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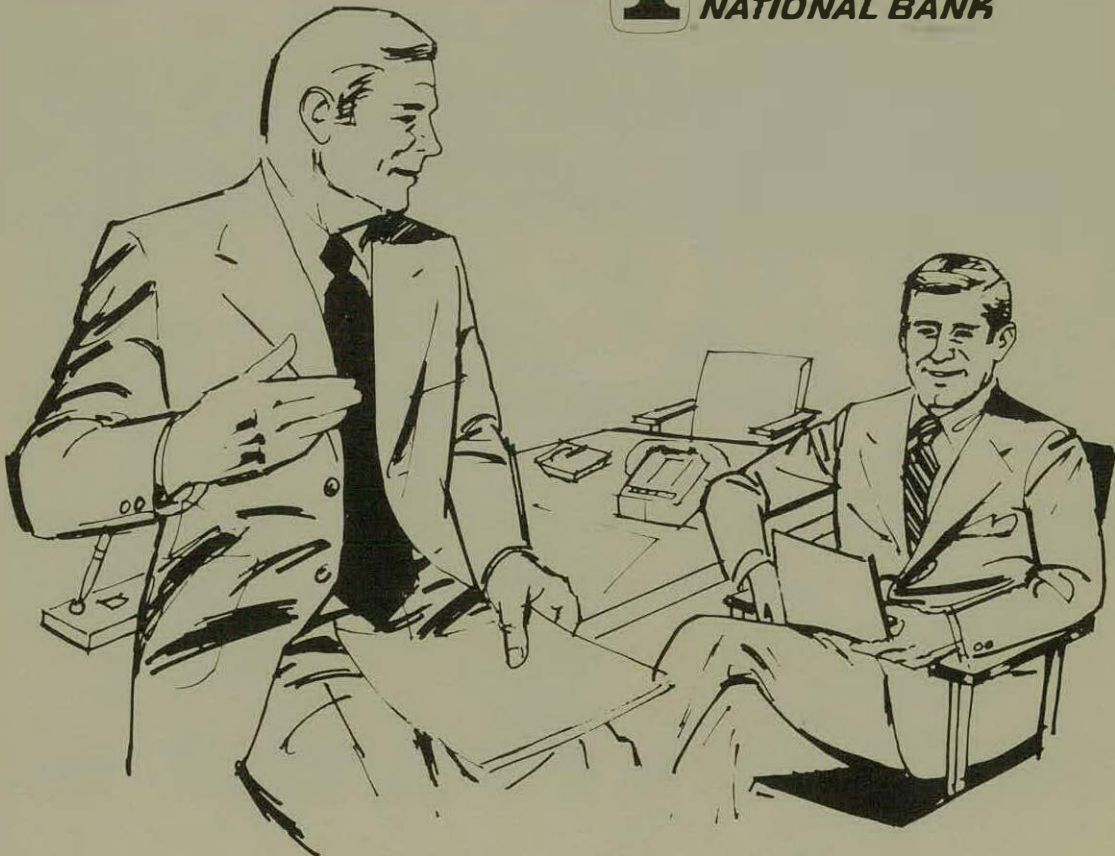
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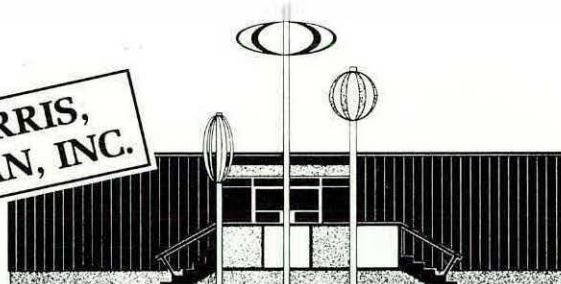
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WASHINGTON STATE BAR NEWS

Edward W. Huneke, *Editor*

Susan Newcomer, *Editorial Assistant*

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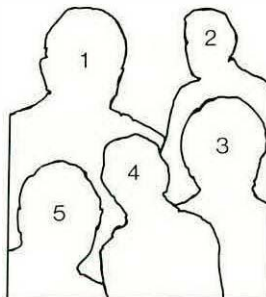
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COVER

This month's cover features the speakers who will headline the State Bar convention this month. They include 1) Judge John J. Sirica; 2) Lawrence E. Walsh; 3) Sargent Shriver; 4) Frank Gifford; and 5) Judge Charles F. Stafford. See Page 19 for the story.

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Bar Office Special

This issue of the *Bar News* has been graciously taken over and produced by the efforts of the Bar Office personnel, rather than your usual editor. The purpose is to provide to you, the membership, a special issue which covers the annual meeting and convention.

While I greatly appreciate the volunteered relief from the work in producing this particular issue, I am certain that it has created innumerable headaches for Wayne Wilson and Nicki Primrose, from the Bar Office, who have taken on this singular project. Their efforts in producing this particular issue have consumed the greater part of three weeks from both of them, and I have great empathy for the problems they have successfully met.

I commend Wayne and Nicki on the good job they have done, and in October the *Bar News* will return to its usual expressions of private opinions and exercise of free-press rights.

Medical Malpractice Insurance Proposal

In the previous issue, it was noted that the Board of Governors participated with a group of doctors in an effort to discuss and resolve the current medical malpractice crisis. The doctors are reviewing a particular program known as the "Indiana plan," and it is likely that a similar program may be effected by the doctors in this state in the near future.

The Indiana plan does not require a doctor to carry private malpractice insurance. However, those doctors who do carry insurance have a policy with \$100,000 limits. The next \$400,000 on any claim is paid from a fund called the "Medical Malpractice Disaster Fund." This Fund is supported by payments made directly by the doctors, and it will continue to be supported at a certain rate until the Fund contains \$5,000,000, at which the required contribution will be reduced at a supporting level.

A prerequisite to suit on any claim is presentation to a Medical Board comprised of four doctors and one attorney, the attorney having no vote. The Board makes findings, and arrives at a decision of "probable" malpractice by the defendant doctor.

If a party is unsatisfied with the findings of the Board, the matter can then be taken to court. The findings of the Board are admissible in trial by either side. Board members may testify, and also they can be required to testify at a trial.

There is a limitation on the contingent fee allowed to the attorneys. On recoveries less than \$100,000 the fee need only be reasonable and is fixed by the court. If the recovery is over \$100,000, the fee is limited to 15 percent on the amounts over \$100,000.

The attorneys fee is added on to the verdict, though the \$500,000 maximum includes the amounts allowed as attorneys fees.

Like the legal malpractice insurance plan previously reported, as is in effect in British Columbia, a partially self-insured program, the premiums paid by the doctors for the Indiana plan are substantially lower than those being charged by the insurance companies.

The Indiana plan presents an interesting solution to the current medical malpractice crisis. If attorneys see potential problems or objections to the plan, they should contact their local Board of Governor member or forward their comments to the Bar Association.

Convention

Seek out the members of the Editorial Advisory Board or the editor at the convention and discuss your opinions of content, layout, and advertising for the future year. Ideas for articles and sources of material will be greatly appreciated.

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You may wonder what ever happened to the "Mandatory Malpractice" program that created such controversy last fall. It isn't dead—just resting quietly. The "scenario" (as the Washington, D.C. lawyers would put it), goes like this.

After polling the membership of the Association, the Board proposed a rule to the Supreme Court to implement a group program of mandatory malpractice insurance. An agreement, subject to the adoption of the rule by the Supreme Court, was reached with Argonaut Insurance Company on a policy form and a premium schedule which was a real bargain. (In fact it may have been too much of a bargain, as we shall see.)

In November, Argonaut withdrew and declined to write the policy. You may recall that at that time they also increased by 380% the medical malpractice premiums in California and issued notices of cancellation to the doctors in California and Nevada. At this point, the Board of Governors advised the Court they were withdrawing the proposed rule since any such rule affecting, as it does, the dues of each lawyer, must be adopted effective as of February 1 and it was apparent that this problem wasn't going to be solved in the time remaining.

All policies written in the Argonaut were picked up by Affiliated FM Insurance Company on the original rate structure, i.e. \$155 for a \$1,000,000 limit per claim, \$1,000,000 aggregate with a premium increase to a maximum of \$171 as of February 1, 1976, and \$188 February 1, 1977. (The Oregon bar members through the same broker pay \$566 to the Allendale Group—don't ask me to explain that.)

Going back to the drawing board, we expanded the board committee (Gates, Riddell, Redman and Heath) to include Dick McWilliams of Spokane and Vic Lawrence of Seattle. Mr. Robert Johnson of the Insurance Commissioners Office agreed, at my request, to serve as a Consultant to the committee, since we were going to take a look at the B.C. plan of self-insurance and we had a suspicion this might have filing and qualification problems.

The committee, in its June report to the board, after a detailed examination of the self-insurance plan of the Law Society of B.C. and all other alternatives concluded that:

(a) There was no practical way at the present time to implement a self-insurance program since there is inadequate statistical data available at this time upon which to construct a premium rate on the other financial data necessary to comply with the Insurance Commissioner's filing requirements (which, due to the medical malpractice insurance crisis, will be more stringent in 1976 than before).

(b) As to mandatory malpractice insurance, whether through a single insurer (a concept on which the Board, like the membership itself, is in violent disagreement) or whether on a voluntary basis where each lawyer supplies a certificate of insurance, there is still unsolved the question of the uninsurable lawyer.

The Board of Governors is unanimous in its unwillingness to allow an insurance underwriter to determine whether a lawyer can retain his license. Until that is solved, as far as the present Board of Governors is concerned, there isn't going to be any mandatory malpractice insurance program. The committee is still exploring assigned risk and other alternatives.

The mandatory malpractice idea is not dead. The board doesn't feel, in view of the very fundamental problems it poses, that rushing to a solution, any solution, by year end is either required by any emergent problems or that it is in the public interest or the interest of the practicing lawyers to do so.

The Resolution of the Board of Governors at its June 20-21 meeting, on the motion of the Committee, is that the program be delayed until the problem of insuring *all* lawyers is solved and that the "Attorneys' Professional Insurance Committee" be continued to implement a program of mandatory malpractice insurance and to serve as a liaison between the lawyers insured under the present voluntary plan and the insurer on policy, claims, administration, etc.

There the matter rests until the critical problem is solved. The committee is continuing its work. I do not predict a solution by year end but I predict a solution and a malpractice program by next year.

A Speech Delivered at the 1975 ABA Convention in Montreal

A LAY MEMBER'S EXPERIENCE ON THE DISCIPLINARY BOARD

By Edith Lobe

I was appointed by the Washington State Supreme court to the Disciplinary Board of the Washington State Bar Association in December, 1973. One other non-lawyer was appointed at the same time, and since this was considered an experiment, we were both appointed to one year terms. We were non-voting members.

Shortly after my appointment, I learned that the decision to involve non-lawyers was by no means a casual one. From hearsay, conversations with both proponents and opponents, and the pages of the *Washington State Bar News*, it became evident that controversy on this issue had been hot and heavy for several years, and that the one year experiment represented a barely acceptable com-

promise. The views of Supreme Court Judges, members of the Board of Governors and the Disciplinary Board could be found on both sides of the issue.

This is not the time to repeat the arguments which were given pro and con relative to lay participation. What needs to be realized is that what so recently was considered a fairly unique innovation has now become a trend. Seven other states have incorporated some form of lay participation in their disciplinary structure, and an eighth is in the process of doing so. However, I do believe that Washington is unique in having done so, not by legislative mandate, not by judicial dictate, but by the legal profession itself freely

initiating its own reform.

As you know, during 1974 the Board of Governors and the Disciplinary Board drafted a major revision of the Disciplinary Rules. Among the proposed revisions was the status of the law members. It provided for three year terms and the right to vote. Early in 1975 the Supreme Court adopted the new rules. The "experiment" of 1974 was considered successful, since, as far as I know, there was no controversy. Now, the only difference between lawyer and lay-members is that the latter don't conduct disciplinary hearings.

In writing this article I thought you might prefer to share impressions, perceptions, observations, and even some "gut reactions" of an outsider who has invaded your domain. Therefore, the following are some very subjective reactions and perspectives.

During the past 1½ years, I have had the opportunity to work with and observe my colleagues on the Disciplinary Board. In addition to that, the Washington State Bar has been most generous, and, I believe, wise in inviting the lay participants to observe a Board of Governors meeting, be in attendance at a Bar Convention, and in providing us with the Washington State Bar News. Staff has been available and helpful at all times in answering our questions. All this has given us insight into related bar activities such as the newly created Fee Arbitration Board, Client Security Fund, and malpractice insurance. And there is one more thing: Lawyers with whom I have contacts outside the bar setting react differently to me because of my position.

After my appointment was reported in the press

in early December 1973, it was a strange experience during the ensuing Yule season, and to a lesser degree ever since then, to find myself at every social occasion cornered by one of the attending attorneys. At first, I thought this might be due to some remarkable improvement of my conversational skills, but soon I realized that it was my appointment and not my charm which caused my new popularity. Everyone of them was anxious to share ideas on discipline and apprehensions vis-a-vis the disciplinary process.

