against Commercial Service Company, Inc., et al were adopted by the Board. The Chairperson of the CPR Committee was requested to advise all parties in interest accordingly. The vote on this motion was 8 to 1, with Mr. Olson voting "no."

National Legal Aid and Defender Association Convention

Gale Barbee, Chairperson of the Legal Aid Committee, was designated as the Bar Association's representative on the Convention Planning Committee for the 1975 National Legal Aid and Defender Association's Convention to be held in Seattle.

Initiative 276 — Proposed Questionnaire

It was moved and seconded that the questionnaire relating to Initiative 276, as originally proposed by the Task Force on 276 and then as later revised, be submitted to the membership of the Bar Association. This motion failed.

The Task Force on Initiative 276 was requested to submit additional supportive material concerning the benefits to be derived from the circulation of the proposed questionnaire. Such additional material was requested to be submitted either by letter addressed to the Board or by an appearance in person by the Chairperson of the Task Force at some future meeting of the Board.

Sites for Annual Meeting

The Board determined that the Presidents of the Local Bar Associations be contacted requesting indications of preferences and suggestions from them and their membership for sites for the Annual Meetings of the Bar Association.

Request for Re-Instatement

The Petition of **Everett O. Butts** to be reinstated as an "Active" member of the Bar Association was denied.

Shorthand Reporters Association

The Washington Shorthand Reporters Association's request for an endorsement of their Petition to the Supreme Court in re-Indigent Appeals Rates was approved.

Civil Rights Committee

Robert J. Tomlinson, Elizabeth Bracelin and **Dennis G. Opacki** were named to membership on the Civil Rights Committee.

Board of Governors Investment Committee

The authority of the Investment Committee in the investment of Bar Association funds was extended to include investment in any United States Government protected and guaranteed Federal Corporation obligations.

Jail Standards Project

Recommended communications from the Bar Association to the Chairpersons of the Senate and House Local Government Committees in Olympia were approved as recommended by the Director of the Jail Standards Project. The communications will be signed, in the absence of the President, by the Executive Director under instruction from the Board of Governors.

Discipline

A proposed change in the Discipline Rules, as prepared by **Richard H. Riddell**, relating to the furnishing of information to the National Discipline Data Bank, was approved and forwarded to the Supreme Court with the recommendation of the Board of Governors for approval.

Election of a President

The Presiding Officer was directed to select a Search Committee to recommend possible persons to the Board who might be considered for service as President of the Bar Association for the fiscal year 1975-76. It was further agreed that this subject be placed on the March agenda. The Presiding Officer designated Messrs. **Redman, Heath** and **Olson** to serve as members of the Search Committee. □

UPS Student Bar Association Elects Officers

A newly established Student Bar Association at University of Puget Sound's School of Law has elected officers and committee chairmen for the 1974-75 academic year.

Jim Street, an undergraduate and M.P.A. graduate of Princeton University, has been elected president and is joined by **Tom O'Leary**, treasurer, and graduate of City College of New York.

Elected committee chairmen include **Michael Sander**, admissions and academic standards, University of Washington; **Larry C. Zervas**, student affairs, University of Nevada; **Cheryl Lux**, faculty and elections, University of Michigan; and **Peter Matty**, education program, Miami University.

The SBA evolved from a "Resolution for Law School Governance," recently passed by a student committee representing classes in the day and evening law programs.

According to **Street**, SBA places the power of government in four committees. Each committee has a specialized area of interest paralleling one of the four faculty standing committees, representation on the corresponding faculty committees, and membership drawn from the entire law school student body. "This procedure enables student opinions to be solicited before final law school decisions are made," **Street** added.

Committee concerns for the remaining academic year include fall semester curriculum, honor code, faculty evaluations, freshman orientation, clinical law programs, student grievance procedures, and part-time student jobs.



SEATTLE-KING REPORT

By **GERALD G. TUTTLE**

Riddell, Williams, Ivie & Bullitt announce that **Walter Walkinshaw** and **Nyle G. Barnes** have joined the firm as partners and that the firm name is changed to Riddell, Williams, Ivie, Bullitt & Walkinshaw. **Lyn Tangen** and **W. Michael Hafferty** have become associates with the firm.

Howard S. Wright Construction Co. announces that **Richard E. Bangert II** has been named House Counsel for the company and its affiliates effective February 18, 1975.

Joining the South King County Bar from Vancouver comes **Richard A. Jackson**, who joins the firm of Roberts & Anderson in Renton.

Douglas McBroom, formerly Chief Criminal Deputy with the Pierce County Prosecutor, has joined Schroeter, Jackson, Goldmark & Bender as an associate.

Lawrence E. Hard and **Rodney J. Waldbaum** have become partners of LeSourd, Patten, Fleming & Hartung.

Charles A. Kimbrough has become a partner of Karr, Tuttle, Koch, Campbell, Mawer & Morrow.

Raymond Royal, **Robert W. Coates** and **Michael R. Hutton** announce their association for the practice of law under the firm name Royal, Coates & Hutton, Ltd. at Suite 200, "U" District Building, Seattle, phone 632-3850.

Williams, Lanza, Kastner & Gibbs announce that **J. Kenneth McMullin**, **Don T. Mohlman** and **Robert I. Betts** have become partners in the firm and that **Joel D. Cunningham** and **Jerry B. Edmonds** are now associates with the firm.

Graham Fitch has opened an office for the practice of law at 4104 The Bank of California Center.

Clinton, Fleck & Glein announce that **Robert V. Brown** has been taken into partnership with the firm, and the firm name will be changed to Clinton, Fleck, Glein & Brown with offices at 500 Third & Lenora Building.

ISLAND COUNTY REPORT

By **TED ZYLSTRA**

Rich Haworth (University of Washington, 1974) is a new deputy prosecuting attorney.

The Island County Bar Annual Convention will be held at Rosario on Orcas Island commencing on May 2, 1975.

All trial lawyers are now bidding to see who will get to represent the Hon. **Howard A. Patrick** in his \$1,000,000 personal injury claim which arises out of the loss of the tip of his middle finger on his right hand in a door slamming incident.

SNOHOMISH REPORT

By **JAMES A. SIMONTON**

The annual Snohomish County Bar banquet was held at the Everett Golf and Country Club with **Henry Newton** turning over the President's gavel to **Bill Baker**. A great time was had by all. Other officers for the year are **Herman Michelson**, Vice President, **Stuart French**, Secretary, and **Don Lyderson**, Treasurer.

Office changes include **Don Senter** and **B. D. "Buzz" Miller** moving into their new building on Wetmore Avenue in Everett; **Mike Moore** moving next door in the First National Bank Building with Williams, Novack and

Hansen; **Scott Holte** with Anderson and Hunter and **Frank Willson** and **Don Carter** starting their practice in the Medical-Dental Building in Everett.

GRAYS HARBOR REPORT

By **JOHN L. FARRA**

On February 28, 1975, the Grays Harbor Fishing Derby Committee decided to set a date for the annual Grays Harbor Fishing Derby. Members of the committee are **Curtis Janhunen**, Prosecuting Attorney of Grays Harbor County, **Ted Zelasko** of Aberdeen, **Paul Fournier** of Montesano, **Jerry Hallam** of Aberdeen, and his Honor **Ed Brown**, District Court Judge No. 1. All "would-be" fishermen should be placed on notice that this year the Grays Harbor Fishing Derby will be held on July 25th. Also attending that meeting was **Bill Morgan** of Hoquiam.

The Grays Harbor Prosecutor's offices have been consolidated in the old part of the Grays Harbor County Courthouse. Formerly the Prosecutor had an office in Aberdeen, but when the old courthouse was remodeled, there was a consolidation of the two offices.

Speaking of new offices, **Gladys Phillips** has moved her offices from the Finch Building to the new Sea-First Building located on Broadway in Aberdeen. Also **Ted Zelasko**, **Dick Goodwin** and **Ernie Ingram** have moved their offices from the Becker Building to the new Sea-First Building. With the two moves, the Bar Association also enjoyed two open office parties. The facilities are first class in both instances.

The younger members of the Grays Harbor Bar Association

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(Grays Harbor Report continued)

have formed a basketball team and as of this date have played six games. Their record will not be mentioned by this writer as he is a member of that team. Members of the Grays Harbor Bar Association that have played regularly are as follows: **John Farra, Curtis Janhunnen, Dave Edwards**, when he wasn't faking illness, **John Schumacher, Paul Stritmatter, and Jon Parker**. On an irregular basis the fans have seen: **Dennis Colwell, David Foscue, George Bowden, Tom Brown, Mike Misner**, and recently, **Steve Hyde**. We have all been thankful that nobody has been injured in any of these basketball games and as of this date, no lawsuits have been filed.

Burt Welcher recently opened an office in the Finch Building in the City of Aberdeen. Burt, formerly, was in the offices of **Jerry Hallam and Steve Hyde**.

It is again the time of year that we have to ask the annual question, "Where is **Bob Charette**?"



Dave Andrews Eyed As ABA Treasurer

J. David Andrews of Perkins, Coie, Stone, Olsen & Williams, Seattle, was nominated as treasurer of the American Bar Association at the ABA's Mid-year Meeting in Chicago in February.

Nominated with him were Justin A. Stanley of Chicago for president-elect and Herbert D. Sledd of Lexington, Kentucky, as secretary of the ABA.

If elected by the ABA's House of Delegates at its meeting in Montreal next August, Andrews would take office at the end of that ABA Annual Meeting.

Andrews has been ABA assistant treasurer since August 1973. He has been active in local, state and national Bar activities since his admission to the Washington Bar in 1961. He served as chairman of the State Bar Public Relations Committee and has participated in State Bar CLE programs and was chairman of the Pacific Coast Labor Law Conference. Born in Decatur, Ill., July 5, 1933, he is a graduate of the University of Illinois Law School.

ABA Section on Economics of Law Practice

The most potentially significant development in the field of law office management and economics on a national level occurred last April when the ABA Section on Economics of Law Practice was organized. The Section activities will permit continuation on an expanded basis of the excellent work previously conducted by the ABA Standing Committee on Eco-

nomics of Law Practice, which has included among other things the preparation and distribution of numerous cassettes, books, pamphlets and the presentation of outstanding programs at the six national conferences.

Since April, 2,300 practitioners have become members of the new section, and it is anticipated that before the end of 1975 the Section membership will exceed 5,000.

The Section has a 21-member council and more than 40 committees, each working on a specific phase of law office management. Committee chairmen reported on projects already underway at the Mid-Winter Meeting of the ABA in Chicago in February.

Robert S. Mucklestone of Seattle has been instrumental in the formation and organization of the Section and is serving as Chairman during its initial year. Others from the state include Claude M. Pearson, Chairman Subcommittee on Office Building Ownership; Donald C. Dahlgren, Vice-Chairman of the Subcommittee on Professional Corporation; and Richard C. Reed, Chairman of the Subcommittee on Retirement Withdrawal Disability and Death.

Section dues are \$12.50 per year which includes the quarterly publication *Legal Economics*, a 40-page magazine which will include articles on latest developments on law office management. Members are encouraged to participate in Section activities.

Applications for membership in the Section can be obtained from Richard C. Reed, 17th Floor, Hoge Building, Seattle, Washington 98104, who is State Membership Chairman.

News Reporters/ Legal Seminar

On April 22 and 29 the Seattle-King County Bar Association will sponsor a two-part legal seminar for members of the news media throughout the Puget Sound area. Both sessions will begin with lunch at Horatio's and continue until 4 p.m. A no-host social hour will follow.

Topics and speakers include pre-trial and trial publicity, Chief Justice Charles F. Stafford; the court system, mechanics of a trial and criminal sentencing, Judge Donald J. Horowitz; libel and slander, Daniel J. Riviera; protecting the news reporter's sources of information, P. Cameron DeVore; activities of the Bar, discipline of attorneys and related subjects, John Rupp; and Washington's Open Meeting Act, Paul Conrad. In addition a panel of reporters who specialize in reporting legal matters will discuss practical tips and shortcuts for the non-specialist. Panel members include Larry Brown, *Seattle Times*; Mary Beth Morris, *P.I.*; and Brian Johnson of KOMO radio.

Although the seminar is designed primarily for members of the working press, attorneys are welcome to attend and encouraged to do so. This should provide a good opportunity to informally discuss problems between the Bar and the news media. Advance registration is required and attorneys planning to attend should contact either the Seattle-King County Bar Association office or Carl P. Gilmore, chairperson, no later than April 10. Cost of attending both sessions for attorneys will be \$12.50.



Section Reports

TRIAL PRACTICE

By JOHN C. COUGHENOUR

The Trial Manual Committee of the Trial Practice Section, which is chaired by Leo Anderson and includes Jack Stephenson, Claude Pearson, William Mays and George Bassett, is making great progress toward producing a quick reference-type manual for use by lawyers during trial of litigated matters. The manual will be neither plaintiff nor defense oriented and will contain subjects, with citations, relating to the various phases of trial procedure and evidence. Such manuals are now being used in several other states, and the Committee is reviewing copies of these manuals with the thought of establishing a format for the proposed Washington manual.

The mid-year Trial Practice Section meeting will be held during the afternoon on Friday, May 2. Committee reports will be submitted and the subject of certification of trial specialists will be discussed. A special notice of the meeting will be forwarded to all Section members, together with the proposal of the Section Certification Committee, several weeks in advance.

The Federal Rules of Evidence were passed by Congress and signed by the President, effective July 1, 1975. The Rules are substantially similar to the version submitted by the Supreme Court, although some significant changes were enacted by Congress. The Federal Rules will be the subject of a CLE program this fall.

YOUNG LAWYERS

By LARRY BAILEY

Three positions will soon be open on the Young Lawyers Board of Trustees, and Section members are encouraged to file for election to fill these vacancies. One term in the *fourth* Congressional District and two terms in the *first* Congressional District are expiring. If you reside in these districts and wish to run for election to one of these three-year term offices, you must file a notice of intention to stand for election, a resume of qualifications, and a statement of position with the Bar Office by *May 7, 1975*. Send to the attention of Cassie Morris, Administrator of Sections, and this information will be published in the June issue of the *Bar News*; elec-

tions by mail ballot will be held in the last week of June.

The position of Chairperson-Elect for the Young Lawyers Section will also be open. Under the Section bylaws, individuals in King County are not eligible for election to this position this year. If you are interested in running for this office, file the same information with the Bar Office as required for the Trustee positions by *July 1, 1975*. Selection for this office will be made by the Board of Trustees at their last meeting prior to the Annual Convention in September.

If you have any questions please call Ed Shea, Chairperson, in Pasco at 547-9555, or Larry Bailey, Chairperson-Elect, in Seattle at 622-0090.

TAXATION

By MALCOLM KATZ

In *Estate of Geraci v. Commissioner*, 74-2 U.S.T.C. ¶13,024, an executrix who was a housewife with little or no business experience was found liable for a late filing of the federal estate tax return. In doing so, a unanimous Sixth Circuit rejected her argument that there was reasonable cause for filing the return two months and one day late, based on:

1. A stipulation that she relied completely on the estate's attorney and his advice that the return was due fifteen months from the date of the executrix's appointment, rather than from the date of death.
2. The attorney's incapacitating illness at the time the return should have been filed.
3. An oral request by the attorney for extending the time to file.

The court, however, relied upon §6651(a) which places the burden on the taxpayer proving that the failure to file a timely return was "due to reasonable cause and not due to willful neglect," and held that there wasn't enough evidence showing reasonable cause.

Nevertheless, the court held against the executrix reluctantly, realizing that it was a harsh result and commenting that the issue should have been settled at the administrative level. Certiorari has been applied for.