My first observation in these casual contacts with the legal community was that there exists a pretty pervasive ignorance of the whole disciplinary set-up. With the exception of those attorneys who have involved themselves in the process, the lack of knowledge was surprising. This is true for the whole spectrum of the profession. Lawyers, old and young—fresh out of law-school and well-established, practicing alone or as members of large firms, conservative, radical, or liberal, it makes no difference. Most of them know little or nothing of how discipline is administered, and comparatively little of what brings on discipline.

Probably as a consequence of this ignorance, many lawyers express anxiety over possibly committing, or rather omitting an action which might subject them to discipline. I hear this especially from truly dedicated and respected attorneys. They believe that there, but for the grace of a diligent secretary, go they. After my brief experience on the board, and in reading files on errant attorneys, I am convinced that there is no way in which ethical and conscientious attorneys could follow a course of conduct which would deserve discipline. It also convinces me that it is often predictable which attorney has the potential to become the "respondent lawyer".

I don't know whether it is insecurity—something the majority of lawyers don't seem to suffer from—which makes them worry a great deal about their image. I am often asked by lawyers how I feel about the legal profession now that I see it from the inside. The assumption obviously is that before being exposed to the inner workings of the legal profession, I neither trusted nor liked them. This always surprises me, since all my life I have been surrounded by lawyers and persons with legal background. I have always had a good feeling about lawyers, and continue to



Edith Lobe is a lay member of the Washington State Bar Disciplinary Board. She was one of the first two members appointed to that position, after it was created by the State Supreme Court, in December, 1973. Mrs. Lobe has had a distinguished record of public service. She is presently President of the Crisis Clinic and a Trustee of the Municipal League of Seattle and King County. She is also a

past president of the Seattle, King County and State organizations of the League of Women Voters. Mrs. Lobe was recently named Volunteer of the Year by the Council of Planning Affiliates which represents 146 health and welfare agencies in King County.



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think of law as a desirable and honorable profession. I believe that this view is shared by many, notwithstanding jokes and cartoons.

I also admire and envy your eloquence, your ease with words. At times it intimidates and overwhelms me. I do wish, however, that this superb command of language would enable you to come up with a better word to describe my status than "lay member".

My participation on the Disciplinary Board has given me great appreciation for the dedication and high principles of the attorneys with whom I serve. They are sincere and consistent in their zeal to rid the profession of the unethical practitioner. Never have I heard a discussion which might be called "white-wash". Expressions of outrage and embarrassment are more common. The demands on their time are considerable, and they give unstintingly. Prior to each meeting, we receive masses of material which I measure not by pages, but by pounds of paper: transcripts, copies of complaints, correspondence, bank records, etc. Every member has not only read the whole file carefully, but has analyzed it and formulated an opinion on the disposition of each case. This makes for excellent discussion, and mostly swift, well-reasoned decisions.

Having me there took a bit of getting used to for my colleagues. At first, the seven lawyers were exceedingly polite and considerate, but somehow unable to accept that, after having done my homework, I could—to some degree—understand the central issue, if not all the fine points of procedure. Therefore, when I raised a point, disagreeing with what someone had said, or made a comment, I usually was given an explanation, rather than an argument. However, I am pleased to note that we now have more of a discussion, and can agree to disagree. Having the vote might well have contributed to this acceptance, because I have come to feel accepted.

During the past 1½ years, we have reviewed complaints running the whole gamut of misconduct. I have tried to analyze whether there is a pattern to lawyer reaction and lay-reaction, and it seems to be that there are some differences in outlook and emphasis. I believe that this is healthy.

I find that certain breaches of etiquette don't offend me nearly as much as my colleagues. If an

attorney has done a bit too much advertising while running for public office, or has some flowery letterheads, I can't get excited. If a lawyer gets some publicity in his Kiwanis or other house organ, this doesn't raise my hackles. If a junior lawyer or legal intern fails to be properly identified as such, but does adequate work, this doesn't bother me. Even when a lawyer intrudes on another lawyer's case, I find my attention focusing on how the client is served, rather than the lawyer's violation of the Canon. In summary, right or wrong, I believe that I have little to contribute in those actions which deal with lawyer relationships within the profession, and am, therefore, somewhat indifferent to their disposition.

On the other hand, I react strongly to those cases where a client has been damaged due to a lawyer's negligence or lack of communication. The majority of the cases coming before us deals with these minor infractions which demonstrate lack of sensitivity and consideration towards clients, rather than actual wrongdoing. It is in these cases where lawyer members manifest more empathy than I can muster. They identify with the attorney, and are inclined to say: "This could happen to me" "Mea culpa—I, too, have forgotten, neglected, been uncommunicative". Their emphasis is on "understanding" the lawyer, and mine is to consider the client's frustration, aggravation and predicament.

There is a large area where there is no difference whatsoever in approach between my fellow members and me. That is in those cases where a lawyer has been negligent or dishonest with client funds where funds have not been properly accounted for, or where a lawyer is suspected of or has been found defrauding a client. It is in these cases where concern, outrage, and disgust is unanimous, as is action.

Let me now turn from the discussion of reactions to specific types of unethical conduct to differences in attitude when looking at discipline in general. Lawyers are, quite properly, concerned with judicial safeguards and processes and the limitations they impose. Therefore, they are often cautious and reactive. I, on the other hand, do not feel hampered by these limitations. Let me give you some examples which illustrate this point:

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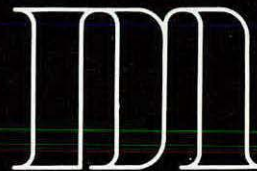
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is in the initiation of investigation. Board members frequently know of colleagues in their respective communities who are slipping or are suspected of actual misconduct in the pursuit of their professional duties. Since the Board is a reactive body, rather than an initiating tribunal, no action will be taken until a complaint is received. I believe that the public and the profession would benefit if the Board were not quite as reluctant to initiate an investigation.

Frequently, minor complaints which are received and quite properly either dismissed or mildly disciplined are known or suspected to represent the top of an iceberg. Board members who know the respondent attorney predict that we shall be getting additional and more serious complaints against him or her, and decide to wait until this happens. I recognize the implications and problems which could emerge if we were to do otherwise. However, since I identify with the clients who, in the meantime, might become the victim of this respondent's actions, I wish some kind of prevention could be worked into the disciplinary process.

Then, there is the attorney who has been the

subject of criminal or civil proceedings and the court has found for him or her, possibly on the basis of a technicality. Here again, I sense reluctance on the part of the Disciplinary Board to pursue the case. In those rare cases where this occurs, the inclination is to accept the verdict, and not take any action. My reaction to this is that unethical conduct should be judged by professional standards, and such judgment should not be dependent upon the outcome of judicial processes. An action which does not warrant conviction or civil remedies might, all the same, deserve discipline.

There are times when the discussion on the disposition of a certain case deals with trying to second-guess the Supreme Court. I interpret this as a desire "not to be reversed". Being a non-lawyer, I don't care what the next tribunal will do, as long as I vote my conviction.

What are the values of lay participation in the disciplinary process? On a superficial level, but important nonetheless, one is good public relations. Going back to the reactions of many friends and acquaintances, it usually was something like: "Why, that's great! Let's hope the doctors will



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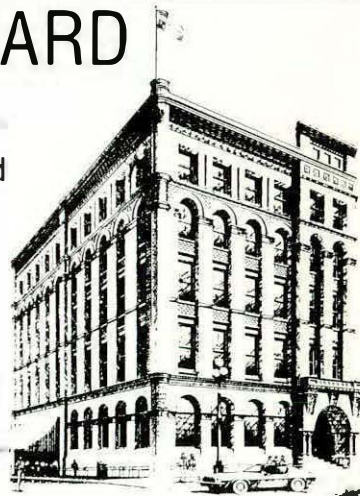
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do this next!" Including non-lawyers has generally been a forward-looking, confidence-inspiring step. Recently, I had another experience which convinces me further that a lay presence on the Disciplinary Board has public relations value. I was asked for an interview by one of the major papers. After clearing policy with the Executive Director, I accepted the invitation. The interview gave me the opportunity to explain procedures, speak of the Board members' dedication and zeal, share some concerns, and deal with the reporter's suspicions regarding the adequacy of professional discipline.

Another benefit which might be gained from lay participation is that the presence of an outsider in any group somehow modifies and improves the behavior of that group. When, somewhat apprehensive, I journeyed to my first meeting, feeling insecure and out of my depth, though I had struggled through the 500 pages of material, I quickly came to the realization that the 7 attorneys were equally, if not more apprehensive. I wondered whether I was cramping styles, because sentences which began with a promise of strong, colorful expressions of opinion veered mid-way

into restrained polite statements. I cannot be sure whether it was my being an outsider or a woman which brought on this discomfort. Fortunately, as my colleagues became used to my presence, this has worn off. However, the point I wish to make is this: The mere presence of an outsider does tend to make the proceedings more disciplined. Participants are quicker to dispense with trivia, are not as likely to hold forth ad infinitum, and more inclined to be aware of the broader implications of their statements.

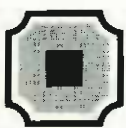
I would like to add that I believe it is important that the lay members be carefully selected. I am not referring so much to their personalities as to their background and orientation. I believe that the Washington State Supreme Court has chosen well. My fellow non-lawyer, Tom Bostic, is a respected citizen, a former mayor of Yakima, who, besides his many faceted volunteer activities, is in the communications business at the national and local level. He is well-versed in legal matters and does not have the problems I encounter with legal processes and terminology. My background is in the social welfare field, and with so-called good government organizations. I have

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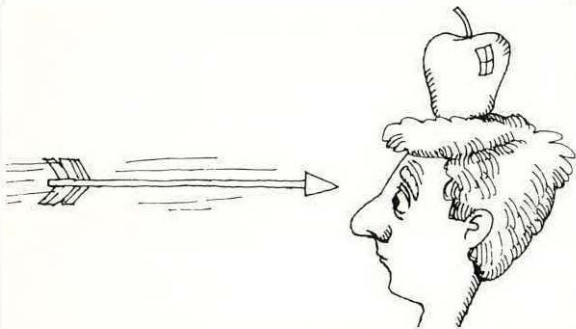
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led a sheltered life as far as encounters with law in any of its forms is concerned. I consider myself the Board's resident "bleeding heart". I believe that our respective perspectives compliment one another as well as those of the lawyer members. Tom and I pick up on different issues. We are not, as some might have feared, a united front. Our votes are as diverse as those of the attorney members.

I have written much and long in this article about my impressions and perceptions of you and your profession. I hope that you will have occasion to hear from some lawyer members how they feel about lay participation, and to match my subjective perceptions to their objective observations.

All the statements I have heard are positive and congratulatory. However, the apparent success of the experiment makes me slightly uneasy. Am I letting myself be coopted by the profession? And, if so, am I representing the client public adequately? All I can say is that I shall be watching my own reactions carefully, and on that day when I am lulled into thinking that I am one of you, I shall resign.

Lawyer discipline in Washington is good and getting better. The 1970 report of the American Bar Association called: "Problems and Recommendations in Disciplinary Enforcement" deals with a number of areas where steps for improvement are recommended. Using the report as a kind of scorecard, Washington rates high! The increased financial support for the enforcement of discipline has made it possible to add substantially to staff; the structure has become more efficient; procedures have been streamlined; and the time from receipt of complaint to final disposition has been cut considerably. Space is too short to go into the many ramifications of these improvements. All I can say is that I feel good about what is happening in discipline in Washington State.

I have now served for 19 months, and the member of the Board of Governors who told me this would be a most challenging and interesting experience was absolutely right. Serving on the Board has been fascinating. I have learned a great deal about the law, the law profession, about the way lawyers think, argue, and reason, and probably more than I ever wanted to know about legal terms and procedures. □

CLE: BIG, BUSY AND GROWING HELP FOR WASHINGTON LAWYERS

Admissions and discipline are the two mandated, vital legs of the Washington Bar stool. The fast-growing third leg is Continuing Legal Education.

CLE now is touching the lives and practices of most of the lawyers in the state. In the last CLE "season" (Fall 1974 - Spring 1975) 5,216 lawyers registered for seminars sponsored by the Washington State Bar Association. That is a strong turnout indeed when compared with the approximately 5,450 active-licensed lawyers within the state, especially since the 5,450 figure includes more than 600 who were admitted to the Bar in the last 16 months and who in the main have not yet felt any strong need to return to the academic classroom. An additional 1,000 and more attended seminars, as they do annually, at the State Bar Convention.

Many lawyers also attend programs sponsored by other groups— Trial Lawyers, Practising Law Institute, ALI-ABA, Young Lawyers and Pacific Coast Labor Law Conference, for example.

Formal CLE Relatively New

The profession has always had continuing, post-graduate education—through Advance Sheets, law-firm in-house meetings, reading of legal periodicals, conversations by Old Pro lawyers with novices, etc. Formal CLE started

with sporadic, one-shot legal lecture programs here and there around the country long before World War II. But not until after the war, with the strengthening and expansion of bar associations and with the great need to bring returning lawyer-veterans up to date, did sustained and formal CLE take hold. In 1947 California became the first state bar to employ a staff professional to conduct a CLE program.

Since then, and with the law and practice becoming ever more complex (and dangerous), entire new fields of practice emerging and laws changing virtually overnight under the revolutionary social pressures, there has been accelerated obsolescence of professional knowledge and with it an explosion of crucially needed CLE. There now are about 70 members of the national Association of Continuing Legal Education Administrators, new staff professionals in a new field; state bar CLE staffs range in size from one person to California's 110-plus, who include about 30 fulltime staff attorneys.

The CLE Committee

Washington State's CLE program was originated in the 1950s and conducted by volunteer committee members. It continued on a modest scale through most of the 1960s in an association with the University of Washington, and with a

P AND S

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Law School faculty member as part-time CLE director. In 1968 the Bar Board of Governors decided the program should be conducted by the practicing Bar and CLE was taken into the association office; since then it has been supervised by the Continuing Legal Education Committee under a series of interested and dedicated practitioners—Paul C. Gibbs, P. Cameron Devore, Will L. Lorenz, William L. Dwyer and Albert R. Malanca, the current chairman.

The State Bar's CLE programming has been greatly expanded: Six days of seminars in 1972, eleven in 1973, seventeen in 1974 and twenty-two in 1975. These do not include the variety of CLE programs presented annually at the Bar Convention.

In the last five years State Bar CLE registrations have totaled 13,500, including the 5,216 in 1974-75 and 3,900 in 1973-74.

Our Bar's current close-to-100 per cent attendance at association CLE seminars (of course, some lawyers attend more than one seminar and others attend none) substantially exceeds that of most other states. California annually has approximately 100 per cent turnout, sometimes a bit greater; Colorado last year exceeded 100 per cent. Other reported recent annual State Bar CLE attendance figures: Ohio, 4,000 of 13,500 bar members; Kentucky, 1,800 of 5,300; Texas, 10,000 of 25,000; Florida, 8,000 of 18,000; Wisconsin, 2,500 of 10,000, and Virginia, 2,000 of 10,400.

Compulsory Attendance Near?

Now, to assure that all, not just some or most of the more conscientious lawyers, respond to the professional responsibility to continue their legal education and maintain knowledge and competence throughout their active practice, the concept of mandatory CLE as a condition of annual licensure has taken shape. Such programs are in effect in Maryland (eight hours a year), Minnesota and Iowa (15 hours a year); a proposed rule will be submitted to the Wisconsin Bar in a referendum in September.

And the Washington State Bar Board of Governors, as all Bar members were informed in a letter from the President in July, has asked the Supreme

Court for a rule mandating 15 hours of attendance at accredited CLE programs annually. The court is expected to consider the proposal at a meeting in late September.

More Programs Needed

Such a rule would call for a great expansion of the Bar's CLE programming to meet the lawyers' needs in fulfilling the attendance requirement; though lawyers would be able to attend accredited programs sponsored by other groups and in other places, the bulk of the responsibility for providing enough suitable seminars would be expected to fall upon our own Bar. Already State Bar seminars are scheduled for virtually every Friday beginning in September through June 1976. (Fridays are by far the most popular with lawyers for attending seminars, according to surveys and other expressions of opinion.)

Compared with five seminar subjects in 1973, seven in 1974 and nine in the 1974-75 "season," seminars on twelve subjects are on the tentative 1975-76 schedule through next June. Programming is scheduled to total almost 40 days, compared with the 22 days of last season.

The subjects for seminars are selected by the CLE Committee and approved by the Board of Governors. The chairperson of the speaking/writing panel for each seminar is suggested by the committee, and the chairperson usually selects the remaining members of the panel.

A Chore and an Honor

Although being a CLE panel member involves a good deal of effort—meetings, the chore of research and writing, the contribution of a substantial amount of billable time—it also is regarded as a high professional honor, the recognition by fellow professionals of special knowledge, experience, reputation, skill and excellence in an area of law. And it is a great credit to the professionalism of the Bar that of approximately 260 lawyers asked to serve on CLE seminar panels (plus some 150 on Convention seminar panels) in the last five years, none has declined.

Speakers are reimbursed for actual expenses

but otherwise are paid no fee or honorarium; thus they make a substantial contribution back to their profession, as members of a profession traditionally are obligated to do. Speakers also unamiably confess that the experience and effort of being panel members benefit them even more than the audience.

Registrants at each seminar receive a Practice Manual, usually of some 250 to 400-plus pages, written by the members of the speaking panel and containing full outlines of the presentations plus supplementary materials, such as forms and checklists. Every effort is made to see that both the books and the speakers' oral presentations are of immediate practical working value to a lawyer and do not use the academic or Law Review approach.

In most cases extra copies of the books are published and made available for sale to the Bar; in the last ten months approximately 1,000 Practice Manuals have been provided to lawyers.

In selecting seminar subjects the CLE Committee seeks a good balance of trial and office practice topics in areas of the law that are changing, new, of growing importance in the practice, or are posing problems to lawyers or in which a refresher or update is felt to be timely and useful. The topics also must be of concern to substantial numbers of practitioners; narrow-interest subjects of value to only a handful of "specialists" must be left to specialty organizations, such as PLI or certain university programs.

Subjects scheduled for Fall 1975 (see Calendar for dates, places and speakers) include the new Federal Rules of Evidence, Labor Law Ground Rules, Estate Planning and Trial Advocacy II: Evidence, designed to complement the program on the federal evidence rules.

Criminal Code on Tap in 1976

Scheduled for the first half of 1976 are programs on municipal corporations, construction and lien law, workmen's compensation/Social security/maritime claims, claims against the United States, real property general practice, creditor-debtor law, general business practice and the new

state Criminal Code, just before it becomes effective on July 1, 1976. All will be presented in Seattle, and most in other cities as well.

The need for additional seminars in the Seattle area is particularly acute because some 4,300 lawyers practice on the West Side of the state, about 3,900 of them in the immediate Puget Sound area—the counties of King, Pierce, Thurston, Kitsap and Snohomish. King County alone has about 2,900. There are about 400 lawyers in Central Washington and 600 in Eastern Washington.

Seminars on Mondays?

Despite the popularity of Fridays for the seminars, other days of the week may have to be tried for Seattle sessions, especially if attendance at CLE programs becomes mandatory. The Olympic and Washington Plaza have the only conveniently available meeting rooms large enough to accommodate the Bar audiences, which sometimes exceed 800; both hotels schedule the more lucrative conventions most Fridays, indeed most weekends, of the year. The rooms are more often

available Mondays and Tuesdays. Seattle Center is the only other possibility, and it is much less convenient and much less popular with lawyers.

Those close to CLE have mused through the years about the possibility of leasing downtown quarters, say the entire second floor of a not-too-new building, and remodeling it into a permanent "CLE University" auditorium available to the Bar at all times.


Costs Are Kept Down

Various program formats have been tried in past years and the five-hour, 1-to-6 p.m. Friday seminar has emerged as generally the most popular and acceptable. First, as the saying goes, the mind can absorb only what the seat can endure—longer programs tend to dismay or even lose much of the audience. Second, a 9 a.m. - 4 p.m. full-day format adds less than an hour to the actual program time—but it adds about \$7.50 per lawyer to the seminar registration fee for a basic economy lunch. And lawyers seem to feel they can miss an afternoon of practice much easier than a full day—and the total economic cost of even the billable half days for an audience of 500 to 800-plus lawyers is a bit staggering. The CLE Committee has always sought to keep the individual lawyer's costs to a minimum—and our Bar's CLE registration fees are among the several lowest in the nation.

Whatever the cost, CLE is one of the biggest bargains available to the average lawyer in these swift-moving and complex times, especially when compared with CLE's benefits:

Better and more confident service to more clients and more kinds of clients; satisfying professional growth to the lawyer; the uplift, the warming inspiration of just "getting together" and sharing an experience with several hundred fellow professionals; exposure to a rewarding intellectual challenge, and an additional safeguard against the growing perils of errors and omissions.

More and more lawyers, certainly a majority of them, now realize and appreciate these values and are making CLE an increasingly large and busy professional institution. □



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SIRICA, WALSH, SHRIVER, GIFFORD, AND STAFFORD FEATURED IN 1975 STATE BAR CONVENTION PROGRAM

You've seen him on television . . . You've read about him in the newspaper . . . Now enjoy listening to him in person . . . **Judge John J. Sirica** will deliver the keynote address at a Friday P.M. general session on "Clients, Complaints, Liability, Ethics, Discipline—and You!" at the 1975 State Bar Convention in Vancouver, B.C.

The public knows Judge Sirica from his role in the Watergate trial. His distinguished record in the profession goes far beyond, covering many years in the practice of law and on the bench. A 1926 graduate of Georgetown University Law School, his career has included a number of positions in both private practice of law and with government agencies.

Judge Sirica was appointed in 1957 to serve as a judge of the United States District Court for the District of Columbia. He has served in that position since then, with the exception of a period from 1971 to 1974, when he was Chief Judge of the Court.

Headlining the speakers immediately following the keynote address, along with several distin-

guished members of our own State Bar, will be **Judge Charles F. Stafford**, Chief Justice of the Washington State Supreme Court. Judge Stafford has been a member of the State Bar since 1947 and began his service on the bench in 1952, when he was elected to the Superior Court for Skagit County. He was later appointed to the State Court of Appeals and in 1970 to the Supreme Court. He became Chief Justice in January 1975.

Judge Stafford has written extensively and has served in a number of educational positions, including service as a seminar leader at state trial judges conferences in several states. He also taught for two years at the National College of State Trial Judges and was a faculty advisor for one year.

Thursday's luncheon, the first of the Convention's major social functions, will feature an address by **Lawrence E. Walsh**, newly-elected president of the American Bar Association. This will be a rare opportunity to hear first-hand what problems and issues are confronting the ABA in these volatile times.

Presently in private practice in New York City, Walsh has also held a number of high level state and Federal government positions, including appointments as Deputy Head of the United States Delegation to the Paris Meetings on Vietnam, with personal rank of Ambassador; Deputy Attorney General of the United States, and United States District Judge, Southern District of New York.

The Young Lawyers Section meeting on Thursday afternoon will have **Sargent Shriver** as the featured speaker. Shriver will also present his candid and controversial film, "Legal Services for All Americans" and will be available to answer questions.

Shriver's reputation precedes him for his distinguished involvement in public life over many years, including terms as organizer and director of the Peace Corps; Special Assistant to the President; Director, Office of Economic Opportunity; and U.S. Ambassador to France. He received his law degree from Yale and holds more than 30 honorary degrees from colleges and universities around the world.

Friday's noon luncheon will be capped by a

speaker well known to all sports fans—**Frank Gifford**, popular commentator for the American Broadcasting Company. Gifford has followed a brilliant 12-year football career with the New York Giants with a second, very successful career in sportscasting. He was named to the NFL All-Pro team six times, as the league's "Most Valuable Player" in 1956, and as the UPI NFL Come-back-Player-of-the-Year in 1962.

Gifford is familiar nationally to TV sports viewers as the play-by-play reporter for "ABC Monday Night Football" and for coverage of sports specials, such as the 1972 Olympic Games in Munich.

Multi-faceted sports talents aside, he's also a colorful and enjoyable speaker. You'll not want to miss him.

As for meetings, there are *plenty*—good, solid sessions packed with information that will help your practice and your firm. Four concentrated CLE seminars will be held in addition to the ethics and discipline session featuring Judge Sirica. They include sessions on "Arbitration and Settlement Skills: Their Effective Use"; "Buying and Selling the Small Business"; "Incorporation and Estate Planning for the Farmer/Rancher"; and "Medical Malpractice Review and Update."

Now add 11 super section seminars in addition to the Young Lawyers program featuring Sargent Shriver. Panels comprised of veteran practitioners will deliver fact-packed presentations concerning administrative law, anti-trust law, corporate, business and banking law, creditor-debtor rights, criminal law, environmental law, intellectual and industrial property law, family law, real property, probate and trust law, taxation law, and trial practice considerations.

Next, spice the Convention with a heavy mixture of reunions, cocktail hours, special breakfasts, section meetings and soap-box sessions, and the great Friday night Gala, and top it off with the scenery and attractions of Vancouver, B.C., truly one of the most beautiful cities in the world.

Sound good? See you there!