Wholly aside from the attorney's problems, the case poses some rather interesting inconsistencies between what's reasonable cause in connection with the late filing of a return for



civil purposes, and what's reasonable cause in connection with, for example, the failure to report a specific item of income on the advice of tax counsel, or where in other types of criminal tax cases, action is taken or a defendant convicted, and which action or conviction results from incapacitated or uninformed counsel. Also, the holding in this case is troublesome in light of several tax cases in the civil area having to do with the responsibility of certain corporate officers to see that employment taxes are paid. Finally, the case poses some interesting questions as to whether or not this problem can be hedged in connection with the obtaining of a bond, and whether a decedent's will should exempt the personal representative from any requirement as to bonding.



CLE Committee



CPR Committee

DISCIPLINARY COMMITTEE

Attorney — CPA — found guilty of preparing a false corporate-financial statement. Upon receipt of a certified copy of the judgment and sentencing Bar Counsel was instructed to petition the Supreme Court for suspension under rule 9.1 of the Discipline Rules for Attorneys.

Further Investigation

Board ordered further investigation into divorce publication authored by attorney for use by clients.

Further investigation ordered as to work performed where attorney associated another attorney with him on 50-50 fee split.

Board ordered further investigation into possible conflict of interest situation where attorney, who formerly represented husband and wife, now represents husband against wife.

Further investigation ordered into attorney's delay in instituting action for back child support.

Further investigation asked in situation where attorney represented client in real estate transaction and client allegedly received property with clouded title.

Dismissal

Client charged that attorney had caused delay in case by not filing charges in a timely manner. Board found that delay was for good cause. Complaint dismissed.

Admonition

Attorney to receive admonition for over-reaching investigation in medical malpractice case. The over-reaching involved hints of solicitation.

Attorney charged attorney who had represented defendant in earlier case with conflict of interest. Board found no real prejudice to the client. Attorney to receive letter of admonition.

Referred for Hearing

Hearing recommended for attorney who, after being paid to begin annulment action, failed to take any action and failed to cooperate with the Local Administration Committee in the investigation.

A Function of the State Bar Association

FEE ARBITRATION BOARD

Procedures

1. The matters to be subject to arbitration by the Board shall be limited to disputes between attorneys and persons, including corporations, associations or partnerships, concerning fees or costs claimed by the attorney to be payable to the attorney.
2. Every petition considered by the Legal Fee Arbitration Board shall be filed in writing on a form provided. Upon the filing of a petition for arbitration, the petitioner shall pay a fee of \$20.00, which fee may be waived at the discretion of the Secretary. This fee is to defray the administrative costs of the fee arbitration proceedings. In the event jurisdiction of the petition is declined, the filing fee shall be refunded.
3. The petition by the client and the response by the attorney shall be in the form as attached hereto.
4. The petitioner shall certify that he has made a good faith effort to resolve the dispute with the attorney involved before filing the petition, and that the problem is not the present subject of a legal action or of a disciplinary proceeding.
5. After the petition is filed with the Secretary of the Board the Secretary shall make an initial determination that the dispute is one within the jurisdiction of the Board. If an ethical consideration is stated, the petition may be referred to the Disciplinary Board.
6. If the Secretary determines that the dispute is properly within the jurisdiction of the Board, the original and one copy of the petition shall be forwarded to the attorney petitioned against for his reply and agreement to be bound by the decision of the Board.
7. If the attorney agrees to arbitration the petition shall be assigned to a hearing panel composed of one (1) member of the Board if the amount in dispute is \$500 or less, and to a three (3) member panel if the amount in dispute is more than \$500. Three member panels shall consist of one (1) attorney member and two (2) non-attorney members. Members of the Panel shall be appointed by the Secretary.
8. The petitioner and the attorney shall be properly notified of the hearing date. The panel shall take testimony or other evidence deemed proper by it, and have a complete and full hearing of the matter. Both parties may be represented by counsel, and request that witnesses be called by the hearing panel.
9. If all the parties to a controversy so agree, they may waive oral hearings and may submit their contentions in writing, together with exhibits, to the arbitrator or arbitrators assigned, who may then determine the controversy on the basis of such documents. However, the arbitrators may nevertheless, if they deem it desirable, require oral testimony of any party or witness, after due notice to all parties.
10. The proceedings of the Board will be confidential.
11. The Board shall make its determination in writing, and file it with the Secretary, who shall notify both the petitioner and the attorney of the Board's decision by registered mail. The decision of the Board may be made public.
12. R.C.W. Chapter 7.04 will apply if both the attorney and the petitioner agree to the arbitration of their dispute.
13. The hearing panel may, at its discretion, award costs to either party, including reimbursement of the filing fee.

FEE ARBITRATION BOARD
WASHINGTON STATE BAR ASSOCIATION

PETITION

Title:

Petitioner's Name:

Respondent's Name:

Address:

City:

State:

Zip:

DEFINITIONS

In consideration of my agreement to be bound by the decision of a panel of the Fee Arbitration Board of the Washington State Bar Association, the following fee dispute relating to the above named attorney is submitted for determination under the Fee Arbitration Board procedures of the Washington State Bar Association. (Type or print details of problem on additional sheets if necessary.)

By filing this petition it is certified that a good faith effort to resolve the dispute with the attorney has been made and has failed and the problem is not the present subject of a law suit.

Signature of Petitioner

NOTE: If both parties agree to arbitrate, R.C.W. 7.04 will apply. If the attorney does not agree to be bound by the decision of the Board, petitioner may withdraw this petition or allow it to continue in determination by the Board with the Board supporting its decision in any other action.
IF BOTH PARTIES AGREE TO BE BOUND BY A DECISION OF THE BOARD, THE LEGAL RIGHT TO BRING AN ACTION IN COURT IS BEING GIVEN UP COMPLETELY BY ANY ATTORNEY OR A MEMBER OF THE BOARD IF YOU HAVE A QUESTION CONCERNING THIS WAIVER.

Forms are plain, efficient and concise. They must be used, and they are available upon request from the Bar Office.

ATTORNEY'S RESPONSE

I hereby agree to arbitration of the fee dispute described in the petition of my client by the Fee Arbitration Board of the Washington State Bar Association in accordance with its procedures and under R.C.W. 7.04.

PANEL ASSIGNED

(For Secretary's Use)

Date Assigned and Notified

FILED

These represent the entire set of forms used in the proceeding.

ETHICS OPINIONS

No. 159

Impersonal Firm Names are Prohibited

The Committee on the Code of Professional Responsibility and several Local Administrative Committees have had inquiries concerning the propriety of firm names such as:

Des Moines Legal Center
Northside Law Offices
Union Legal Services Center
Machinists Group Legal Clinic
Savings & Loan Depositors Group Legal Services
Johnson Legal Services, P.S.

The CPR Committee advises that all such assumed names are improper under the Code of Professional Responsibility, specifically, DR 2-102 (B), EC 2-11, and WSBA Legal Ethics Opinion 151 (May 1974). Trade and assumed names are not permitted for private practitioners. The firm name of a sole practitioner, a partnership or Professional Corporation, as distinguished from a publicly funded or non-profit

organization, must contain the name of one or more of the lawyers in the firm and may end with the appropriate symbols indicating the nature of the organization. Therefore, "John A. Jones, P.S." or "Jones, Brown & Smith, P.C." would be proper firm names. See DR 2-102 (B).

No. 160

Practice by a Part-Time District Court Judge or Commissioner

Inquiry has been made whether a part-time district court judge or commissioner may practice in the court on which he or she serves.

In its Code of Judicial Conduct, the American Bar Association has taken the position that a part-time judge (and a commissioner is a judge for purposes of the Code) "should not practice law in the court on which he serves or in any court subject to the appellate jurisdiction of the court on which he serves, or act as a lawyer in a proceeding in which he has served as judge or in any other proceeding related thereto." *Compliance with the Code of Judicial Conduct, Section A (2)*. The Washington State Supreme Court has taken a less restrictive view. In adopting a slightly amended version of the ABA Code, it provided only that a part-time judge "should not act as a lawyer in a proceeding in which he has served as a judge or in any proceeding related thereto." *Preamble, Section 1 (A) (2)*. 83 Wn. 2d 1101 (1973).