If you haven't made reservations for the convention, please do so today . . . Advance registration assures that you need stop only briefly to pick up badge, tickets, gift books, etc. Room reservations should be made directly with Vancouver hotels. □

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1975 Convention Program

WEDNESDAY—SEPTEMBER 10, 1975

9:00 A.M. BOARD OF GOVERNORS
Queen Charlotte Room—"C" Level—Hyatt Regency

12:00 Noon REGISTRATION
Registration Desk—"C" Level—Hyatt Regency

THURSDAY—SEPTEMBER 11, 1975

8:30 A.M. REGISTRATION
Registration Desk—"C" Level—Hyatt Regency

10:00 A.M. SEMINARS

I. ARBITRATION AND SETTLEMENT SKILLS: THEIR EFFECTIVE USE

Pacific Ballroom—Hotel Vancouver

Chairperson: Pinckney M. Rohrback, Seattle
Speakers: Hon. Frank J. Eberharter, Seattle
King County Superior Court Judge
Settlement Skills in Use of the
Settlement Calendar. The King
County Arbitration Panel
Professor Cornelius J. Peck, Seattle
Negotiation Skills
J. S. Applegate, Yakima
The Lawyer in Settlement—
Skills and Obligations
Pinckney M. Rohrback, Seattle
Arbitration Skills

II. BUYING AND SELLING THE SMALL BUSINESS

*Regency East—"C" Level
Hyatt Regency*

Chairperson: Timothy R. Clifford, Seattle
Speakers: C. James Judson, Seattle
Neil S. McKay, Spokane
The Tax Considerations
Dale L. Carlisle, Tacoma
Securities Considerations
Yancey Reser, Walla Walla
Timothy R. Clifford, Seattle
General Considerations

Noon LUNCHEON

*Regency West & Center
"C" Level—Hyatt Regency*

Presiding: Kenneth P. Short, *President*
Washington State Bar Association
Speaker: Lawrence E. Walsh, *President*
American Bar Association

AWARD OF MERIT RECIPIENTS:
DANIEL C. BLOM
MURRAY B. GUTERSON

2:00 P.M. SECTION SEMINARS

All of the following Seminars are open to the entire convention. *You do not* have to be a Section member to attend. Please choose the Seminar which interests you most:

ADMINISTRATIVE LAW

Tweedmar Room—Hotel Vancouver

Section Chairperson: G. Keith Grim, Seattle
Seminar Chairperson: Clyde H. Maciver, Seattle

Speakers: James M. Vache, Olympia
Access to Public Records and
Decision Making in Washington
State—How to Avoid the Collisions
Mark E. Johnson, Seattle
Recent Developments in
Administrative Law

ANTI-TRUST LAW

Garibaldi Room—Hotel Vancouver

Section Chairperson: DeWitt Williams, Seattle
Seminar Chairperson: Robert W. Graham, Seattle

Speakers: Thomas C. Armitage, Seattle
Acting Regional Director, FTC
Antitrust Activities of the Federal
Trade Comm. in the Northwest
Richard M. Clinton, Seattle
Recent Developments Under the
Federal Antitrust Laws,
Emphasizing Those That May
Have Particular Application to
the Northwest.
Thomas L. Boeder, Seattle
The Washington Franchise
Investment Protection Act
Fredric C. Tausend, Seattle
Washington State Antitrust Act

2:00 - 4:00 P.M. CORPORATION, BUSINESS AND BANKING SECTION

Board Room—Hotel Vancouver

Chairperson: David L. Williams, Seattle
Seminar Chairperson: F. Richard Chastek,
Spokane

Speakers: Elvin J. Vandeberg, Tacoma
Buy and Sell Provisions in Share
holder Agreements and HMO
Act 1973
Malcolm D. Katz, Seattle
Recent Developments in Taxation
of Closely Held Corporations
Roger H. Underwood, Spokane
Use of Corporations in Tax
Planning for Farms and Businesses
Thomas B. Tilford, Spokane
Bringing Your Pension and
Profit-Sharing Plan Into Com-
pliance with the Pension Reform
Act

CREDITOR-DEBTOR RIGHTS

Social Suite East—Hotel Vancouver
Chairperson: James C. Middlebrooks,
Seattle
Seminar Chairperson: Joseph A. Barreca
Speakers: Business in Trouble
Joseph A. Barreca, Seattle
Court-Controlled Judicial
Insolvency Proceedings
Dillon Jackson, Seattle
Extra-Judicial Methods of Solving
Insolvency Problems
Eugene J. Craig, Seattle
Enforcement of Secured Creditors'
Rights
Thomas T. Glover, Seattle
Practical Approaches Available
to Unsecured Creditors
A hypothetical case of a typical
troubled business will be addressed
by the entire panel.

2:00 + CRIMINAL LAW

4:00 P.M.

Plaza Ballroom West
"P" Level—Hyatt Regency
Patricia Harber Aitken,
Seattle
Seminar Chairperson: Edward G. Holm, Olympia
Speakers: Gerald K. Mooney, Olympia
Summary of New Legislation
Affecting Criminal Lawyers
Mark E. Vovos, Spokane
Update and Court Interpretation
of the New Criminal Rules
John A. Strait, Seattle
Sentencing Resources
James R. Silva, Olympia
Practical Considerations Involved
in Handling Driver's License
Suspensions

ENVIRONMENTAL LAW

Social Suite West—Hotel Vancouver
Chairperson: Charles B. Roe, Jr., Olympia
Speakers: Chris Smith, Bellevue, Member,
State Council on Environmental
Policy
The State Environmental Policy
Act of 1971 and
Implement Guidelines of the C.E.P.
Commentators: Joel E. Haggard, Seattle
Charles W. Lean, Olympia

Edmund B. Raftis, Seattle
Irving M. Clark, Jr., Seattle
Roger M. Leed, Seattle
Charles F. Secret, Olympia
Problems of "Standing" and
Recovery of Costs in
Environmental Litigation
Charles B. Roe, Jr., Olympia
Recent State Environmental
Legislation

FAMILY LAW

Plaza East
"P" Level—Hyatt Regency
Section Chairperson: Robert F. Phillips, Spokane
Seminar Chairperson: Miles F. McAtee, Seattle
Speakers: Wendy R. Gelbart, Seattle
Children's Rights in Divorce Actions
Robert F. Phillips, Spokane
New Federal Non-Support Act
Kenneth W. Weber, Vancouver
Post-Pro Se Dissolution Problems
Robert G. Perlman, Everett
Pension and Retirement Pay and
the Dissolution Act
Carol A. Fuller, Olympia
Child Abuse in Family Law Cases
Robert M. Reynolds, Tacoma
Family Law Legislation
James W. Abbott, Seattle
Manual and Forms for Domestic
Practice
Miles F. McAtee, Seattle
Meretricious Relationship—
Division of Property

2:00 +
4:00 P.M.

INTELLECTUAL AND INDUSTRIAL PROPERTY

Constable Room
"T" Level—Hyatt
Section Chairperson: Richard W. Seed, Seattle
Seminar Chairperson: Robert J. Baynham, Seattle
Speakers: Trade Secrets
Bryan C. Ogden, Tacoma
Dale B. Ramerman, Seattle
Clark A. Puntigam, Seattle
Kewanee Oil Co. v. Bicron Corp. and
K-2 Ski Co. v. Head Ski Co. and the
proposed Uniform Trade Secrets Act
John O. Graybeal, Seattle
Ford E. Smith, Seattle
Richard W. Seed, Seattle
Discovery and the Use of Special
Masters in Trade Secret Cases

2:00 +
4:00 P.M.

REAL PROPERTY, PROBATE AND TRUST

Vancouver Island Room—Hotel Vancouver
Chairperson: Alan H. Kane, Seattle
Speakers: Kimbrough Street, Seattle
The Durable Power of Attorney
Robert S. Muckleston, Seattle
Practice Under the Probate Code
After the 1974 Amendments
Robert P. Beshel, Spokane
1975 State Legislation

TAXATION

Alouette Room—Hotel Vancouver
Section Chairperson: Scott B. Lukins, Spokane
Seminar Chairperson: Gerhardt Morrison, Seattle

**THE TAX REDUCTION ACT OF 1975 —
A LITTLE SOMETHING FOR EVERYBODY**

Speakers: Rodney J. Waldbaum, Seattle
Negative Income Tax, the Credit
for New Housing and Other
Reductions in Individual Income
Taxes
Julie W. Weston, Seattle
How To Succeed in Business Without
Really Trying; Changes in Business
Taxes and Other Mathematical
Puzzles
Brian L. Comstock, Seattle
Standard Oil Escapes Again—
Or Did It?
Foreign Income Tax and Miscellaneous
Gerhardt Morrison, Seattle
ESOP and Other Fables

**2:00 -
4:00 P.M. TRIAL PRACTICE**

*Plaza Center
"P" Level—Hyatt Regency*
Section Chairperson: F. Lee Campbell, Seattle

RECOVERY FOR WRONGFUL DEATH

Speakers: Craig P. Campbell, Seattle
Review of Washington Death Statutes
Garfield R. Jeffers, Wenatchee
Beneficiaries of Damages Awarded
for Wrongful Death
Albert R. Malanca, Tacoma
Procedural Aspects of Wrongful
Death Actions
Shannon Stafford, Seattle
Damages for Wrongful Death

YOUNG LAWYERS SECTION

*Regency East
"C" Level—Hyatt Regency*
Chairperson: Edward F. Shea, Pasco
Seminar Chairperson: Elizabeth J. Bracelin, Seattle
Speaker: Sargent Shriver

Sargent Shriver appears in person to
speak, answer questions and to
present his candid, thought-provoking,
informative, controversial and costly
film, "Legal Services for All
Americans".
Conceived and produced by Mr.
Shriver, the film features noted
lawyers and judges and others with
narrative overview by Edward
Bennett Williams and Mr. Shriver.
The presentation presents problems
in delivering legal services and some
possible and likely future solutions.

**4:00 P.M. ALL SECTIONS BUSINESS MEETINGS WILL BE
HELD IN SEMINAR ROOMS IMMEDIATELY
AFTER THE COMPLETION OF EACH
SECTION'S SEMINAR.**

**6:30 -
8:30 P.M. WASHINGTON STATE BAR ASSOCIATION
NO-HOST COCKTAIL PARTY**

*Regency West/Centre
"C" Level—Hyatt Regency*
A South of the Border Fiesta featuring music,
food and surprises from romantic and delightful
Old Mexico!

FRIDAY—SEPTEMBER 12, 1975

8:30 A.M. REGISTRATION

*Registration Desk
"C" Level—Hyatt Regency*

9:30 A.M. ANNUAL BUSINESS MEETING

*Regency East
"C" Level—Hyatt Regency*

Presiding: Kenneth P. Short, *President*
Washington State Bar Association

Invocation: Charles Z. Smith

Annual Report:
The Washington State Bar Association—
President Short

Resolutions Committee
Robert O. Beresford, Chairman

New Business

Presentations:
New Members of the Board of Governors
New President of the Washington State
Bar Association

Hawaii Drawing:
(First Class Roundtrip Air Fare to Hawaii
3 nights and 4 days). You must be present
to win and do not fail to put your ticket in
the box for this special drawing.

Noon

LUNCHEON

British Columbia Ballroom—Hotel Vancouver

Presiding: William H. Gates
Member, Board of Governors
King County At Large

Speaker: Frank Gifford
American Broadcasting Company

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

**CLIENTS, COMPLAINTS, LIABILITY,
ETHICS, DISCIPLINE—AND YOU!**

Chairman: Richard H. Riddell
Member, Board of Governors,
First District

Keynote Address: Hon. John J. Sirica,
U.S. District Court Judge
Washington D.C.

Speakers: Hon. Charles F. Stafford,
Chief Justice
Washington State Supreme Court
Michael J. Heinovich, Spokane
Chairman, Washington State Bar
Association Disciplinary Board
Facts and Fancies: All About
Discipline
Gerard M. Shellan, Renton
Member, Washington State Bar
Association Disciplinary Board
Happy, Uncomplaining, Repeat
Clients: How to Keep Them
Ronald Groshong, Seattle
Co Chairman, WSBA Committee
on the Code of Professional
Responsibility
Rx for the Happy and Respected
Professional
Henry E. Kastner, Seattle
Malpractice Pitfalls and How to
Stay Out of Them.

6:30 P.M. NO HOST COCKTAILS
*Regency Foyer and Terrace
"C" Level—Hyatt Regency*

8:00 P.M. DINNER
*Regency Ballroom
"C" Level—Hyatt Regency*

10:00 P.M. SHOW
Featuring—Pete Barbutti
Voted Las Vegas Lounge Entertainer
of the Year

11:00 P.M. - 1:00 A.M. DANCING

SATURDAY—SEPTEMBER 13, 1975

10:00 A.M. - SEMINARS:

Noon *Regency East*

I. INCORPORATION AND ESTATE PLANNING FOR THE FARMER/ RANCHER

Chairperson: Kenneth L. Schubert, Jr., Seattle
Speakers: Fred G. Emry, Spokane
Terrance C. Schmalz, Selah
Farm Corporation, Tax and Other
Considerations
Kenneth L. Schubert, Jr., Seattle
Some Estate Planning Ideas for the
Farmer/Rancher

II. MEDICAL MALPRACTICE REVIEW AND UPDATE

*Regency Center
"C" Level—Hyatt Regency*
Chairperson: Michael R. Green, Seattle
Speakers: A. Duane Lund, Seattle
Products Liability and Medical
Malpractice
Hospital Liability
Gerald A. Palm, Seattle
Res Ipsa and Informed Consent
Hon. Keith M. Callow, Seattle
Judge—Court of Appeals—
Division I
Professional Negligence
Michael R. Green, Seattle
Trends in Resolving Malpractice
Problems

SPECIAL EVENTS

THURSDAY—SEPTEMBER 11, 1975

5:00 P.M. ENVIRONMENTAL LAW SECTION
No-Host Cocktail Party
Contact: Joel Haggard
Social Suite West—Hotel Vancouver

5:00 P.M. CORPORATION, BUSINESS &
BANKING SECTION
CREDITOR-DEBTOR SECTION
No-Host Cocktail Party
Contact: James C. Middlebrooks or
David L. Williams
Waddington Room—Vancouver

5:00 P.M. REAL PROPERTY, PROBATE &
TRUST SECTION
No-Host Cocktail Party
Contact: Alan Kane
Vancouver Island Room—Hotel Vancouver

5:00 P.M. HARVARD LAW SCHOOL
No-Host Cocktail Party
Contact: Mike Liles
Room 203—Hotel Vancouver

5:00 P.M. WILLAMETTE LAW SCHOOL
No-Host Cocktail Party
Contact: Dean Larry K. Harvey
Tennyson Room—Hyatt Regency

6:00 P.M. UNIVERSITY OF WASHINGTON CLASS OF '60
No-Host Cocktail Party
Contact: Dexter Washburn
Lord Byron Room—Hyatt Regency

6:30 P.M. AMERICAN COLLEGE OF TRIAL LAWYERS
Cocktails—Dinner
Contact: Paul Cressman
*Prince of Wales Room
Queen Charlotte Room—Hyatt Regency*

8:00 P.M. UNIVERSITY OF WASHINGTON CLASS OF '40
Dinner
Contact: Harwood Bannister
Turner Room—Hyatt Regency

FRIDAY—SEPTEMBER 12, 1975

7:30 A.M. GEORGETOWN UNIVERSITY ALUMNI
Breakfast
Contact: John J. Champagne
Queen Charlotte Room—Hyatt Regency

7:30 A.M. GEORGE WASHINGTON UNIVERSITY
ALUMNI
Breakfast
Contact: Oscar Zabel
Prince of Wales Room—Hyatt Regency

7:30 A.M. UNIVERSITY OF WASHINGTON ALUMNI
Breakfast
Contact: Dean Charles Z. Smith
Plaza East and Centre—Hyatt Regency

7:30 A.M. UNIVERSITY OF PUGET SOUND ALUMNI
Breakfast
Contact: Dean Bruce Meyers
Cavendish Room—Hyatt Regency

8:30 A.M. UNIVERSITY OF MICHIGAN ALUMNI
Breakfast
Contact: Donald Skinner
King George Room—Hyatt Regency

4:30 P.M. PHI ALPHA DELTA
No-Host Cocktails
Contact: Rod Waldbaum
Alouette Room—Hotel Vancouver

SATURDAY—SEPTEMBER 13, 1975

8:00 A.M. CHRISTIAN LEGAL SOCIETY
Breakfast
Contact: William Ellis
Prince of Wales Room—Hyatt Regency



Minutes of the Meeting of the Board of Governors, July 18th & 19th, 1975, at Rosario, Orcas Island, Washington

The Board of Governors of the Washington State Bar Association convened at Rosario, Orcas Island, Washington on Friday, July 18th and Saturday July 19th, 1975, beginning at 9:00 a.m. each day.

Those present were:

Kenneth P. Short, President
Richard H. Riddell
Charles R. Olson
John J. Champagne
Robert R. Redman
John E. Heath, Jr.
Neil J. Hoff
David D. Hoff
William H. Gates
Llewelyn G. Pritchard

In addition to Board members, those present included Robert S. Day, President-Designate of the Bar Association and incoming Board Members Willard Walker, Robert Peterson, Betty B. Fletcher and Edmund B. Raftis. Further, Edward Shea was present representing the Young Lawyers Section. G. Edward Friar, Executive Director, acted as Secretary of the Meeting.

Budget Committee

The terms of Budget Committee members John J. Champagne and Llewelyn G. Pritchard having expired, the President designated the Budget Committee membership to be Richard H. Riddell, David D. Hoff and Robert H. Peterson, with Mr. Riddell as Chairman.

The Board expanded the duties of the Budget Committee to include the duties of an Audit Committee and that the members of the presently existing Budget Committee assume the expanded responsibilities for both Budget and Audit. The Board directed that in the future, this Committee be known as the Budget and Audit Committee. Mr. Champagne abstained.

Interprofessional Subcommittee to Coordinate With Certified Public Accountants

The President was authorized to designate a three member Special Committee to work with a similar committee from the Certified Public Accountants Association on matters and endeavors of mutual interest and concern.

Admissions Procedures

The Board authorized the President to designate a Special Subcommittee of the Board to discuss Admissions Procedures to Law Schools and to the Bar Association with the Deans of the three Law Schools in the State, looking toward improving liaison, communication and procedures. Thereafter, the President designated Robert Redman as the Chairman of the Special Committee and Betty B. Fletcher and Robert Peterson as members.

Legal Intern Committee— Proposed Revision of Rules

It was decided that the proposed revision of the Rules Relating to Legal Interns, as submitted by the Legal Intern Committee, be amended in Section D subparagraph (1) so as to provide that a Supervising Attorney shall be an Active Member of the Washington State Bar Association and shall have been actively engaged in the practice of law in the State of Washington or elsewhere for at least five years, instead of three years as recommended by the Committee. The vote on this motion was 5 to 4.

The proposed Rules, as recommended and as amended were approved and forwarded with a recommendation for adoption to the Supreme Court.

Thereafter, upon passage of a proper motion to reconsider, it was decided that the actions of the Board relating to Section B Subsection 1, and to approval of the Rules as amended, be rescinded, and that the entire matter of the revision of the Rules relating to Legal Interns be placed on the Agenda for consideration at the September Meeting of the Board after further investigation and report.

Certification and Audit of Trust Accounts

The proposed Certification and Audit of Trust Accounts Rule to be submitted to the Supreme Court was amended by adding the following as Rule 13.4.

Declarations and Audit Files Confidential

The Declaration and Audit File shall be open only to the Board of Governors, the Disciplinary Board and the Attorney audited, unless a Disciplinary proceeding is commenced in which event the disclosure provisions of Rule 11.7 shall apply.

The proposed Rule, as amended, providing for the Certification and Audit of Trust Accounts, was directed to be forwarded to the Supreme Court with a recommendation that it be adopted and implemented by the Court.

Board of Governors Election— Proposed Amendment to the By-laws

The Board determined to ask the members of the Bar Association assembled in Annual Meeting in Vancouver, B.C. to take an advisory vote on the proposition that a member of the Board of Governors who had served a full term as such member not be eligible for re-election to another term. It was further agreed that the matter of the proposed By-Law change be placed on the October agenda of the Board of Governors for consideration after having had the benefit of the advisory vote of those in attendance at the Annual Meeting.

Thereafter, upon passage of a proper motion to reconsider, it was decided that the Board of Governors take no action or position with reference to

the proposed By-Law change or to the Annual Meeting Resolution proposing it.

Editorial Advisory Board

Michael Kight, Acting Chairman of the Editorial Advisory Board, met with the Board of Governors and reported that the Editorial Advisory Board had approved and recommended the adoption of "The Friar Proposal," as outlined at the June Meeting of the Board of Governors, relating to the delineation of duties and responsibilities between the Editor and the Bar Staff in connection with the publication of the *Bar News*.

Mr. Kight further reported that the Editorial Advisory Board recommends that the July and August issues of the *Bar News* be combined so as to get the publication of the *Bar News* current, and that the Bar Staff be responsible for the publication of the September, or "Annual Meeting Issue," as previously agreed upon.

Environmental Law Section

The Environmental Law Section was authorized to join in the sponsorship of an Institute of Environmental Studies at the University of Washington.

Para-Legal Committee

The Board of Governors voted to establish a Para-Legal Committee as a Special Committee of the Washington State Bar Association. It was further agreed that said Committee be structured and funded suitably so that it can play an effective role in the development of Para-Legals in the State of Washington.

The following persons were named to the newly created Para-Legal Committee:

George Velikanje, Yakima—Chairman
Stephen L. Johnson, Kent
Stephen DeForest, Seattle
Robert Mucklestone, Seattle
Dennis Gaasland, Lay Member—Seattle

Committees

The Board named the Committee Membership and Chairpersons to serve each Committee beginning with the fiscal year 1975-76. (See the listing published in this issue.)



**Four New Members
Elected to
Board of Governors**

The State Bar will be well served by the wealth of experience to be brought to the Board of Governors by the four new members elected this summer. They will take office at the annual Convention in September.

Willard H. Walker, III has been elected to represent the Third Congressional District. He is a partner in the firm of Walker & Dowell in Longview. A 1953 graduate of the University of Michigan Law School, he has been practicing law in Washington State since that time.

Active in service to the State Bar, he has been on the CLE Committee for the past three years, is on the Board of Trustees

of the Trial Lawyers Section, and on the Ad Hoc Committee for the Certification of Trial Specialists.

Walker will succeed John J. Champagne of Olympia as the Third Congressional District's representative on the Board.

Robert H. Peterson has been elected by the attorneys residing in the Sixth Congressional District. He is a partner in the firm of Peterson & Haarmann in Tacoma. Graduated from the University of Washington Law School in 1953, he has been in private practice in Tacoma since 1955.

Peterson is a past president of the Tacoma-Pierce County Bar Association and presently serves as Chairman of the local Assigned Council Committee for indigent decedents representation and as a Trustee for the Tacoma-Pierce County Prepaid Legal Corporation. Active in

Tacoma affairs, he has served for eight years on the University Place School Board, including two terms as Chairman.

Peterson will succeed Neil J. Hoff as the Sixth Congressional District's representative on the Board.

Betty B. Fletcher and **Edmund B. Raftis** are the newly elected King-County-At-Large representative on the Board, replacing William H. Gates and Llewelyn G. Pritchard.

Ms. Fletcher is a partner in the Seattle firm of Preston, Thorgrimson, Ellis, Holman & Fletcher and has been a member of the State Bar since 1956.

Her involvement in many areas of professional services includes terms as the President of the Seattle-King County Bar Association, membership on the State Bar Professional Responsibility Committee (ex-officio), and of the Real Property, Probate and Trust and Corporation, Business and Banking Sections.

She is also a member of the American Bar Association Standing Committee on Ethics and Professional Responsibility and a member of six ABA Sections.

Ms. Fletcher's substantial public service activities include holding various appointed or elective positions with the Children's Home Society of Washington, Council for Post-Secondary Education, League of Women Voters of Seattle, Little School, Municipal League of Seattle and King County, National Conference of Christians and Jews, President's Commission of White House Fellowships, Chowder Society, Seattle



Fletcher



Peterson



Raftis



Walker



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Foundation, Seattle Symphony, Stanford Law School Board of Visitors, Washington State Women's Council, and C.O.Y.O.T.E.

Raftis is General Attorney for Pacific Northwest Bell. He is a 1962 graduate of the Georgetown Law Center.

A former member of the Board of Trustees of the Seattle-King County Bar Association, Raftis has served that bar also as President of the Seattle-King County Legal Services Center, Chairman of the Young Lawyers Section and Chairman of the committees on public relations, programs, lawyer referral service and Seattle Criminal Code revision.

He is currently a member of the State Judicial Council. He has served as editor of the *Washington State Bar News* and the State Bar Environmental Law Section Newsletter. He received the State Bar award of merit in 1972. He also served as editor of the Newsletter of the ABA Individual Rights and Responsibilities Section and has been a panel member of several ABA and State Bar continuing legal education programs.

Tax Symposium on I.R.S. Procedures

On October 17 and 18, 1975, the *Gonzaga Law Review* and Gonzaga University School of Law will sponsor a Symposium on "Dealing with the Assessment and Collection Procedures of the Internal Revenue Service."

For details and further information, please contact: Symposium Director, *Law Review*,

Gonzaga Univ. School of Law, Spokane, Washington 99202.

Christian Legal Society Breakfast to be Held At State Convention

The Christian Legal Society will sponsor a prayer breakfast during the State Bar Convention. This will be the fifth year for the event. The breakfast will be held at the Hyatt Regency, convention headquarters, on Saturday, September 13, at 8:00 A.M. The convention program will list the room location.

Richard S. L. Roddis, Dean of the University of Washington Law School, will be the guest speaker.