Accordingly, a part-time district court judge or commissioner in the State of Washington may practice in the court on which he or she serves, except in those proceedings in which he or she has participated as judge or commissioner or in related proceedings. Such practice is, it should be observed, not without its difficulties. In particular, there is the possibility that a judge or commissioner may, in practice, appear to seek or to receive special deference from colleagues on the bench. Every effort should be made to avoid such an appearance.

The position taken above conflicts with that taken by this Committee in Opinions 118 and 133, and those opinions are, accordingly, withdrawn. The Committee continues to adhere to the position taken in Opinions 118 and 133 that where an attorney may not practice or sit as a judge, partners or associates of the attorney are similarly prevented from practicing or sitting. □

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Is the Judiciary Setting Medical Standards?

The Medical Practice Committee of the King County Medical Society has considered the decision of the Supreme Court of Washington published in the case of *Helling v. Carey*. The Committee made observations which may interest attorneys.

The Committee concluded that the decision does not hang on the semantics of reasonable prudence and standards of medical care. Excerpted rulings of the Supreme Court may be interpreted as a sweeping generalization for judicial precedent. The unique features of the *Helling* case are truly limited to that case. To the extent that the court establishes a standard of care, we must make some medical observations.

We agree that reasonable prudence establishes the standard of care for medical practice. This has been the traditional position of the medical profession which is faced with a changing body of knowledge and of improving standards of care. We do not agree that the Supreme Court or other judicial body is in a position to establish standards of care by decree for all patients in a specialist practice. Clearly, the court can find for or against the plaintiff or defendant in a given case. Our distinction is that the court does not have the medical competence to say what is good for all patients for all times in a given specialist practice in terms of specific diagnostic tests. For example, a routine tonometry with open angle glaucoma may find normal pressure. The physician pursuing the diagnosis will use a water provocation test and not stop at the simple random test. Reasonable prudence would de-

mand pursuing an answer even when a survey test is normal if the clinical picture raises the question of an important diagnosis.

Reasonable prudence does not mean that clinical judgment is replaced by routine testing without a discriminating physician's thoughtful study of the patient's problem.

The standard of care is based upon a patient's history, physical examination, laboratory and x-ray examinations and such physical testing as would be done by equally competent and prudent physicians for the patient's problem. The incidence and prevalence of disease in a given population served by the physician adds seasoning to the professional judgment applied to the patient's problem. Efficient and economical administration of care requires the physician to select knowledgeably the diagnostic approach to obtain appropriate care for a specific patient.

We trust, from the point of view of reasonable and prudent medical practice, that the Washington State Supreme Court decision in *Helling v. Carey* will not be interpreted as a fiat for all specialists in one or all fields to do routine tests in all patients. Rather, we believe that reasonable and prudent medical practice is based upon the patient's presentation, history, physical examination, age and sex, status and progress under follow-up care and such judicious testing as up-to-date medical experience and knowledge mandate. Such determines a proper pattern and standard of medical care.

The Board of Trustees of the King County Medical Society has approved the statements contained in this article. □

The Case of the Invisible Decision-Makers

By Malcolm L. Edwards

This is the first of what will be a regular column on appellate practice and appellate reform in Washington and in the federal courts. You're not interested in appeals? Don't go away yet. Most of the material here on appellate practice should be of value whenever you make a formal written or oral presentation. The law that backs up our office advice and the law we cite in trial is made or fleshed out by appellate courts. The system used to make these decisions must concern you, unless you've reached that happy inactive status of being retired in Hawaii or whatever other place is your particular reward.

The *opinions* in the column are mine; and the columns will be opinionated. The *Bar News*, Bar Association, printer's union, etc., have had the prudence and foresight to disclaim in advance any responsibility for the remarks you will find here. The source material for *factual* references will be found at the end of each article.

The appellate crisis today is a crisis of volume. Many appellate courts have more cases than the judges can responsibly handle. Washington's appellate courts are rapidly approaching that point. When you give a responsible human being who is a judge too much to do responsibly, several things can happen and not many of them are good. The mortal can (1) quit out of frustration, (2) achieve some semblance of peace of mind by becoming accustomed to being irresponsible, or (3) change the way things are done to responsibly handle each case with less judge time. Notice that the first two options are bad, and the last one involves reforming the system. These are our choices.

Don't say add more judges. It works within limits for an intermediate appellate court, but legislatures are usually too cheap or courts too

timid for even this limited solution. It won't work at all for the top court in the system whose function demands a single decision which is the decision of the court and the law for the whole state or nation. Again—the only solution is a change in the way appellate judges decide cases, a "solution" to the volume problem being used by some of the circuits in the United States Courts of Appeals. The solution has been used the longest and has experienced its fullest flowering in the Fifth Circuit. It is important for us who practice here to understand the Fifth Circuit system: parts of it are now being used by the Ninth Circuit, and it is being touted as a model for both federal and state reform. The solution scares hell out of me.

The Fifth Circuit system involves preliminary screening of *all* cases by one or more judges after the first opening briefs are in. Each case is classified and treated differently based on that classification. Class I appeals are those deemed frivolous: no oral argument is allowed, no opinion is written, and the disposition is typically a one liner which states "AFFIRMED see Local Rule 21." Class II appeals are those where no oral argument is permitted. A Class III appeal is given oral argument of 15 minutes a side and a Class IV appeal is considered to be of sufficient importance to be given the full 30 minutes a side provided by FRAP 34. Class II, III, and IV appeals may be decided without any opinion if the case is affirmed.

The classification is completed without the participation of the litigants, through argument or otherwise. Except for Class I cases, the litigant doesn't even know which judges classified

Malcolm Edwards, in private practice in Seattle will contribute a series of articles on appellate practice.

the case as all cases other than Class I are decided by some panel other than the screening panel.

The Fifth Circuit system has increased the number of cases disposed of by each judge. And it is the most "efficient" circuit of them all. In fiscal year 1972, the Fifth Circuit disposed of 177 cases per judge compared to a low of 99 for the Eighth Circuit, an average of 140 for all circuits, and 151 for the Ninth Circuit. But at what cost to justice for the people using (or caught up in) the system?

I do not think you can destroy what little openness and visibility that exists in appellate proceedings without dramatically impairing the quality of appellate justice. Visibility is an important safeguard against carelessness, laziness, irresponsibility and other moral imperfections that beset judges like all the rest of us. It is a particular peril when a judge is appointed for life and subject to practically no discipline except for gross criminal conduct.

Oral argument drives home to the judge that there are some real people who are going to be affected by that judge's decision. The lawyers and others can see the decision-maker listening to or nodding through the case. What does a one liner decision tell anyone about whether the judge's decision was informed, reasoned, or consistent with the law? Or maybe the one liner was a copout because the issues in the case were politically explosive. There are no effective means of externally imposing on appellate judges the discipline required to perform the very difficult job of appellate judging. Throwing the rascal out at the next election doesn't even work in the federal system. About the only thing we have going for us is the personal responsibility of each individual judge, and visibility encourages that personal responsibility. No one likes to be made a fool in public—whether by drowsing through argument or signing an irresponsible opinion which is subject to informed criticism by others. The Fifth Circuit system simply removes, in too many cases, the visibility which is the only effective method to encourage responsible judicial action.

The statistics from the Fifth Circuit bear out my concern. For a while the Circuit changed the screening system to one where the same judge who classified the case also decided it. The percentage of cases classed as not deserving oral argument skyrocketed. When the Circuit returned to screening by a different panel than that which decided the case, the percentage of

no argument cases declined. Something is wrong with a classification system that can fluctuate so wildly based solely on whether the classifier has to do the work.