Attorneys and their wives interested in attending are requested to make reservations with any of the following:

William H. Ellis, 4400 Seattle-First National Bank Building, Seattle, Washington 98154, Telephone: (206) 447-4465; Joel Paget, 545 Henry Building, Seattle, Washington 98101, Telephone: (206) 622-1363; Raymond C. Eberle, 1407 Old National Bank Building, Spokane, Washington 99201, Telephone: (509) 624-2161.

Change in Treatment of Securities of NonProfit Corporations

The last session of the legislature brought several changes in the Washington Securities Act, RCW 21.20. One of the most important of these revisions was the elimination of the non-profit organization exemption, RCW 21.20.310(9).

The legislature's action will undoubtedly have a substantial impact on both the non-profit organizations and the members of the bar representing such groups. Without the exemption, groups such as churches, schools and private hospitals who issue securities after September 8, 1975, including bonds, to finance their activities must register them with the Securities Division in Olympia. In addition, persons who solicit the sale of these securities may have to be registered as securities salespersons or brokers. As a result, a great number of questions concerning the requirements of registration and the applicability of the Securities Act in general will be addressed toward these organizations' counsel.

These sweeping changes in the treatment of the securities of non-profit organizations were the product of investigations by the state Securities Division, which showed substantial fraud and misrepresentations involved in the solicitation of certain of those securities. Testimony before the Senate Financial Institutions Committee by the Securities Administrator revealed many circumstances where innocent purchasers, and especially retired persons, were swindled out of substantial amounts through the sale of illegitimate non-profit securities. One such scheme involved investment of over a quarter of a million dollars primarily by retired individuals in a fraudulent non-profit club. Such abuses led the legislature to eliminate the exemption.

Registration under the Securities Act presents no insurmountable burden upon organi-

zations. The Securities Division is in the process of drafting rules designed to reduce even that burden for legitimate non-profit financing ventures. However, attorneys and their clients should be aware of the elimination of the exemption and the requirements of registration, especially since failure to comply with the requirements of the act can lead to very serious civil and even criminal penalties.

White House Fellowship Openings

The President has announced the start of the twelfth nationwide search for outstanding young men and women to serve as White House Fellows.

Established in 1964, the White House Fellowship program is designed to give rising leaders one year of firsthand, high-level experience with the workings of the Federal Government and to increase their sense of participation in national affairs. The program is open to U.S. citizens from all fields who are not less than 23 and not more than 35 years of age. Employees of the Executive Branch of the Federal Government are not eligible, with the exception of career military personnel.

Members of the tenth group of White House Fellows are completing their year long assignments. An eleventh group, the 1975-76 White House Fellows, will begin their duties next month.

In addition to their work assignments as special assistants to the Vice President, Cabinet officers or principal members of

the White House staff, the Fellows participate in an extensive education program that includes 150-200 off-the-record seminar meetings with top government officials, scholars, journalists, and leaders from the private sector. The 182 young men and women who have, to date, been selected as White House Fellows have included lawyers, scientists, engineers, corporate business executives and independent entrepreneurs, scholars and academic administrators, writers and journalists, medical doctors, social workers, architects, and local public officials. Last year 2,307 applied for appointments.

The Fellowship is designed to be a one-year sabbatical in public service. Fellows are expected to return to their professional careers at the end of their experience in government, with their perspectives of national issues broadened and their qualifications for significant service in their chosen careers and to their communities permanently enriched.

Requests for applications for next year's program must be postmarked not later than November 10, 1975. Application forms and additional information can be obtained from the President's Commission on White House Fellowships, Washington, D.C. 20415.

Medical Institute for Attorneys

The University of Miami Law Center in cooperation with the School of Medicine announces that the Eighth Medical Institute for Attorneys will be held Feb-

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ruary 25-28, 1976 at the Americana Hotel in Bal Harbour, Florida. The subject matter to be presented is INJURIES TO THE NERVOUS SYSTEM (Diagnosis, Treatment and Rehabilitation).

For further information, your readers should direct their inquiries to: Eighth Medical Institute for Attorneys, University of Miami Law Center, P.O. Box 248087, Coral Gables, Florida 33124.

**Hospital Attorneys
Annual Meeting**

Michael R. Green, President of The Washington State Society of Hospital Attorneys, announced plans for the Society's annual meeting scheduled for Friday, October 17, 1975, at the Washington Athletic Club.

The all day seminar will include lunch and will cover subjects of interest to hospital attorneys such as the State Hospital Commission, Professional Standards Review Organizations (PSRO), Health Maintenance Organizations (HMO), Medical Staff Bylaws and other topics. State Senator Peter Francis will address the Society on medical malpractice and the work of the Senate Select Committee.

Interested attorneys who are employed by or represent health care organizations, and who would like to become members of the Society, can join by contacting the Washington State Society of Hospital Attorneys, 601 Broadway, Seattle, WA 98122, (206) 624-7240.

Registration for the annual meeting can be made through the Society office.

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PREPAID LEGAL SERVICES IN WASHINGTON: A STATUS REPORT

By Charles E. Ehlert

Many Washington residents will soon have an opportunity to join a prepaid group legal services plan operated by Washington Lawyers Service, and endorsed by the Washington State Bar Association.

More than ten years of effort within the bar have prepared the way. Thickets of problems, legal and technical, faced those who reflected in the mid-1960's on the implications of *N.A.A.C.P. v. Button*, *Brotherhood of Railroad Trainmen vs. Virginia State Bar*, and *United Mine Workers v. Illinois State Bar Association* as to the traditional means of providing legal services to the public. The time had come for examining myths of the past against the realities of the present; for measuring traditional regulatory codes against contemporary constitutional notions of free speech and association, due process and equal

protection of the laws; for examining "ethical" controls over lawyers' conduct from the perspective of quantity, cost and availability as well as the quality of legal services; and beyond those philosophical considerations, for beginning the hard technical work of implementing new policies as to availability of legal services. A sound, workable, prepaid group legal services program became one of the principal goals arising from this reexamination.

Revising the Canons of Ethics

The first task was to revise the Code of Ethics to comply with constitutional requirements and to express these policies. When Lewis Powell was President of the American Bar Association in 1964, he appointed a committee to study and recommend changes in the old Canons of Ethics,

which resulted in a 1969 report and the adoption by the American Bar Association of a new Code of Professional Responsibility in August 1969. A year later, in December 1970, the Board of Governors of the Washington State Bar Association approved the recommendations of the Martin-Pruzan special committee for revision in the Canons of Ethics and forwarded them to the State Supreme Court, which in turn promulgated them by order in 1971. As they related to group and prepaid legal services, the Code of Professional Responsibility adopted in Washington went considerably further than the American Bar Association Code. In fact, Washington departed further from the old Code of Ethics than did any other state.

The Legal Obstacles

The major legal problems remaining were posed by the state insurance code, prepaid legal services plans having some of the characteristics of insurance contracts. Absent further legislation, it seemed possible they might be subject to regulation by the Washington State Insurance Commis-

sioner. Following the precedent set twenty-eight years earlier when legislation was enacted exempting prepaid medical service plans from the insurance code, Group and Prepaid Legal Services Committee of the Washington State Bar Association, a special committee appointed in 1971, drafted legislation to exempt prepaid legal services from the Washington State Insurance Code, and to provide an alternate form of regulation for such plans. Two years of negotiations and efforts to secure passage of a bill failed to produce legislation.

Enactment by Congress last September of the Employees Retirement Income Security Act of 1974 (Pub. Law 93-406) provided an unexpected breakthrough. The Act preempted from state law prepaid legal services for employee groups involved in interstate commerce. Although the federal law left many potential user groups still subject to regulation by state law—e.g. teachers, municipal employees, self-employed persons, small businesses, students and others—it cleared the way for development of operational plans for those groups who are expected to be the major consumers of prepaid legal services.

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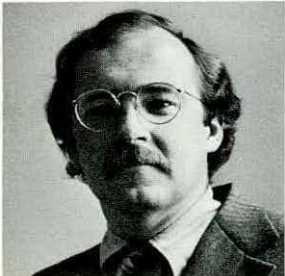
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Committee Objectives

In October last year, the Group and Prepaid Legal Services Committee decided to take advantage of the opportunity offered by the new federal law and to give first priority to getting a plan developed and ready to offer to commerce clause employee groups. The principle policies developed and followed by the Committee, and re-

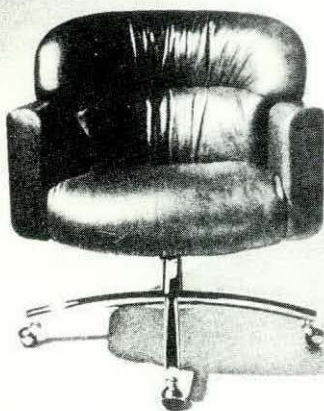


Charles Ehlert is a member of the State Bar Group and Prepaid Legal Services Committee. He has been since 1973, Assistant Director of the Department of Licenses and Consumer Affairs, City of Seattle. He received his A.B. in Philosophy from Yale University in 1960, and his L.L.B. from the University of Illinois in 1963. He was in private practice in Seattle from 1963 to 1966, and from 1966 to 1973 held positions as Assistant Director, Seattle Legal Services Center; Director A.C.L.U. Yakima Valley Migrant Project; Director, Legal Economics Design Project, Seattle Model City Program; and Law and Justice Planner, Seattle Model City Program. He has held positions in a number of public interest organizations and presently is a member of the Board of Directors of the Washington Committee for Consumer Interests.

ported periodically to the Board of Governors are these:

- The Washington State Bar Association should develop and endorse a prepaid group legal services plan.
- The plan should be a statewide, open panel, free-choice-of-lawyer program.
- The plan should be operated by a non-profit corporation distinct from the Washington State Bar Association.
- The corporation, with its plan in operation, should be governed by a board of directors in which lawyers are not in the majority and which should include representatives of unions served and of employers who are parties to collective bargaining agreements which include the plan as a fringe benefit.

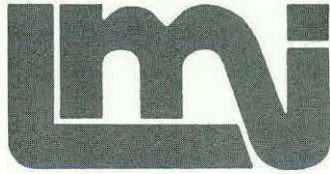
The Committee has chosen to take an active role in the development of a program, to tackle major design and organizational problems, to make decisions on them and, on converging courses, to develop both a complete plan and an independent organization to administer it. Major tasks of the committee include creation of the non-profit corporation to administer the plan, de-



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velopment of major documents (including Bylaws, rules for participating lawyers, model subscriber benefit contracts, claim forms, etc.), recruitment of a statewide panel of lawyers, promotion and marketing of plans to employee groups, and negotiation with private firms offering specialized marketing and administrative services. As the program is developed, the non-profit corporation will take over active operation, direction and control, and the Committee's role thereafter will be to observe, monitor, advise, report and serve as liaison. Final decision-making power, including the power to change, revise or modify the initial plan developed by the committee, will from the beginning reside in the corporation.

Organizing WLS

Articles of incorporation for the non-profit corporation, named "Washington Lawyers Service," were filed in Olympia on May 21, 1975. The WLS Articles are designed to provide a staged transition from the initial group of incorporators to the operating board of directors, in three steps:

- The initial board of directors consists of six lawyers from the Group and Prepaid Legal Services Committee who served as incorporators. They are: Frank J. Owens, Olympia; Stanley D. Moore, Spokane; Merrifield B. Rees, Tacoma; Charles I. Stone, Seattle; Gordon W. Wilcox, Seattle; and Lionel E. Wolff, Spokane.
- An expanded initial board, containing, in addition to the six incorporators, three representatives of unions, three representatives of employers and a seventh non-lawyer person who will serve as President, all to be appointed by the State Bar Board of Governors.
- As contracts with employee groups are signed, six of the seven appointed non-lawyer board members will be chosen by the employee groups to be served and their employers, and those six will elect the seventh nonlawyer member, who will serve as president.

All members of the Washington State Bar Association in good standing will be solicited to become members of the panel of participating lawyers. Those who apply, pay an enrollment fee and subscribe to the rules promulgated from time to time by WLS will become members of the

panel. Membership on the panel will be by the individual and not by firm or group, although it is contemplated that a panel lawyer may be assisted by a non-panel partner or associate as long as the panel lawyers accepts responsibility for all legal services performed for the plan beneficiary. Panel lawyers will look to WLS as the sole source of compensation for services to covered employees which are provided for in the applicable schedule of benefits. Arrangements for any additional services will be made between the lawyer and the employee and will be paid for by the employee with reimbursement from WLS.

As soon as the panel of lawyers has been established, a promotional and marketing effort will begin, and the WLS plan will be offered to potentially interested groups. The experience of similar plans in other states suggests that rapid development of membership contracts should not be expected and that the initial contracts are likely to be with small groups. A copy of the schedule of benefits outlining kinds and quantities of reimbursable legal services and a list of panel lawyers will be given to members of participating groups as contracts are signed.

A plan beneficiary who needs legal services which are available under the plan will be able to choose any lawyer he or she selects, regardless of whether the lawyer is a member of the panel. If the lawyer is not a member of the panel, the beneficiary will be reimbursed by WLS, but in an amount which is only two-thirds of the rate at which WLS will make direct payment to the panel lawyer.

Since the program will have been developed and endorsed by the Washington State Bar Association, lawyers will be asked to participate in the solution to two of the basic problems facing all such efforts—the need for start-up capital and reserves and the lack of reliable actuarial data relating to benefits, claims and costs. As to the first problem, lawyers who wish to become members of the panel will be charged an enrollment fee. As an incentive to encourage early development of a substantial panel, the enrollment fee prior to December 31, 1975, will be \$50, and thereafter will be \$100. Enrollment fees paid to WLS will provide a fund from which start-up expenses for printing, promotion, salaries and administration costs can be paid.



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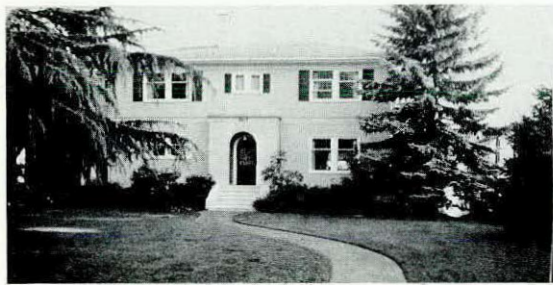
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The actuarial problem is this: How to design and price and plan so that the total amount paid out, plus expenses of administration, will not exceed premiums charged and collected. Precise answers in the field of prepaid legal services are not available. The approach taken by the WLS program is to make informed, conservative guesses, relying on the limited data available from other prepaid legal service operations and the judgment and experiences of professional administrators of other types of prepaid service plans, and then to protect against over-utilization by initially paying out to panel lawyers only a part of the fees payable under the schedule of benefits. The retention percentage has not yet been determined and may vary from time to time. The retained portion will be withheld to establish a contingency fund, to be disposed of periodically as decided by the WLS Board of Directors. Depending on the amount available in the fund, the Board may choose to pay panel lawyers the retained portion or some part thereof, or to set up a future reserve account, or both. As experience accumulates over a period of time, price, benefits, and contingency fund withholdings will be adjusted by the WLS Board of Directors. In the meantime, lawyers participating in the plan will be underwriting the actuarial uncertainties of the plan by their commitments to provide whatever volume of services may be necessary to meet obligations to plan beneficiaries.

Conclusion

With the establishment of Washington Lawyers Service, the Washington State Bar Association becomes the eleventh state bar to endorse or sponsor an open panel prepaid legal services plan, according to the best information now available. Programs of various designs and magnitude are operational now in six states (Oregon, New Mexico, Utah, Michigan, Ohio and Kansas) and in planning stages in three other states (Arizona, California and Texas).

Washington Lawyers Service offers members of the Washington State Bar a unique opportunity to join with members and the lay public in an experiment designed to make legal services generally available to the public to an extent never before realized, and thus make a reality out of Canon 2 of our Code of Professional Responsibility. □



ONE FIRM'S TRACK RECORD WITH THE IBM MAG CARD II

By Dennis L. Gaasland

Have you ever received services from a product that far exceeds the usefulness that the manufacturer claimed was possible? May it be an automobile, photocopier, typewriter or any other machine, such a product continually seems to provide new and greater efficiencies and productivity. Simply, it is a pleasure to use the product.

Today, there is such a machine in our office. It's the new IBM Mag Card II Typewriter which, when used in a word processing environment,

accomplishes a variety of typing jobs with a high degree of speed and accuracy.

No question that our firm's skilled operators and word processing center equipped with Mag Card II's are saving our firm substantial amounts of time and money each year. The Mag Card II Typewriter is especially valuable in the preparation, editing and revision of lengthy documents, and in the repetitive preparation of standard documents.

Our firm's word processing center was in operation about one year when I joined Karr, Tuttle, Koch, Campbell, Mawer & Morrow in 1971. On line at the time were three IBM Magnetic Tape "Selectric" Typewriters (MT/STs) and an IBM Magnetic Tape "Selectric" Composer (MT/SC).

In the early days of word processing, our center faced many typical problems common to any new system. One problem was especially serious: potential users of the center didn't really understand the new system. They didn't truly appreciate that by using our services, their practice would be more productive nor did they understand how to use the center to its greatest capacity.

At the start, there was some resistance to the concept of a word processing center. Lawyers were accustomed to the time honored, one-to-one relationship with a secretary. The change, of course, meant that his or her work going to the center would be taken in the order received, in an effort to be fair with all other users of the Center.

The challenge was to convince our lawyers that the change would work to their advantage. But before we could get more users involved, we had to establish effective and efficient controls.

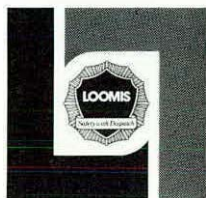
We began by setting up controls which would allow the manager to keep his finger on the system's pulse and measure its results. First to be developed was a work-status reporting procedure, through which the center's operators could report which projects they were working on at any given time. We would thus determine the status of any job, and measure the operators' productivity through a line-count method.

Establishing a realistic and acceptable turnaround time was another problem. When the center opened, a 24-hour turnaround was regarded as Utopian, and this often stretched to 28 or 32 hours at the start. We launched our present six-hour turnaround schedule (in by 10 a.m., out by 4 p.m.) in 1973. We are now maintaining this schedule better than 80 percent of the time, and there are good and sufficient reasons when we exceed it.

Before we nailed down this specific response time, projects poured into the center and were simply stacked on a desk. Before long we found every project tagged "rush." This very soon degenerated to "rush-rush," and finally, to "rush-rush-rush".

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Organizing for Efficiency

We then eliminated all "rush" categories (although we still hold ourselves in readiness for emergency work). We arranged for every project to be logged in at the center in a "Project Log Book." Each lawyer now has his own section in this book, listing all his work by project number. By consulting this log, we can inform a lawyer at any given moment which of his projects are in work, as well as what work we have stored for him in our "library."

With these and other procedures, we began to instill order into what had been something approaching chaos.

By the spring of 1973, we had added one more MT/ST, giving us four MT/STs and an MT/SC. We had decided to replace the composer system with another MT/ST to give us a total of five MT/STs by the fall of 1973. Meantime, however, IBM had introduced its new IBM Mag Card II Typewriter. My center staff and I viewed this new equipment with great interest, but also with mixed emotions. First, we remembered vividly the growing pains we had just experienced in getting the MT/ST system organized. Second, all our procedures were based on the MT/STs, and we now felt comfortable with these machines. Finally, we had built a considerable library of magnetic tapes—some 300 of them—and realized that a good percentage of these would have to be converted to magnetic cards if we made the changeover.



Dennis Gaasland has since 1971 been Office Manager for Karr, Tuttle, Koch, Campbell, Mawer and Morrow, a 29-lawyer Seattle firm. A business administration graduate of the University of Washington, he has been active in the area of business education. He is presently Chairman of the Education Committee of the Administrative Management Society in Seattle, and a member of the

Advisory Committee of the Seattle Public Schools System. Mr. Gaasland served as an advisor to Edmonds Community College in the development of the paraprofessional curriculum now available there. He was recently appointed as lay member of the newly created State Bar Para-Legal Committee.

Making the Transition

Nonetheless, we decided that if the Mag Card IIs could really perform as demonstrated, we should make the switch. So a little anxiously, we placed an order for four IBM Mag Card II Typewriters. Though we had planned to go to five MT/STs, we ordered only four of the new machines because we really did not know how much they could produce.

The first two Mag Card IIs were delivered after our operators had been trained on these machines in an IBM branch office. To make the transition smoothly, we held on to three MT/STs while we decided what to do with our tapes. We had close to 150,000 lines stored in those tapes, and wished to avoid the expense of having them converted elsewhere. We finally decided to do the job ourselves.

Checking with the lawyers and analyzing our stored tapes, we found that mass conversion was unnecessary, as much of the material could be put in the "dead file." All items converted from tape to magnetic cards were keyboarded anew, when needed.

By mid-December, we received the remaining two Mag Card IIs, and all MT/ST machines were returned. Since that time we have been exclusively on the magnetic card machines. Formerly, we had five operators but only four machines. Since then, the center has reduced its staff to 3-4 operators, through attrition.

Results of the Change

Which brings me to the heart of the matter. With four Mag Card IIs (instead of five MT/STs), and with 3-4 operators (instead of five), the word processing center is not only handling all we had processed before but is steadily increasing its productivity month after month. And at this writing, no staff increases are anticipated.

In 1971, the center's weekly line-count fluctuated between 10,000 and 15,000 lines. By the spring of 1972 the total had jumped to between 20,000 - 22,000. By early 1974, the weekly count had climbed to something between 25,000 - 32,000 lines as one result of converting to Mag Card II's.



Approximately 30 percent of the paperwork at Karr, Tuttle, Koch, Campbell, Mawer & Morrow is based on standard legal forms which are bound and indexed in the three-ring binder shown here. The operator has received an instruction from a lawyer to reproduce a given document, filling in the blanks with variable data he has supplied. Each format document is marked with a code number which is keyed to the magnetic cards needed to reproduce that document. Cards are filed, by subject matter and code number, for automatic payout on the Mag Card II Typewriter at 150 words per minute.

We asked ourselves, why the increase? There had been no dramatic growth in the firm's staff. We could conclude only that the yearly increases reflected growing confidence in the word processing center and in its capability to deliver both quantity and quality.

Good Control is the Key

As noted earlier, much of our present level of efficiency is traceable to the carefully planned and diligently executed set of controls. Our coordinator, or lead operator, after logging in each project, assigns work to one of the operators, or to herself, for typing in draft form. The "hard copy" of this draft goes to the lawyer for content proofing. While typing this draft, the operator is recording the text on a magnetic card. As a rule, each card contains one page of the project.

The magnetic card is a very versatile recording medium. About the size of a computer punched card, it contains a magnetized surface. When inserted into the console of an IBM Mag Card II Typewriter, it records data fed to it from the machine's electronic memory. This card, later inserted in the machine's console, will play out text at 150 words per minute and the copy will be error-free, for all changes, additions, and deletions will have been made in the electronic memory.

Once the draft copy is proofed, the edited version is returned to the center. If there are no changes, the magnetic card is simply read into memory and the final draft played out. If—as is usually the case—there are alterations, the operator simply makes all the editorial changes in memory, by-passing all copy requiring no change. She may then insert a single character or even several sentences or paragraphs, without disturbing the unaltered passages. Hyphenation, line endings, and page endings are handled automatically by the Mag Card II's electronic memory.

This process cuts to a bare minimum all rekeyboarding needed for editing. We find the IBM Mag Card II Typewriter is much more efficient than the magnetic tapes for our purposes. With tapes, when we needed to update two pages of a long brief, for example, it was necessary to run an entire tape to search out and edit the necessary passages. This was a time consuming chore. But with the IBM Mag Card II Typewriter, it is necessary only to edit the cards on those pages where changes are indicated, without searching the text preceding and following the revisions. Another advantage to using a magnetic card is that it is "writeable." That is, notes may be made directly on the card for future reference. This can't be done on magnetic tape.

And the text on any IBM magnetic card can be reproduced electronically on the IBM Mag Card II Typewriter, so that additional sets of these cards may be made any time.

All our magnetic cards are filed in our center's library according to one of three categories: (1) work which needs to be kept briefly, perhaps one or two weeks; (2) work to be retained from three to five months; and (3), permanent material keyed to the firm's "bible" of standard legal materials. Each lawyer has a copy of this com-

pendium of legal forms, in a three-ring binder. Each page contains a code which refers to a magnetic card bearing the same number. In this thick binder are forms for such standard categories as "insurance," "personal injury," "insurance defense," "miscellaneous interrogatories," "interrogatories to plaintiff," "real property damage," "workmen's compensation," various types of divorce forms, wills, and other matters commonly used in the legal profession.

When such standard forms can be used (and they account for about 30 percent of our Center's production), the lawyer merely indicates the code of the item he wishes typewritten. He gives the center the variable data he wishes inserted in the appropriate blanks. The magnetic card feeds this information into the Mag Card II's electronic memory and, on reaching the space where the variable is to be inserted, the machine responds to a "stop code" on the card, which halts the typewriter automatically. The operator then types in the variables before touching a key to continue automatic playout.

Obviously, the draft stage is eliminated in this revisionary process, and work is produced swiftly in final form. Contrast this with the conventional practice in a one-to-one, originator-to-secretary relationship where comparable documents are entirely keyboarded each time an item is needed.

Our Standard Form Reference manual was developed while the firm was still in the MT/ST stage, but it has since been refined and further systematized. Its use has been greatly simplified with the Mag Card IIs, as no tape-search is necessary, and the appropriate card or cards can be inserted and run off without delay.