If the classification system worked in the sense that it truly categorized cases based on each case's worthiness for serious consideration, you would think the percentage of cases in each class would remain about the same from year to year. If a desire to reduce work for the sake of having less to do was the dominant factor, you would expect the percentages of cases classed as worthy of less judicial consideration would go up as volume increased. The latter is the case: volume—not the quality of the case—is the bell weather. In the fiscal year 1969, 33 percent of the cases were categorized as Class I and II. As the case volume increased, the percentage of Class I and II cases increased. By 1972, 60 percent of all cases filed were deemed not worthy of any oral argument at all. The same trend exists for those cases classed as worthy of the traditional full judicial hearing. In 1969, 28 percent of the cases were fully argued as provided in FRAP 34. By contrast, in 1972, you had less than one chance in ten of getting full argument.

How important is oral argument? A recent informal test by one state appellate court revealed that a significant number of decisions were changed as a result of oral argument, even when the judges gave the cases full study and conference before that oral argument. And the judges were apparently unable to determine in advance which decisions were apt to be changed by oral argument. What does this tell you about screening?

Finally, the Fifth Circuit has experienced a drop in reversal rate since the advent of screening. The percentage of trial court decisions which are reversed has significantly declined. Other courts that do not use this screening process have not experienced this drop in reversal rates. What it means is the Fifth Circuit simply is not doing as good a job correcting trial court errors as are courts without this screening system. The quality of justice has declined in the quest for a solution to the crisis of volume. There should be better solutions, and I will talk about some of them in future columns.

The National Center for State Courts is presently studying the internal administration of the appellate court system in this state. The Fifth Circuit model will undoubtedly be considered as a *possible* reform. Almost every major national

study of the appellate system has been impaired because of a lack of significant representation of private practitioners in the study group. This hasn't been the case in Washington, and it will not be in this new study. The Supreme Court has appointed an advisory committee to work with the Center. Private practitioners are well represented on that committee. Hopefully, this column will also provoke comment on appellate reform from a broad spectrum of the Bar membership. □

References

Statistics on dispositions per judge in the Court of Appeals and data on screening practices are from COMPARATIVE REPORT ON INTERNAL OPERATING PROCEDURES OF THE UNITED STATES COURT OF APPEALS, a July 1973 report of the Federal Judicial Center, particularly pages 34-42 and Table 9 at page 77. Table 9 actually shows the Fourth Circuit as having the most dispositions per judge, but that is probably not true as the statistics are distorted because the Fourth Circuit uses a different system of docketing than the Fifth. Other statistics and screening practice data are from *Screening and Summary Procedures in the United States Courts of Appeals*, 1973 WASH. U. L. Q. 257. The author, Professor Charles R. Haworth, apparently tentatively supports the Fifth Circuit screening practices. The results of the informal test by one state appellate court are from a personal conference with the clerk of that court.

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ABA President Says Lawyers and Doctors Should Cooperate to Solve Malpractice Insurance Crisis

The president of the American Bar Association today called for a united effort by lawyers and doctors to solve the malpractice insurance crisis.

Physicians are faced with skyrocketing premium rates for malpractice insurance and, in some cases, are not able to purchase protection at any price. The ABA president said "it seems that the number of malpractice claims is increasing with almost a feverish momentum," and some teachers in medical schools are also being named along with their former students in some suits. He conceded that contingency fees are blamed by some for seemingly high malpractice awards which have driven up insurance rates.

But James D. Fellers questioned the value or feasibility of abolishing, or radically changing, the contingent fee structure in malpractice suits whereby an attorney will accept a case on the basis he, or she, will receive a percentage of the settlement. The ABA president said many persons are unable financially to file suits and thus would not have normal access to legal representation.

Fellers said careful examination should be given to the American Medical Association's recommendation for legislation to establish a sliding scale for contingency fees, with the court controlling the fee.

Meanwhile, the ABA is forming a fifteen-person commission to "consider how the legal profession can help to ensure that competent medical services continue to be made available to the public at reasonable costs."

Fellers said malpractice insurance is also becoming a problem in the legal profession. "In many instances commercially underwritten insurance coverage for lawyers has increased by 200 to 300 percent in the last five years." He said that lawyers, like doctors, "recognize the public must be protected, and in some way compensated, when they encounter negligent acts or omissions. But they must be protected reasonably and equitably," Fellers added, "and not at the expense of the practice of the profession or at the expense of the costing of professional services out of reach of consumers."



Jail Standards Project

By David B. Kenyon

Volunteer Attorneys to Serve as Jail Disciplinary and Classification Panel Hearing Officers

The Seattle-King County Bar Association, through its Young Lawyers Prison and Rehabilitation Reform Committee, and the King County Department of Rehabilitative Services are launching a unique program to involve volunteer attorneys as hearing officers on jail disciplinary and classification panels. The program will be the first of its kind in the country.

The volunteer attorney will participate, together with jail social workers and custodial staff, in determining the facts and appropriate sanctions for all serious infractions of jail rules, and in deciding the classification and placement of offenders within the jail. It is hoped that significant benefits will accrue, both to the jail administration and to the Bar Association. The lawyers will have an unparalleled opportunity to observe and participate in the daily operations of a major correctional institution, housing over 500 persons daily; the jail will be assisted in implementing new, unfamiliar and rather complex disciplinary hearing procedures, and particularly in the writing of short, concise opinions based on the evidence presented at the hearing. The long-range goal of the program is to involve the Bar Association with the Department of Rehabilitative Services in an effort to improve the correctional system in King County.

The proposal contemplates that each volunteer lawyer will commit two hours per month to the program for a period of six months; in addition, he will be required to participate in a training program at the jail, which will include a tour of the facility and a discussion with jail officials of recent developments in constitutional law, particular problems in the administrative hearing procedure, the new disciplinary rules, and the sanctions available to the hearing panel. The time commitments are not burdensome, and can be made well in advance in order to avoid scheduling problems.

Interested King County attorneys are asked to contact David Kenyon, Director of the Jail Standards Project, at 622-8548 or Donna Strathy, Administrator of the Volunteer Lawyers in Corrections, at 464-6524.

Twenty Years Ago . . .

Opportunity was offered. Marcus Rohlf's of the Bureau of Internal Revenue's estate and gift tax section offered to pay a lawyer a starting annual salary of \$5,060. Editor Rupp suggested that the qualifications should include "a knowledge of arithmetic, the ability to give a negative answer in a diplomatic way, the ability to see the taxpayer's side from time to time, and a burning desire to audit returns the very day they are filed."

Births

Thirty-six new lawyers were admitted to practice.

Mt. Vernon: **Alfred McBee** appointed to the Board of Governors to succeed Judge **Ward A. H. Ward** was sworn in by Judge **Charles F. Stafford**. **Warren Russell** returned from managing ranches in Spokane to practice law. One wonders what was wrong with the ranches.

Kelso: **George Sibbald** elected prosecuting attorney. Appointed **Richard Norman** deputy. **Arthur H. Reed** opened here. **Joe L. Johnson** joined Imus, Marsh and Johnson.

Longview: **Harry Calbom** joined **Wayne Roethler**. **Wayne Purcell** and **W. R. Studley** opened there.

Seattle: **Carolyn J. Reaber** appointed deputy prosecutor. **Robert M. Elston** opened at 5115-25th Avenue Northeast.

Crossed the Bar

Vancouver: Judge **Charles W. Hall**, 76.

Everett: **James Tynan**, deputy prosecutor.

Davenport: **R. M. Dye**, 83, had practiced there since 1899.

Seattle: **Clark M. Burkheimer**, 67.

Seattle was disturbed about its public face so it employed **Elizabeth Wright Evans**, sister of **Eugene A. Wright**, as public relations counsel to clear and handle the association's public relations. Mrs. Evans was indeed qualified and also very brave.

David J. Williams



UPS Moot Court Board Announced

University of Puget Sound's School of Law recently announced the appointment of eight second year students to the school's 1975-76 Moot Court Board, following their participation in Moot Court competition held last fall.