The Bottom Line

To measure the cost-effectiveness of our Mag Card IIs and the Center's operations, a continual tally is kept on such items as total lines typed, net and gross (i.e. final draft and rough draft); total number of projects; number of operators required to produce these lines and projects; cost per page; and cost per project.

For example, in a recent week 95 projects were processed (our weekly average is now about 86).

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These projects averaged 300 lines. By extrapolation, we determined that the average project costs in terms of salaries and equipment (setting aside such minor costs as paper) between \$9 and \$10, or about \$1.04 per page.

To compare the performance of the Mag Card II with our earlier MT/ST, two representative weeks of MT/ST production were analyzed. The cost per project for the MT/ST ranged between \$13 and \$14, while the cost per page varied from a low of \$1.44 to a high of \$1.72. This performance was obtained with five MT/ST operators, versus 3-4 operators using the Mag Card II.

Thus it is reasonable to estimate that the savings through use of the Mag Card II rather than the MT/ST are close to 25 percent. We are now using fewer operators, while increasing output by some 8,000 to 10,000 lines per week.

Changing Staff Requirements

We also measured our production against a "Secretary Equivalent" yardstick. At the outset, we asked the firm's secretaries (then numbering 16) to give us copies of all their output excepting, such items as memos and bills. We tabulated their collective output and found that, in a given month, these 16 secretaries would type a total of 35,000 - 40,000 lines, with the average closer to 35,000. During the same period, center personnel (fluctuating between four and five at that time) were averaging 15,000 - 20,000 lines per week. We also determined that at least half of the average secretary's day was spent at her typewriter.

A national study of secretarial typing output has established that the average secretary will type between 200 - 400 lines per day. (Of course, we recognize that most secretaries do many other tasks and only give about half or less of their time to typing.) But for purposes of our study, we assumed that our secretaries were producing the maximum lineage, or 400 lines.

We then asked: How many secretaries would it require, at 400 lines per day, to equal the volume we are now outputting in the center with 3-4 operators? Depending on the workload of a given sample period, it came out to between 7 and 19 secretaries. In the week in which this was written, it would have required 11 secretaries, at the 400-lines-per-day rate, to handle the production level

achieved by our center's 3-4 operators.

One of the features which first attracted our firm to the word processing concept was the possibility that in such a system there would be less need for the one-to-one relationship, and that lawyers might double-up, with consequent cost savings. Though we have not yet achieved the two-to-one objective (there are now 17 secretaries for 29 lawyers), we are much closer to it today than we were five years ago.

The day conceivably could come—though I personally believe it to be somewhat distant—when larger law firms will have lawyers supported by staffs of legal assistants, with a word processing center handling all correspondence, briefs, and other paperwork. There would be no secretary as she is defined today. The secretary would, in this new day, have advanced to a higher echelon, becoming in effect, a legal assistant. This trend already is evident in other professions, so it seems logical to assume that it will eventually become established in the practice of law.

As for resistance to change, my experience in business administration over more than two decades has convinced me that people will change, given sound reasons and logical persuasion. Our center's experience is a case in point. First, the veteran users are turning to us more and more. Second, new users are continually joining us. The lawyers are discovering that the word processing concept is sound, that it works, and that things really are happening back there in the "corner pocket" where we operate.

Conclusion

"I take the stuff in and walk away," I heard one lawyer comment recently, "and it's back on my desk before I get there." He was exaggerating, of course, but there is a grain of truth to what he said.

Of course, the results we achieve don't just happen. The ingredients must be there—such things as the best equipment that modern technology can produce and the best available personnel to run that equipment. These must be linked together in an orderly system with the necessary procedures and controls.

Given these components, a word processing system can achieve impressive results. Our own system is no dream, but it performs like one. □

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TAXATION SECTION

By MALCOLM KATZ

Important Federal Tax Changes

In *Sunset Fuel Company v. United States*, 75-2 USTC par. 9590, the Ninth Circuit reversed a trial court and held that the taxpayer was not entitled to a loss on losing certain accounts from a business which it has recently acquired. The customer list was held to be a single mass asset, rather than a group of separate individual assets which had been individually negotiated and valued, even though the purchase agreement allocated 4 cents per gallon of fuel oil purchased by each customer as the value for each customer on the list.

In reversing the trial court's fact finding that the parties had individually priced each customer on the list and that the purchaser had therefor established the cost of each particular customer that was lost, the Ninth Circuit placed primary emphasis on the fact that: a) the values assigned to each account could have been computed on the same basis by adding up all of the gallonage, first, and then by multiplying the total gallonage by 4 cents, instead of computing each customer on an account by account basis, b) the contract made no provision for adjustment in the purchase price in the event that some of the accounts were lost prior to closing, c) the testimonial evidence by the purchaser's price in the event that some of the accounts were lost prior to closing, c) the testimonial evidence by the purchaser's president that losses would presumably be offset by new customers, thereby indicating that total gallonage was negotiated for, d) that the buyer did not see the customer list prior to closing and therefor could not have valued the customers individually, and e) the uniform rate of 4 cents per gallon was shown to reflect a sort of averaging out of the

relative values of each account, thereby indicating that the accounts were negotiated on an over all basis. The net result was the appellate court's adoption of the "indivisible asset rule" customarily applied in cases involving the acquisition of goodwill and a rejection of the "individual valuation" exception made to that rule by the same court in *Commissioner v. Seaboard Finance Corporation* in 1966.

The rationale for the indivisible asset rule, said the court, is that it prevents speculative deductions for non-wasting goodwill, and more specifically, is based on the recognition that when a particular account is lost, a rateable portion of the mass of goodwill is not necessarily lost with it. This is because the lost customer, said the court, may refer other customers to the business, may later resume his orders, and because the president of the remaining customers on the list may well serve to attract new customers. Customer lists that are not negotiated on a customer-by-customer basis do not, by definition, have a cost basis with respect to which the amount of the loss can be calculated, and also does not depreciate in value even if, as in *Sunset Fuel Company*, approximately 40% of the accounts are lost within a one year period following the acquisition.

By footnotes, the court indicated that the inability to establish a cost basis for particular accounts does not mean that a taxpayer will be prevented from writing off a particular account, because as long as a limited useful life can be established for the mass, it may be depreciated over that life. No comment, however, was made as to how the court would resolve the inconsistency between proving a limited useful life for a court-determined intangible and the countless numbers of cases denying depreciation for assets with an indeterminate useful life. And no comment was made with regard to the practical difficulty of negotiating accounts-by-accounts in transactions which may not close, except that a closing subject to a condition subsequent wherein the buyers performance is conditioned upon finding out the customers' names and their payment history might help. But the other factors relied upon by the court are not particularly difficult to overcome, especially the use of industry wide percentages or other standards commonly accepted in the industry.

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TRIAL PRACTICE SECTION

By F. LEE CAMPBELL, *Chairperson*

The annual business meeting of the Section will be held at 3:30 P.M. on Thursday, September 11th, during the annual meeting in Vancouver. The agenda will include various committee reports and election of officers and members of the Executive Committee.

A Nominating Committee has been appointed incidental to the forthcoming election. The Chairman is Leon Wolfstone and the others are Dan Sullivan (President, Washington Trial Lawyers Association) and Harold Fosso (President, Washington Association of Defense Counsel). Their nominations will include Chairperson-elect, Secretary-Treasurer and two members of the Executive Committee. Those presently serving and whose terms will expire at the annual meeting are Willard Walker (Longview) and Murray Kleist (Seattle).

The Section will present a seminar commencing at 2:00 P.M. on September 11th, just prior to the business meeting. The topic will be "Recovery for Wrongful Death" and the following will serve as panel members: Statutes Authorizing Recovery, Craig P. Campbell; Beneficiaries of Wrongful Death Awards, Garfield Jeffers; Procedural Aspects of Wrongful Death Actions, Albert Malanca; Damages for Wrongful Death, Shannon Stafford.

The Trial Practice Manual Committee, chaired by Leo Anderson, is working hard on preparation of the proposed manual. One of the committee members, George Bassett, is preparing a draft and it is hoped that the manual will be in final form by the end of the current year. This should be exceptionally helpful to trial lawyers in this state.

The Section is planning to present Trial Advocacy II in the late fall. This will follow the format of Trial Advocacy I, which was presented last year. The seminar will involve two-day sessions in Seattle, Spokane and Olympia. Terry Brooks, of Yakima, is serving as Chairman of the seminar. The subject matter will include a detailed review of evidence in both civil and criminal matters.



For Sale: A used, IBM transcriber, Model 212. \$225.00. Paul F. Bonnell, Seattle, WA. Phone 246-4646.

For Sale: Rabkin & Johnson Current Legal Forms with Tax Analysis; and Collier on Bankruptcy, 14th Edition. Contact Mike Sweet, 1103 IBM Building, Seattle, 624-1230.

For Sale: U.S. Code Annotated. Call Puyallup — 848-3515.

For Sale: Complete set of Washington Reports (Vols. 1-94, leather bound); Vols. 1-71, Washington Reports 2d; and complete set of Washington Digest. Leslie L. Woods, 817 Northtown Office Building, Spokane (509) 487-1651.

For Sale: One set of RCWA up to date—\$1000.00. One set of Washington Digest up to date—\$200.00. One set of Washington Reports thru W2d vol. 65—\$900.00. Inquire at 100 N. Division, Cashmere, WA 98115.

Wanted: Set of Shepard's Washington Citator. Washington State Association of Prosecuting Attorneys, 105 E. 8th Ave., Suite 307, Olympia, WA 98501, (206) 943-1812.

Will Sought: For E. K. (Buster) Wolfe who died in Yakima on April 3, 1975. Please contact Walter B. Dauber, 626 Miller Bldg., Yakima 98901.

Space Available: Attorney or attorneys to share office space, secretary, library, conference room and equipment. Arrangements flexible. Contact Dennis Helmick, 329-6800, Seattle.

For Sale: Washington Reports, Washington Appellate Reports, Washington Digest, Am Jur 2d, Moore's Manual, and Rabkin & Johnson current legal forms. All are complete. P.O. Box 11285, Tacoma 98411; 475-7777.

- Sept. 11-13 State Bar Annual Meeting, Vancouver, B.C.
- Sept. 26 CLE seminar, Practice Under the New Federal Rules of Evidence; 1-6 p.m., Greenwood Inn, Olympia; John C. Coughenour, chairman; J. Paul Coie, Paul R. Cressman, Smithmoore P. Myers, the Hon. Donald S. Voorhees, John C. Coughenour, speakers.
- Oct. 3 CLE seminar, Practice Under the New Federal Rules of Evidence; 1-6 p.m., Olympic Hotel, Seattle.
- Oct. 10 CLE seminar, Practice Under the New Federal Rules of Evidence; 1-6 p.m., Ridpath Motor Inn, Spokane.
- Oct. 24 CLE seminar, Labor Law Ground Rules: How to Counsel and Save Your Client; 1-6 p.m., Olympic Hotel, Seattle; J. David Andrews, chairman; Patrick Donnelly, Elizabeth J. Bracelin, Harold Green, Hugh Hafer, Dustin McCreary, Douglas Ehlke, John R. Rick, J. David Andrews, speakers.
- Oct. 30-31 20th annual Estate Planning Seminar; 9 a.m.-4 p.m. each day, Olympic Hotel, Seattle; James B. Gilchrist, chairman; speakers: Albert J. Fink, Los Angeles; Scott B. Lukins, Spokane; Prof. Alan N. Polasky, Ann Arbor, Mich.; Joseph Kartiganer, New York; Charles L. Thomas, Tacoma; T. Neal McNamara, San Francisco; Robert Erickson, Seattle; Prof. James J. Freeland, Gainesville, Fla.; Ms. Karen Ferguson, Washington, D.C.; the Hon. Jerome M. Johnson, Seattle; Austin Fleming, Chicago; Malcolm A. Moore, Seattle; Donald D. Perkins, Seattle; Victor D. Alhadef, Seattle.
- Nov. 7 CLE seminar, Labor Law Ground Rules: How to Counsel and Save Your Client; 1-6 p.m., Ridpath Hotel, Spokane.
- Nov. 21-22 CLE seminar, Trial Advocacy II: Evidence; 9 a.m. to 4 p.m. both days, Ridpath Hotel, Spokane; Terry A. Brooks, Yakima, chairman, David Boerner, Seattle, chairman for the criminal law portions.
- Dec. 4-5 CLE seminar, Trial Advocacy II: Evidence; 9 a.m.-4 p.m., Tyee Motor Inn, Olympia.
- Dec. 11-12 CLE seminar, Trial Advocacy II: Evidence; 9 a.m.-4 p.m., Olympic Hotel, Seattle.

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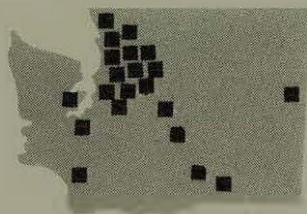
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