Over 70 law students vied for the honor, which offers a \$500 scholarship to each appointee. The voluntary competition, judged by Tacoma/Seattle attorneys and judges, involved the writing and argument of an appellate level brief in a simulated lawsuit setting.

Laura Jaeger, a graduate of the University of Washington, took top honors in the competition, and is joined on the board by seven other students—based on their standing in the oral competition and quality of their written briefs.

They include Mark S. Cole, Joseph W. Giberson, Bruce D. Hovey, and Jerry Napolitano, all UW graduates; Hans F. Johnson, Western Washington State College; Peter Kram, St. Louis University and University of Nevada Graduate School; and Martin D. Wells, University of Denver.

The Board will select among its members four students to compete in two teams for regional and possible national Moot Court competition.

Other Board activities include assistance in administering the spring Moot Court program for first year students, and administration of the voluntary program for the school's second year class in the fall of 1975.

Gonzaga Report

The Spokane County Young Lawyers Association, with the ample patronage of the Young Lawyers Section, WSBA, conducted a three-hour panel on March 14 at Gonzaga School of Law for Spokane's law students concerning their future in the law. The seminar was conducted by twelve young lawyers willing to frankly discuss their type of practice, financial success or failure, *modus operandi* in job hunting, along with the following data mentioned in a confirmatory letter sent to all panelists beforehand:

... job market in his or her area; tips for getting a job or not getting a job and staying sane; general words of caution; musings on whether

the reality of being where you are meets prior expectations; family life or the lack thereof; and any other info you think a young law student might be interested in hearing about in deciding what to do with his or her life. 1, *Annals of Spokane Young Lawyers Assoc. Memorabilia*, p. 2 (1975).

Representing multifarious facets of the law, from young rural lawyer to young tax lawyer to young "hung out own shingle" lawyer were the following: **Steve Blake, Bill Burns, Clark Caldwell, Laurie Faulk, Don Hackney, Bryan Harnetiaux, Tom Hillier, Mike Pontarolo, Valena Scarpelli (Curran), Tim Quirk**, with a cameo appearance by **Gary Randall**.

Representing the Gonzaga Student Bar Association in co-ordinating the program were **Larry Wander** and **Pat Cronin**.

The Honorable **Willard J. Roe**, Judge, Spokane County Superior Court, was the keynote speaker of the afternoon. After preliminary remarks relating to the selection and function of the judiciary in this state, Judge Roe presented those attending with a biographical sketch of the remarkable **Benjamin H. Kizer**. Spokane, long-time friend of Judge Roe and honored guest of the afternoon. Mr. Kizer, 96-years young, was presented with the State and Spokane County's "Honorary Young Lawyer Award" for the exemplary youthful vigor he has maintained as a lawyer over his 74-year career in the legal profession. As Judge Roe read the litany of Ben Kizer's accomplishments, one suddenly became aware of how fortunate he or she was to be alive and present at such an occasion. Subsequent to the presentation by **Ed Shea**, Mr. Kizer noted in brief remarks that "it had been quite a while since this much maple syrup has been heaped upon my head . . ." and that he intends to keep practicing his profession "till the end of my days on this old earth."





An Aid to Law Office Communication and Organization

By Stephen L. Johnson

Over the past several years there has been considerable interest and activity within the Bar in expanding the quantity and quality of participation of lay persons in the process of delivering legal services.

Many lawyers are now discovering that as difficult as it seemed to plunge into the use of legal assistants (the ABA term) or paraprofessionals, the greater challenge is in the area of the intraoffice organization and communication of a greatly expanded staff. If one assumes that training and developing a more sophisticated organization is a continuing process, it is essential that there exist a vehicle for the regular and orderly review and development of new ideas and systems; a forum for resolving complaints, and revision of existing procedures; an arena for the development of the necessary camaraderie and morale without which the relatively smooth and efficient delivering of legal services cannot exist.

Some small and medium sized offices (2-6 lawyers and a lay staff of 5-10) are happily discovering the benefits of a regular weekly luncheon meeting of all personnel held within the office. To be sure, lawyers have been meeting, or attempting to meet, with their staffs for years, albeit on an irregular, unstructured basis. Such meetings were often to meet existing crises, were frequently set and postponed numerous times, and generally had limited benefits. Further, small lay staffs lent themselves to rather simple forms of communication and organization.

While the process should be designed to fit the needs and characteristics of each office, various essential ingredients to such meetings have been found by most offices employing this management tool to be:

1. Regularity—same hour and day of the week and no one's absence (including the managing partner's) is a reason for cancellation;
2. Phone coverage by a part-time employee such as a high school student;
3. A catered lunch at office expense;
4. A written agenda to which all employees are urged to contribute.

In form, the first 30-40 minutes are devoted to lunch and informal conversation—no small

matter in developing and reinforcing a feeling of goodwill within the office. The substance of the meeting of an additional 50-60 minutes will usually cover a variety of agenda items ranging from implementation of a new system to employee hours to the general sharing of internal office information. The meeting is an excellent vehicle for accepting suggestions for the solution of organizational problems and for securing cooperation of all employees in the implementation of new or modified procedures. With the specialization and departmentalization of law firms, this forum is suitable for a lawyer-assistant team in, say, real estate to educate and inform the other personnel by the display and explanation of the manualized process of foreclosing a mortgage or closing a sale.

Some lawyers have found that the use of films and cassettes at the meeting can be very helpful to the education, growth and motivation of all personnel.

It has been suggested that from time to time the principal topic of the meeting ought to be a presentation by someone interesting or entertaining who is totally outside the law and the practice of law. This can be a means by which the office as a whole maintains contact with the community in which it is situated thereby assuring its identification with the community it serves.

The agenda is, in a sense, continuing in that matters left unresolved are worked on during the week by two or three of the group and brought back again for review and decision. The regularity of the meeting offers continuing deadlines for assignments that often went months or years without completion in the past. It is a disciplined approach to the conscious consideration on a regular basis of the important matters of law office organization and management.

It is, of course, the lawyer who must initiate and make a commitment to such procedure or one similar to it. It is he or she who must delegate much of the decision-making which we have always guarded so dearly.

If paraprofessionals are to be a significant part of the substantive process of delivering legal services, they will insist upon being involved in the procedural and organizational aspect of it. Capitalizing on this general desire of employees and the latent talent that they have will result in greatly increased efficiency and, as importantly, creates a very healthy and enjoyable atmosphere within which to engage in the practice of law. □



SUPREME COURT PRACTICE

By WILLIAM M. LOWRY

Supreme Court Clerk

In what types of appellate cases can court-appointed counsel obtain compensation from funds appropriated to the Supreme Court?

The expanding availability of funds appropriated to the Court for counsel representing an indigent has thus far been a history of legislative reaction to decisional law. In 1963 the U. S. Supreme Court in *Douglas v. California*, 83 S. Ct. 814, 9 L. Ed.2d 811, held that a poor defendant in a criminal case is entitled to the same kind of appellate review as a defendant with means. The decision was followed in 1965 by the enactment of RCW 10.01.112 providing for the Court to pay reasonable fees of court-appointed counsel perfecting the appeal of a defendant in a criminal case who by reason of poverty is unable to procure counsel.

In 1967 the U. S. Supreme Court held in *In re Gault*, 87 S. Ct. 1428, 18 L. Ed.2d 527, that an indigent juvenile delinquent has essentially the same constitutional protections as one charged with a crime. In 1970 an amendment to RCW 10.01.112 added "or a juvenile in any case determining such juvenile to be a delinquent or incorrigible child under RCW 13.04.010" to the type of case in which the Court had authority to compensate court-appointed counsel.

The Washington Supreme Court in *In re Honore v. Washington Board of Prison Terms and Paroles*, 77 Wn.2d 668, 466 P.2d 485 (1970), determined a state prisoner seeking a writ of habeas corpus is entitled to court-appointed counsel when his petition is urged in good faith; the petition raises significant issues, which, when considered in the light of the state's responsive pleadings or the evidence adduced at an evidentiary hearing, are neither frivolous nor repetitive; and the issues by their nature and character indicate the necessity for professional legal assistance if they are to be presented in a fair and meaningful manner. The decision resulted in the following addition to RCW 10.01.112:

or (when a) petitioner for a writ of habeas corpus has been judicially determined to have a constitutional right to obtain a review.

When an order has been entered by an appellate court in a habeas corpus proceeding for a refer-

ence hearing, counsel's fees in representing the indigent petitioner during the superior court hearing are also paid from funds appropriated to the Court pursuant to RCW 10.01.112.

In 1973, the Supreme Court by CrR 7.7 provided Post-Conviction Relief procedures, and in *Holt v. Morris*, 84 Wn.2d 841, 529 P.2d 1081 (1974), stated that the rule was intended to replace the "somewhat haphazard habeas corpus procedure." On February 21, 1975, the Supreme Court by order in Court of Appeals No. 1831-II, *Johnson v. Morris*, held that counsel representing an indigent petitioner seeking relief pursuant to CrR 7.7 is entitled to payment of a reasonable fee for representing the petitioner in the Court of Appeals from funds appropriated to the Supreme Court pursuant to RCW 10.01.112. The Court did not pass upon whether, if the case is transferred, counsel for petitioner would be entitled to payment from the appropriated fund for representing the petitioner in the superior court.

Recently the Washington Supreme Court held that in a permanent deprivation proceeding, an indigent parent is entitled to court-appointed counsel at public expense, *In re Luscier*, 84 Wn.2d 135, 524 P.2d 906. No claim has yet been made in the case by counsel for funds appropriated pursuant to RCW 10.01.112. Indeed it would not appear that the case can be brought within the class of cases now described by the statute. Presently then, court-appointed counsel's only means of obtaining compensation in such a case for representation in the appellate court would seem to be a claim addressed to the Legislature.

There is a possibility that the 1975 Legislature will enact legislation which will avoid the necessity of future reaction. SB 2226 now in Senate Rules substitutes the following for a specific description of types of cases in RCW 10.01.112:

When a party has been judicially determined to have a constitutional right to obtain a review and to be unable by reason of poverty to procure counsel. . . .

COURT ADMINISTRATOR

By PHILLIP B. WINBERRY

The appellate courts of Washington have experienced a significant increase in filings and

workloads during the last few years. In their continuing efforts to reduce appellate court costs and in the interest of maintaining an expeditious appeals process, the judges of the Supreme Court have invited the Western Regional Office of the National Center for State Courts to conduct an extensive, in-depth analysis of the appellate system.

At the conclusion of the study the National Center will submit recommendations to the Supreme Court which should assist the appellate courts in meeting the increasing demands of their workload.

In conducting the analysis, particular attention will be given to the following:

(1) The present organization and administration of the Supreme Court and Court of Appeals for the purpose of determining (a) the optimum number of courts and court locations; (b) the validity of existing divisional arrangements; (c) the number of staff members needed; and (d) optimum case management procedures.

(2) The means used by the courts to expedite submission of cases, including the length of time from filing of notice of appeal to the time of decision, as well as the time lapse between the successive stages of appeal.

(3) The role of counsel on appeal, including his relationship to the problem of delay and institutional representation of indigent defendants in criminal appeals.

(4) Appellate records and briefs, including present methods of obtaining a record on appeal and present briefing procedures to determine whether greater economy and expedition are possible.

(5) Internal court operating procedures to determine, among other things, (a) improved methods to dispose of motions and other requests for relief in aid of the appeal; (b) improved methods of assigning responsibility for the case; (c) methods and manner of publishing the decisions or determination that they should not be published; (d) methods of decision-making, including conference procedures, circulation of draft opinions and related steps; (e) efforts to promote collegiality of decision and avoid proliferations of separate opinions; (f) effectiveness of utilization of law clerks both before and after argument; (g) effective utilization of central research staff; and (h) methods to effect expeditious dispositions of cases by screening to identify cases appropriate for summary disposition, per

curiam opinions, issue tracking and other comparable techniques.

(6) The methods by which civil and criminal writs are analyzed to avoid duplication of efforts and to promote early recognition of repetitive petitions.

(7) The existing operating and record keeping procedures utilized by the clerk's office in each of the appellate courts.

(8) The means by which statistical information is recorded by the appellate courts as well as how it is reviewed and evaluated.

The National Center for State Courts, a non-profit corporation organized in 1971 for the purpose of assisting state courts in the improvement of their operations, will work in conjunction with the appellate court liaison committee of the Supreme Court, the Supreme Court's Administrative Committee and a special Appellate System Advisory Committee. This committee is designed to have within its membership representatives of the various elements of the judicial and legal community. The committee members include: Supreme Court Justices Robert F. Brachtenbach, Robert C. Finley, Hugh J. Rosellini, Orris L. Hamilton, Charles F. Stafford and Robert F. Utter; Court of Appeals Chief Judges Dale M. Green, Vernon R. Pearson and Herbert A. Swanson; State Court Administrator Phillip B. Winberry; Senator Frank J. Woody; Representative Robert L. Charette; Deputy Attorney General Edward B. Mackie; Prosecuting Attorney Christopher T. Bayley; Public Defender Phillip H. Ginsberg; Governor's Representative James M. Dolliver; and Bar Association designees Robert A. Felthous, William L. Hintze, Robert S. Mucklestone, and Kenneth L. Schubert, Jr. The study will be funded through federal monies awarded by the Law Enforcement Assistance Administration.



Judges Frank Eberharter and James Dore

McLauchlan at Large



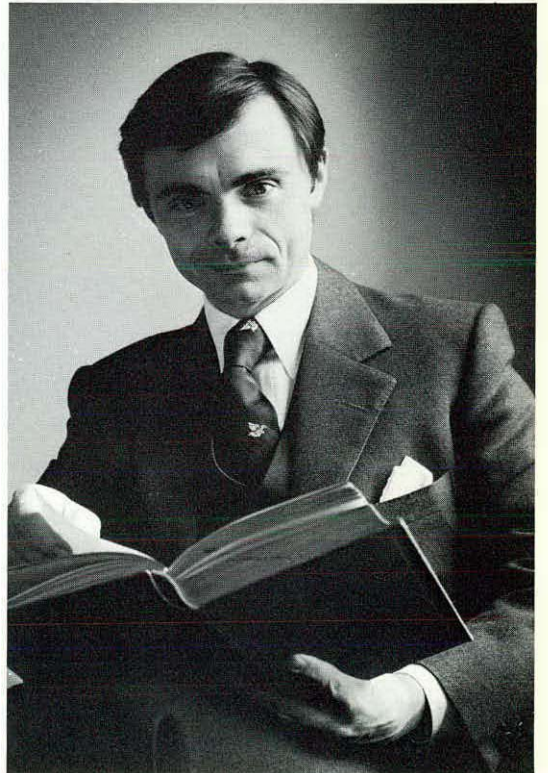
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Unauthorized Practice Committee



Seth Morrison, Don Schmechel, Seattle



Chris Bayley, King County Prosecutor



**WASHINGTON STATE
ENVIRONMENTAL REPORTER**
Book Publishing Company, \$57.50 plus tax.

By Marjorie Rumley

Published in a loose-leaf format that easily accommodates amendments, deletions and additions, this book is a comprehensive accumulation of everything the environmental practitioner should need in his practice in the state except the Washington Reporter and Washington Appellate Reporter. The binding is flexible but strong; the pages are letter size, so that individual additions are readily accommodated; and the tabbed references render the material easily accessible.

Applicable portions of the code preface the work. These include the Shoreline Management Act, the act setting up the Department of Ecology and the State Environmental Policy Act. These are set forth in full, preceded by an index to the various sections. Following the legislative enactments are the pertinent W.A.C. regulations. These include Substandard Development Permits, Guidelines for Master Programs, Shorelines Hearings Board Practice and Procedure, and Board Compliance with Disclosure Laws. As in the R.C.W. sections, the regulations are preceded by an index for ready reference.

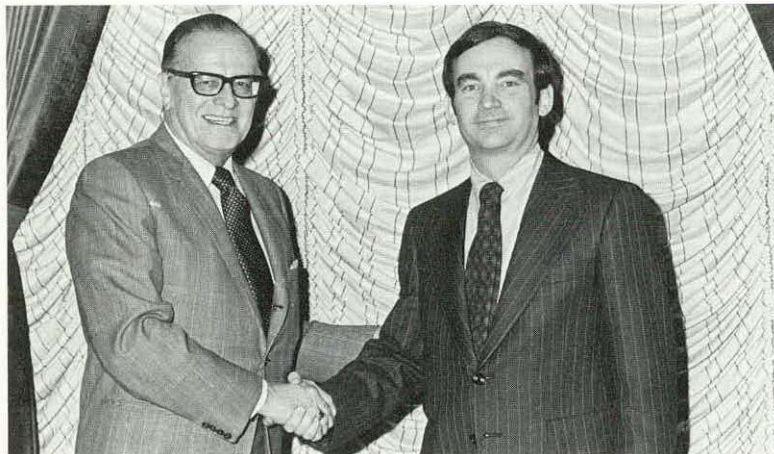
The section on Decision Summaries contains a digest of all board decisions organized by use category, i.e., Title 4, Procedure, up through Title 92, Recreation. The summary lists the appellant, respondent, permit under consideration and the decision. Following that section is

one on decisions, which includes the full text of the summarized decisions, arranged numerically. By reference to the board decision number at the end of the summary the full decision can be easily found in this section. The full text of Superior Court memorandum decisions is also provided as well as citations to the appellant and supreme court decisions. A substantial number of counties and cities have been represented in these decisions, most of which have involved procedure, although the categories of commercial development, residential construction, bulkheads, landfill and recreation all have been subjects of several decisions.

Since each locality must adopt its own local program, a tab divider page has been included for the insertion of the appropriate one for the individual practitioner. The publishing company maintains a complete statewide file of the adopted and approved master plans and can provide a copy punched and ready for insertion at what they term to be a nominal cost.

A disposition table of all Shoreline hearing Board cases is included by number and reference to the section. The index is preceded by information on its usage which would seem unnecessary except on examination exhibits a careful analysis of the needs of the researcher and an effort to meet those needs in a logical manner.

This volume will be supplemented from time to time but information as to the frequency of such supplements and the price thereof is not presently available.



James D. Fellers, ABA president, congratulating J. David Andrews, Seattle, right, who will be new ABA treasurer.

Lawyer Placement

Eastern Washington corporation is looking for an attorney to handle their legal and employee relations division. Attorney would deal primarily with government and commercial contracts. Qualifications include a minimum of 3 years, desirably 5 years, of industrial, legal experience in government and commercial contracting. Salary: \$22,000-\$32,000.

Southwest Washington county needs a chief civil deputy to handle all civil environmental areas, public works, land-use planning, condemnation and to advise elected officials. Experience in these areas highly desirable. Salary: \$12,000-\$24,000.

A recent law school graduate is being sought by a Seattle law firm engaged in general civil practice. Little or no domestic relations work and no insurance defense involved. This is a confidential listing. Send resume to the Bar Office, c/o Box 42.

Central Washington State College has a position open for an Assistant Professor of Business Administration. MBA, J.D. desirable, but applicants with a bachelors degree in business or economics and the J.D. will be considered. Must be a member of the State Bar on or before September 1, 1975. Salary: \$12,000-\$14,000.

The Washington State Bar Association operates a Lawyer Placement Service at the State Bar Office, 505 Madison Avenue, Seattle, Washington 98104. The information is also available at the Spokane County Law Library, Paulsen Building, Spokane. The service is available to members of the Association and recent law graduates seeking legal opportunities and employers seeking legal personnel. The service is offered without cost to either the applicant or prospective employers.

Charles Z. Smith Elected Director of the American Arbitration Association


Charles Z. Smith, Associate Dean and Professor of Law at the University of Washington, has been elected to the Board of Directors of the American Arbitration Association.

Prior to assuming his present position with the University, Mr. Smith, who also is a news commentator for KOMO Radio and Television in Seattle, served as Judge of the Superior Court of Washington for King County. He was also a general Trial Judge, a Juvenile Court Judge, and served as Chairman of the Washington State Superior Court Judges' Association.

Mr. Smith has been a member of the boards of numerous organizations and community agencies, and has lectured extensively. He currently is Chairman of the Advisory Committee of the Washington Criminal Justice Education and Training Center, Chairman of the Advisory Council of the National Center for Dispute Settlement of the American Arbitration Association, and a member of the Washington State Corrections Development Task Force. He recently completed service as a member of the Central Board of the American Baptist Churches, U.S.A. (Valley Forge, Pa.), and served as a member of its Executive Committee and as Chairman of its Division of Management and Organization.

He is a graduate of Temple University, Philadelphia, B.S. 1952, and of the University of Washington School of Law, Seattle, J.D. 1955.

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Wanted and Unwanted

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For Sale or Trade: Complete set of U.S.C.A. including 1973 Supplement. We are seeking a set of Washington Reports Second Series. Call Sue Carlsen, 447-3900, Seattle.

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Wanted: Completed set (used) of Pacific Reports, 2nd; and Pacific Digest "1-100 Pacific 2nd," and Pacific Digest "Beginning 101 Pacific 2nd" (also used). Call 624-0900, Seattle.

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Space Available: Grand Central On The Park, Pioneer Square, for one attorney in a four-attorney suite. Telephone: 624-0861.

May 8, 9 Eighth Annual Pacific Coast Labor Law Conference, University of Washington School of Law and the Labor Law Section of the Seattle-King County Bar Association, University of Washington, 8-4:30.

May 23 CLE seminar, Real Property/Land Use Regulation/Environmental Law; 9 a.m. to 4:30 p.m., Olympic Hotel, Seattle; Thomas L. Fishburne, chairman; panelists Jerome L. Hillis, Irving M. Clark, Jr., Richard U. Chapin, V. Lee Kraft; contributing editors, John A. Gose, C. Kent Carlson, K. David Lindner.

May 30, 31
June 1 *Corporation, Business & Banking Law Section Mid-Year Meeting*, Hanford House, Richland. Some of the participating program speakers include Eugene G. Olson, Securities Administrator for the Washington Securities Division, Robert A. Klein, Chief Registrations Officer Washington Securities Division, Ralph R. Smith, Project Director of the Washington Securities Division Investigative Unit, Harold R. Rooks, Member of the Washington State Securities Advisory Committee, Joseph Sinclitico, Dean of University of Puget Sound School of Law, David D. Hoff, member of the State Bar's Board of Governors. Paul Cameron De Vore, Elvin J. Vandeberg, Claude M. Pearson, Elizabeth J. Bracelin, John F. Aslin, John F. Neff, Roger H. Underwood, and David R. Major.

June 20-21 CLE/Office Practice Committee Seminar, The Management of a Lawyer's Life; Harrison Hot Springs, B.C.; Duane Lund, Roger Underwood, co-chairmen; panelists leading medical speakers (including Dr. Meyer Friedman of San Francisco, co-author, "Type A Behavior and Your Heart"), experts on finances, alcohol problems, stress and tension, exercise, retirement planning, life styles and interspousal relationships; seminar for lawyers AND spouses, attendance limited to 100 couples.

September 26, October 3, 10 CLE seminar, *New Federal Rules of Evidence*, Olympia, Seattle. Spokane. Chairperson: John C. Coughenour.

Will Sought: Anyone having information as to a Last Will and Testament drawn for John Patrick Shannon, Jr., of Lynnwood, Washington, please contact Donald K. Fleck, 500 Third & Lenora Building, Seattle, Washington 98121, Tel. 621-6831.

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